

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NO. DIVISION “ ”

VOICE OF THE EXPERIENCED AND RACHAEL DAY, Petitioners,

VERSUS

THE STATE OF LOUISIANA, NANCY LANDRY, in her official capacity as Secretary of State of Louisiana and STEVE RABORN, in his official capacity as East Baton Rouge Registrar of Voters, Defendants.

FILED: _____
DEPUTY CLERK

VERIFIED PETITION FOR DECLARATORY AND PERMANENT INJUNCTIVE

RELIEF

NOW INTO COURT, through undersigned counsel, come Voice of the Experienced (VOTE) and Rachael Day (hereinafter “Petitioners”), who respectfully file this Petition for Declaratory Relief and a Permanent Injunction against Defendant State of Louisiana, Defendant Nancy Landry, in her official capacity as Secretary of State of Louisiana, and Defendant Steve Raborn, in his official capacity as East Baton Rouge Registrar of Voters, for violations of the right to vote as guaranteed by the Louisiana Constitution, Article I, Sections 2, 3, and 10.

SUMMARY OF LAWSUIT

1. Voting is a fundamental right and cannot be taken away unless someone is under an order of imprisonment for a felony conviction.¹ As such, many individuals in jail, such as those who are pre-trial detainees or serving jail time for misdemeanor convictions, still retain the right to vote. However, Louisiana law makes it impossible for these first-time voters who are in jail to cast their ballot.

2. To remedy this constitutional infringement, Petitioners now challenge the constitutionality of four provisions in Louisiana’s Election Code (hereinafter “the Jail Voting

¹ The right to vote may also be affected by an interdiction or declaration of mental incompetence. La. Const. art. I, § 10.

Provisions”), *see* La. R.S. §§ 18:115(F), 18:115.1(F), 18:533(C)(2), 18:1303(G). Together, these four statutes deny eligible voters in jails across Louisiana, including Petitioner Day who is detained at East Baton Rouge (EBR) Parish Prison,² their right to vote under Louisiana’s Constitution because they are incarcerated and would be voting for the first time. *See* La. Const. art. I, §§ 2, 3, 10.

3. Eligible first-time voters who are jailed are in a double bind. Despite being guaranteed the right to vote under the Louisiana Constitution, they face a complete bar to voting because of the compounding impact of the four challenged provisions in the Election Code.

4. La. R.S. §§ 18:115(F) and 18:115.1(F) require voters who register by mail or online and who have not previously voted (“first-time voters”) to vote for the first time in person (“first-time voter restriction”).³

5. While the law provides exceptions for other voters for whom in-person voting would not be viable, no exceptions are made for voters who are in jail during Election Day or the early voting period.

6. In addition, the normal vehicle for in-person voting – polling places – is unavailable to them because La. R.S. § 18:533(C)(2) prohibits polling places from being established inside of a “jail, penitentiary, or other penal institution.”

7. Furthermore, the current statutory requirement that incarcerated first-time voters vote in person directly conflicts with a separate provision, La. R.S. § 18:1303(G), which requires that eligible voters in jail vote absentee.

8. These voters cannot vote in person because they are in jail but also cannot vote absentee because they are voting for the first time.

9. Petitioners are Rachael Day, an individual disenfranchised by the Jail Voting Provisions, and Voice of the Experienced (“VOTE”), a non-profit organization dedicated to advocating for the voting rights of those impacted by incarceration, including individuals

² The terms “jail” and “parish prison” are used interchangeably throughout this petition, as such, “East Baton Rouge Parish Prison” and “East Baton Rouge jail” both refer to the detention facility operated by the East Baton Rouge Sheriff’s Office located at 2867 Brig General Isaac Smith Ave, Baton Rouge, LA 70807.

³ Mail registration includes voter registration drives.

disenfranchised by the Jail Voting Provisions, and to directly serving such voters to ensure they can access the ballot. This includes voter education, organizing voter registration drives, and individual advocacy for voters facing barriers.

10. Petitioner Day and many Louisianans who VOTE serves in jails are eligible to vote but are disenfranchised because they are seeking to vote for the first time and anticipate being incarcerated through an upcoming election, thus leaving them no opportunity to vote in person or via absentee ballot.

JURISDICTION AND VENUE

11. This Court has jurisdiction pursuant to the Louisiana Constitution Article V, Sections 1 and 16.

12. The 19th Judicial District Court for the Parish of East Baton Rouge has subject matter jurisdiction over all civil matters pursuant to La. Const. art. 5, § 16, and under La. Code of Civ. Proc. art. 2 to adjudicate matters arising under the Louisiana Constitution of 1974.

13. The 19th Judicial District Court for the Parish of East Baton Rouge is the proper venue pursuant to La. R.S. § 13:5104 as this is the district court in which the state capitol is located.

PARTIES

14. Petitioner, VOTE is a membership-based, nonpartisan, grassroots Louisiana non-profit founded and operated by formerly incarcerated people. VOTE has three chapters across Louisiana, including in Baton Rouge. VOTE advocates for the voting rights of people who are incarcerated and formerly incarcerated, including its members, and engages its membership through direct organizing, voter education, registration drives, and know-your-rights workshops.

15. VOTE provides direct services to voters impacted by the criminal justice system. This includes voter education regarding Louisiana's rights restoration laws, organizing voter registration drives, assisting individuals who face additional voter registration barriers due to their felony conviction history, and direct advocacy on behalf of individual voters. VOTE also provides direct services to incarcerated voters by conducting registration drives inside parish jails, including in East Baton Rouge Parish.

16. VOTE believes that currently and formerly incarcerated people have a unique perspective and should be included in the electorate. As such, VOTE's mission is to restore the full civil and human rights of those affected by the criminal legal system. In turn, the organization engages with and mobilizes as many eligible justice-impacted voters as possible to ensure that this constituency's voice is heard and that the government is responsive to it.

17. VOTE's membership is comprised of currently and formerly incarcerated people and their family members, as well as community members. VOTE's work in the jails is also part of its membership building work, as individuals they register in the jails could one day become members of the organization.

18. VOTE effectuates its mission by encouraging eligible people not only to register, but also to vote. Ensuring that eligible jail-based voters can vote is an integral and intertwined part of VOTE's voter encouragement efforts.

19. VOTE's work and mission are directly and negatively impacted by the interplay of the Jail Voting Provisions, *see* La. R.S. §§ 18:115(F), 18:115.1(F), 18:533(C)(2), 18:1303(G), which result in the disenfranchisement of first-time, eligible, jailed voters who registered at a VOTE's registration drive, but are now unable cast a ballot.

20. When the East Baton Rouge Registrar of Voters rejects absentee ballot applications from individuals that VOTE registers because those individuals are first-time voters, it renders VOTE's voter encouragement efforts less effective and reduces their speech and association with affected communities.

21. Specifically, VOTE organizes registration drives in jails and encourages this population to vote. They have thus encountered and registered to vote individuals at the East Baton Rouge jail who want to vote, are eligible to vote, and would otherwise be able to do so, but are unable to because of the interplay of the four statutes at issue in this litigation.

22. Petitioner Rachael Day is an incarcerated pre-trial detainee at the East Baton Rouge Parish Prison and is eligible to vote.

23. She registered to vote at a voter registration drive held by VOTE inside the East Baton Rouge Parish Prison on October 22, 2024. She has never voted before and thus under Louisiana law is required to vote for the first time in person. She expects that she will still be

incarcerated for the next election, and that if she were to try to vote via absentee ballot from jail, she would be rejected for being a first-time voter.

24. As a first-time voter detained at the EBR Parish Prison, Petitioner Day is subject to conflicting obligations that result in the deprivation her of her constitutional right to vote. There is no opportunity for Petitioner Day to vote in person, since she expects to be incarcerated through at least the next election. Petitioner Day is therefore unable to vote, despite the fact that she is an eligible voter.

25. The State of Louisiana is named as a Defendant.

26. Defendant Nancy Landry is sued in her official capacity as Louisiana Secretary of State. Under Article 4, § 7 of the Louisiana Constitution, the Secretary of State is the “chief election officer” of the state and is charged with “administer[ing] the election laws.”

27. The East Baton Rouge Registrar of Voters is named as a Defendant.

28. Defendant Steve Raborn is sued in his official capacity as the EBR Registrar of Voters. As Registrar, Defendant Raborn is “responsible for the registration of voters in the parish he serves and for the administration and enforcement of the laws and the rules and regulations of the secretary of state relating to the registration of such voters,” “subject to the direction of the secretary of state and as provided by law.” La. R.S. § 18:58(A). He is also “responsible for conducting absentee by mail and early voting in the parish he serves.” La. R.S. § 18:58(B)(1).

FACTUAL ALLEGATIONS

I. MANY VOTERS IN LOUISIANA’S JAILS REMAIN ELIGIBLE TO VOTE

29. Petitioners challenge the constitutionality of the Jail Voting Provisions, which are comprised of four statutes in Louisiana’s Election Code, *see* La. R.S. §§ 18:115(F), 18:115.1(F), 18:533(C)(2), 18:1303(G), which combined, prevent eligible first-time voters who are incarcerated from voting, despite being guaranteed that right under Louisiana’s Constitution.

30. The Louisiana Constitution provides that every “citizen . . . upon reaching eighteen years of age, shall have the right to register and vote, except that this right may be suspended while a person is . . . under an order of imprisonment for conviction of a felony.” La. Const. art. I, § 10.

31. Many people in jail are not under an order of imprisonment for conviction of a felony—for example, people who are jailed pre-trial or are serving time for a misdemeanor conviction—so they remain eligible to vote under Louisiana law. *See* La. R.S. § 18:102 (describing the circumstances for disenfranchisement after a felony conviction).

32. Most people in EBR Parish Prison are United States citizens over 18 years old, and residents of the state, satisfying those preliminary eligibility requirements for registration. *See* La. R.S. § 18:101.

33. As such, many individuals in jail are eligible to vote.⁴ These individuals can register to vote by completing a registration form while at the jail and mailing it to the Registrar of Voters' office in their parish of residence.

34. Many individuals in jail use the jail's mail system to send and receive mail from the Registrar of Voters.

35. The fact that an individual is a first-time voter does not prevent them from being added to the voter rolls if they are otherwise eligible, although the Registrar will flag them as someone who may need to vote in person when voting for the first time based on the information the Registrar has about the voter.

36. Once added to the rolls, an individual can also submit a request for an absentee ballot from the Registrar of Voters. They may do so by completing the absentee ballot request form, selecting "Incarceration" as the reason by which they are entitled to vote absentee, and mailing their request to the Registrar of Voters in the parish in which they are registered. La. R.S. §§ 18:1303(G), 18:1307(B).

37. The individual must also include a "certification to the appropriate registrar by the sheriff of the parish where the person is incarcerated that he is not a convicted felon" with their absentee ballot application. La. R.S. § 18:1303(G). This certification establishes that the individual seeking the absentee ballot is confirmed by the Sheriff's office to be at the jail and not currently

⁴ Although some people in jail may have prior felony convictions, many individuals with a prior felony conviction are eligible to vote if they are no longer under an order of imprisonment for the felony conviction or, if still under such an order, have not been incarcerated pursuant to the order within the last five years. La. R.S. § 18:102(A). Individuals convicted of "a felony offense of election fraud or any other election offense pursuant to R.S. § 18:1461.2" are eligible to vote once they are no longer under an order of imprisonment. *Id.* at § 18:102(A)(1)(c).

under an order of imprisonment, in effect establishing the identity and incarceration status of the individual requesting the absentee ballot. *See id.*

38. People who are not first-time voters will be sent an absentee ballot through the jail's mail system, just like any other absentee voter who receives a ballot in the mail.

39. However, a Registrar of Voters Office, like that directed by Defendant Raborn, will reject absentee ballot applicants who are first-time voters, including those at the jail, even though they are constitutionally eligible to vote and otherwise entitled to an absentee ballot under § 18:1303(G).

40. Moreover, Registrars, including Defendant Raborn, have been directed by Defendant State of Louisiana and Defendant Landry to reject incarcerated absentee ballot applicants who are first time voters, in express recognition that those voters are “*statutorily barred* from voting absentee by mail” because of the Jail Voting Provisions. La. Att’y Gen. Op. No. 07-0173 (Aug. 3, 2007) (emphasis added).

41. Jailed first-time voters will often miss local, state, and federal elections because they are incarcerated during the early voting period and on election day. Their stay often eclipses the early voting and election day periods, which, depend on the election, run from 14 or 18 days to seven days before the election, excluding Sundays and legal holidays. La. R.S. § 18:1309(A)(1)(a). As such, many individuals who are incarcerated in local parish prisons will be incarcerated before the early voting period through election day, meaning there is no opportunity for them to vote in person at an early voting location, or at their assigned precinct on election day.

42. Some of these incarcerated first-time voters will remain in jail as a pre-trial detainee for months or even years awaiting resolution of their case. Consequently, these first-time voters who are incarcerated for long periods of time will miss multiple local, state, and federal elections due to their incarceration over this period.

43. VOTE members and staff regularly visit jails and prisons across Louisiana to conduct voter registration drives, including the East Baton Rouge Parish Prison. This work is complex and resource-intensive, in part because voter registration drives in jails require extensive staff time and resources.

44. During these registration drives, VOTE employees and volunteers talk with incarcerated individuals, encourage eligible individuals to register and vote, provide registration forms, and submit their registration forms to Registrars of Voters.

45. Many individuals whom VOTE registers are first-time voters. While VOTE can facilitate submission of their voter registration application, the organization's services to these voters are diminished or even nullified when these first-time voters are not able to cast a ballot because they are required to vote in person, and cannot due to their incarceration. Moreover, the number of voters it can successfully assist in being eligible to access a ballot is reduced, undermining its core function of facilitating submission of registration forms of those impacted by the criminal legal system and encouraging those registrants to vote.

46. Further, as formerly incarcerated people, VOTE has an interest in ensuring that people in jails can exercise their right to vote and provides direct services to advance that interest.

47. This interest is thwarted, and these services are undermined when eligible voters in jail face additional barriers to voting due to the Jail Voting Provisions.

II. THE JAIL VOTING PROVISIONS PRESENT A CATCH-22 FOR FIRST-TIME VOTERS IN EBR PARISH PRISON

48. The Election Code requires voters who register for the first time by mail or online, to vote in person during early voting or on Election Day. La. R.S. §§ 18:115(F)(1), 18:115.1(F).

49. As such, voters cannot vote absentee when voting for the first time. However, La. R.S. § 18:115(F)(2) provides five exceptions to the first-time voter requirement and allows voting via absentee ballot for other classes of individuals who may face difficulty voting in person at the polls. These exceptions include: 1) voters eligible under the Uniform Overseas Citizens Absentee Voting Act (UOCAVA); 2) voters who have been approved to participate in the Special Program for Handicapped Voters; 3) voters whose disability prevents them from voting in person; 4) voters who are students outside of their parish of residence; 5) voters who are participants in the state Address Confidentiality Program.⁵ La. R.S. § 18:115(F)(2).

⁵ After Hurricane Katrina, another exception was added to 18:115(F) in order to temporarily accommodate displaced voters who were thus unable to vote in person for the first time. *See* La. R.S. § 18:115(F)(2)(d) (effective June 15, 2006, to June 5, 2008) (“Because the right to vote is a

50. Furthermore, people who were “registered to vote in another parish and previously voted in the other parish” are excepted from the first-time voter requirement if they move to and register to vote in another parish. La. R.S. § 18:115(F)(2)(e).

51. People seeking such exceptions often must provide documentation with their absentee ballot application that certifies they are eligible for the exception. For example, student voters must provide “a copy of his student identification or fee bill showing current enrollment” alongside their application to vote by mail. La. R.S. § 18:115(F)(2)(b). People with disabilities must provide “current proof of disability from a physician” or similarly qualified individual, a “certification” from the qualified individual that their disability prevents them from voting in person, and proof of identity. La. R.S. § 18:115(F)(2)(a)(iii).

52. Yet no such exception exists for jailed first-time voters, like Petitioner Day who is incarcerated in EBR Parish Prison, who are seeking to vote for the first time but cannot vote in person due to their incarceration at the time of the election.

53. Documentation equivalent to that required for the other exceptions already exists for jailed voters who submit an absentee ballot application. Specifically, La. R.S. § 18:1303(G) requires incarcerated voters to include a “certification” from the sheriff attesting to their identity and eligibility. *Id.* (“[An eligible incarcerated person] may only vote absentee by mail and only upon meeting the requirements of this Chapter and certification to the appropriate registrar by the sheriff of the parish where the person is incarcerated that he is not a convicted felon.”).

54. Despite the sheriff’s certification, those eligible voters in jail will have their requests for absentee ballots rejected by the Registrar of Voters for being a first-time voter. In addition, the rejection notice these first-time jailed voters receive indicates that they are prohibited to vote for the first time via absentee ballot and must vote in person.

55. However, they cannot vote in person, as required by the statute, “at any location where early voting is conducted in the parish” or “at the precinct in which he is registered,” by virtue of their incarceration. *See* La. R.S. § 18:115(F)(1).

right that is essential to the effective operation of a democratic government, the legislature finds that the state has a compelling interest in securing the right to vote for any person temporarily displaced by a disaster or emergency who may experience greater difficulty exercising his right due to his displaced status.”).

56. Nor can they vote in person at the jail, as Louisiana law states that “[a] polling place shall not be located in or on the grounds of: . . . A jail, penitentiary, or other penal institution.” La. R.S. § 18:533(C)(2). There are no exceptions in the statute.⁶

57. Although La. R.S. § 18:115 requires first-time voters to vote in person, a separate Louisiana law requires that eligible voters in jail “may *only* vote absentee by mail.” La. R.S. § 18:1303(G) (emphasis added); *see* La. Att’y Gen. Op. No. 07-0173 (Aug. 3, 2007). The Louisiana “Application to Vote By Mail” specifically includes incarceration as a reason to receive an absentee ballot. La. R.S. § 18:1303(G).

58. This presents a Catch-22 for eligible first-time voters in Louisiana jails, like Petitioner Day. Because they are first-time voters, they are required to vote in person but cannot do so because of their incarceration. Conversely, because of their incarceration, they are required to vote via absentee ballot but cannot do so because they are first-time voters.

59. This impossible position has been confirmed by the Office of the Attorney General (“AG”). Specifically, in a 2007 opinion, the AG made clear that “it is the opinion of this office that if a person who is incarcerated registered to vote by mail but has not yet made a personal appearance (by voting or appearing in person) or does not meet one of the exceptions listed above, then the incarcerated person is *statutorily barred* from voting absentee by mail.” La. Att’y Gen. Op. No. 07-0173 (Aug. 3, 2007) (emphasis added). As well, in a 2002 opinion, the Attorney General stated that, because a jailed voter submitted a mail application to vote in his “new residence” of the jail located outside of his home parish, he was a first-time voter under the statute; because jailed voters are barred from voting in person, the jailed voter was not eligible to vote by mail. La. Att’y Gen. Op. No. 02-0335 (Sep. 18, 2002); *see* La. Att’y Gen. Op. No. 07-0173 (Aug. 3, 2007).

⁶ This prohibition also likely applies to early voting locations, such that an early voting location would not be available to an eligible, first-time voter in jail that would allow them to satisfy the in-person requirement.

CLAIMS FOR RELIEF

COUNT ONE: CLAIM FOR DECLARATORY RELIEF FOR VIOLATIONS OF THE RIGHT TO VOTE UNDER THE LOUISIANA CONSTITUTION, ART. I, §§ 2, 3, & 10

(All Defendants)

60. Petitioners reallege and incorporate by reference each of the preceding allegations.

61. The Louisiana Constitution expressly protects the right to vote, providing that every “citizen . . . upon reaching eighteen years of age, shall have the right to register and vote,” so long as they are not “under an order of imprisonment for conviction of a felony,” interdiction, or declaration of mental incompetence. La. Const. art. I, § 10.

62. The Louisiana Constitution’s due process and equal protection clauses also protect Louisiana citizens’ right to vote. *See* La. Const. art. I, §§ 2, 3; *see also* *Bazley v. Tortorich*, 397 So. 2d 475, 483 (La. 1981) (explaining that the right to vote is protected by both equal protection and substantive due process).

63. The Louisiana Supreme Court has held that the right to vote is a “fundamental and constitutionally protected right.” *Adkins v. Huckabay*, 1999-3605 (La. 2/25/00), 755 So. 2d 206, 211 (citing La. Const. art. I, § 10; U.S. Const. art. IV, § 4).

64. Many voters in Louisiana jails are qualified to vote under state law, because they are at least 18 years old, citizens of the state, and are not “under an order of imprisonment for conviction of a felony.” La. Const. art. I, § 10. This includes jailed voters who are in pre-trial detention and those who are serving misdemeanor sentences. These voters retain their fundamental right to vote despite their incarceration. *See O’Brien v. Skinner*, 414 U.S. 524, 530 (1974); *Crothers v. Jones*, 239 La. 800, 823 n.7 (1960).

65. The Jail Voting Provisions operate together to deny eligible first-time voters in jails any means by which they can cast a ballot, *see* La. R.S. §§ 18:115(F), 18:115.1(F), 18:533(C)(2) & 18:1303(G); *see also* La. Att’y Gen. Op. No. 07-0173 (Aug. 3, 2007), in violation of the Louisiana Constitution, *see* La. Const. art. I, §§ 2, 3, & 10.

66. Under Louisiana law, when a law “impinges on a fundamental right,” it is subject to strict scrutiny. *Bazley*, 397 So. 2d at 483; *see also* *State v. Spell*, 2021-00876 (La. 5/13/22), 339

So. 3d 1125, 1130. To survive strict scrutiny, the law must “serve[] a compelling governmental interest” and be “narrowly tailored to serve that compelling interest.” *State v. Webb*, 2013-1681 (La. 5/7/14), 144 So. 3d 971, 978 (internal quotations omitted).

67. The Jail Voting Provisions do not serve a compelling state interest, for example, in protecting the integrity of the election or avoiding voter fraud. Jailed voters are in state custody; their identities are known and verified. And when they do vote, they do so both with the cooperation of the sheriff of the parish where they are incarcerated, in an environment that is controlled by law enforcement, and are subject to the regular verification processes of the Registrar of Voters.

68. Moreover, the Jail Voting Provisions are not narrowly tailored, because there are other less restrictive means available to further the State’s interest in verifying the identity of first-time voters. This is proven by the myriad exceptions to the first-time in-person voting requirement that state law already provides for other first-time voters who cannot appear in person, including college students, military and overseas voters, and voters with disabilities. *See supra* ¶¶ 49-51.

69. Even if strict scrutiny does not apply in this case, there is no rational basis to “statutorily ba[r]” eligible Louisianans from voting. *See* La. Att’y Gen. Op. No. 07-0173 (Aug. 3, 2007).

70. Moreover, the Louisiana Constitution intended to limit the Louisiana Legislature’s power such that it cannot, by statute, wholly deny access to the franchise to a class of voters who meet the state’s constitutional requirements for eligibility. *See Caddo-Shreveport Sales & Use Tax Comm’n v. Off. of Motor Vehicles Through Dep’t of Pub. Safety & Corr. of State*, 97-2233 (La. 4/14/98), 710 So. 2d 776, 779.

71. Therefore, the Jail Voting Provisions violate the Louisiana Constitution.

72. The Defendants’ application of the Jail Voting Provisions deprives Petitioner VOTE’s constituency of their fundamental right to vote as guaranteed by the La. Const. art. I, §§ 2, 3, and 10.

73. The Defendants’ application of the Jail Voting Provisions deprives Petitioner Day of her fundamental right to vote as guaranteed by the La. Const. art. I, §§ 2, 3 and 10.

74. Consequently, the Petitioners are each respectively entitled to Declaratory Relief that acknowledges the Jail Voting Provisions violate first-time incarcerated voters’ fundamental right to vote.

**COUNT TWO: CLAIM FOR INJUNCTIVE RELIEF FOR VIOLATIONS OF THE
RIGHT TO VOTE UNDER THE LOUISIANA CONSTITUTION, ART. I, §§ 2, 3, & 10**

(All Defendants)

75. Petitioners reallege and incorporate by reference each of the preceding allegations.

76. The Louisiana Constitution expressly protects the right to vote, providing that every “citizen . . . upon reaching eighteen years of age, shall have the right to register and vote,” so long as they are not “under an order of imprisonment for conviction of a felony,” interdiction, or declaration of mental incompetence. La. Const. art. I, § 10.

77. The Louisiana Constitution’s due process and equal protection clauses also protect Louisiana citizens’ right to vote. *See* La. Const. art. I, §§ 2, 3; *see also* *Bazley*, 397 So. 2d at 483 (explaining that the right to vote is protected by both equal protection and substantive due process).

78. The Louisiana Supreme Court has held that the right to vote is a “fundamental and constitutionally protected right.” *Adkins v. Huckabay*, 1999-3605 (La. 2/25/00), 755 So. 2d 206, 211 (citing La. Const. art. I, § 10; U.S. Const. art. IV, § 4).

79. Many voters in Louisiana jails are qualified to vote under state law, because they are at least 18 years old, citizens of the state, and are not “under an order of imprisonment for conviction of a felony.” La. Const. art. I, § 10. This includes jailed voters who are in pre-trial detention and those who are serving misdemeanor sentences. These voters retain their fundamental right to vote despite their incarceration. *See O’Brien v. Skinner*, 414 U.S. 524, 530 (1974); *Crothers v. Jones*, 239 La. 800, 823 n.7 (1960).

80. The Jail Voting Provisions operate together to deny eligible first-time voters in jails any means by which they can cast a ballot, *see* La. R.S. §§ 18:115(F), 18:115.1(F), 18:533(C)(2) & 18:1303(G); *see also* La. Att’y Gen. Op. No. 07-0173 (Aug. 3, 2007), in violation of the Louisiana Constitution, *see* La. Const. art. I, §§ 2, 3, & 10.

81. Under Louisiana law, when a law “impinges on a fundamental right,” it is subject to strict scrutiny. *Bazley*, 397 So. 2d at 483; *see also State v. Spell*, 2021-00876 (La. 5/13/22), 339 So. 3d 1125, 1130. To survive strict scrutiny, the law must “serve[] a compelling governmental interest” and be “narrowly tailored to serve that compelling interest.” *State v. Webb*, 2013-1681 (La. 5/7/14), 144 So. 3d 971, 978 (internal quotations omitted).

82. The Jail Voting Provisions do not serve a compelling state interest, for example, in protecting the integrity of the election or avoiding voter fraud. Jailed voters are in state custody; their identities are known and verified. And when they do vote, they do so both with the cooperation of the sheriff of the parish where they are incarcerated, in an environment that is controlled by law enforcement, and are subject to the regular verification processes of the Registrar of Voters.

83. Moreover, the Jail Voting Provisions are not narrowly tailored, because there are other less restrictive means available to further the State’s interest in verifying the identity of first-time voters. This is proven by the myriad exceptions to the first-time in-person voting requirement that state law already provides for other first-time voters who cannot appear in person, including college students, military and overseas voters, and voters with disabilities. *See supra* ¶¶ 49-51.

84. Even if strict scrutiny does not apply in this case, there is no rational basis to “statutorily ba[r]” eligible Louisianans from voting. *See* La. Att’y Gen. Op. No. 07-0173 (Aug. 3, 2007).

85. Moreover, the Louisiana Constitution intended to limit the Louisiana Legislature’s power such that it cannot, by statute, wholly deny access to the franchise to a class of voters who meet the state’s constitutional requirements for eligibility. *See Caddo-Shreveport Sales & Use Tax Comm’n v. Off. of Motor Vehicles Through Dep’t of Pub. Safety & Corr. of State*, 97-2233 (La. 4/14/98), 710 So. 2d 776, 779.

86. Therefore, the Jail Voting Provisions violate the Louisiana Constitution.

87. The Defendants’ application of the Jail Voting Provisions deprives Petitioner VOTE’s constituency of their fundamental right to vote as guaranteed by the La. Const. art. I, §§ 2, 3, and 10.

88. The Defendants' application of the Jail Voting Provisions deprives Petitioner Day of her fundamental right to vote as guaranteed by the La. Const. art. I, §§ 2, 3 and 10.

89. Consequently, the Petitioners are entitled to Injunctive Relief that prohibits the Defendants from enforcing the Jail Voting Provisions and violating first-time incarcerated voters' fundamental right to vote.

RELIEF REQUESTED

WHEREFORE, the Petitioners pray that after due proceedings are had in this case that this Honorable Court

A. Declare that under the Louisiana Constitution, eligible, incarcerated persons at EBR Parish Prison and across the State have the right to register and vote;

B. Declare that La. R.S. §§ 18:115(F), 18:115.1(F), 18:533(C)(2), and 18:1303(G), violate art. I, §§ 2, 3, & 10 of the Louisiana Constitution because they operate together to deny eligible, first-time incarcerated voters, like Petitioner Day, their right to vote;

C. Enjoin all Defendants from enforcing the challenged provisions in a manner that prevents eligible, first-time incarcerated voters from voting;

D. Enjoin all Defendants from enforcing the challenged provisions in a manner that prevents Petitioner Day from voting;

E. Enjoin Defendant Raborn from denying Petitioner Day's application to vote via absentee ballot;

F. Direct Defendants to provide Petitioner Day a means by which she can obtain and cast a ballot;

G. Direct Defendants the State of Louisiana and the Secretary of State to provide incarcerated first-time voters with a means by which they can obtain and cast a ballot. The State is entitled to discretion to design the mechanism by which they do so, however, if the State elects to use means other than suspending the first-time voter in-person requirement (La. R.S. §§ 18:115(F), 18:115.1(F)) for incarcerated first-time voters, it must submit the mechanism it intends to provide to the Court within 15 days for a hearing with all Parties to ensure the State's chosen method comports with constitutional requirements;

H. Order Defendant Secretary of State to provide instructions to all Registrars of Voters and all Louisiana Parish Sheriffs no later than 15 days after the Court approves the State's chosen method of remedying the constitutional harm, explaining:

a. the challenged provisions cannot be enforced in a manner that prevents eligible, incarcerated voters from voting; and

b. the method by which incarcerated first-time voters can lawfully obtain and cast a ballot; and

I. Grant any and all such relief as appropriate.

Respectfully submitted,



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