

**IN THE STATE OF MICHIGAN
COURT OF CLAIMS**

YVONNE BLACK,

Plaintiff,

Case No. 20-0000⁹⁶-MZ

v.

Hon. *Stephens*

JOCELYN BENSON, in her
official capacity as Secretary of State for the
State of Michigan

Defendant.

Yvonne Black
3985 Cedar Lake Road
Howell, MI 48843
(517) 294-1837

VERIFIED COMPLAINT FOR IMMEDIATE DECLARATORY RELIEF

VERIFIED COMPLAINT FOR PRELIMINARY INJUNCTION

There is no other pending or resolved civil
action arising out of the transaction or
occurrence alleged in the complaint.

Plaintiff, Yvonne Black, for her complaint against Defendant Secretary of State Jocelyn Benson,
states the following:

INTRODUCTION

1. Yvonne Black seeks to defend Michigan's constitutional system and the Legislature's role as the sole lawmaking body in that system. Defendant, the Secretary of State, has the power to execute Michigan's laws, not ignore, circumvent, or create them.

2. In response to the ongoing COVID-19 pandemic, Defendant Jocelyn Benson, has stated "[A]ll people on the list of Michigan registered voters have been mailed an APPLICATION to vote by mail." In asserting this power, by mailing absentee ballot application request forms to all registered Michigan voters for the 2020 August primary and November general elections, the Defendant has ignored the Michigan Constitution and MICHIGAN ELECTION LAW Act 116 of 1954.

AN ACT to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1994, Act 441, Imd. Eff. Jan. 10, 1995.

Popular name: Election Code

3. The Secretary of State is wrong in doing this. The Defendant's action circumvents the Michigan Constitution, engages Michigan's registered voters in invalid election activity, seizes lawmaking power from the Legislature, circumvents statutory law, and creates a new avenue of power that she deems appropriate. In doing so, Defendant takes control of matters at the core of the Legislature's constitutional mandate, Michigan Constitution, Article IV. Control and regulation of elections rest with the state by MICHIGAN ELECTION LAW Act 116 of 1954 and initiated constitutional amendments.
4. Especially during times of crisis, the law warrants respect.
5. COVID-19 presents real problems that call for a deliberative governmental response. And, that response must be based on statutory law – not through go-it-alone absolutism that ignores our State's most democratic institutions and offends the rule of law.
6. The mailing of absentee ballot applications forms to all registered voters without prior

request by elector for an absent voter ballot is invalid and will cause "irreparable injury" to Michigan's constitution, statutory laws, and Michigan's democratic voting processes.

7. The Court should enter a declaratory judgment in favor of Yvonne Black holding that the Defendant's mailing all Michigan registered voters absentee ballot applications is invalid as a matter of Michigan constitutional and statutory law.
8. The Court should enter an immediate preliminary injunction in favor of Yvonne Black holding that the Defendant's mailing all Michigan registered voters absentee ballot applications is invalid as a matter of Michigan constitutional and statutory law.

INTERESTED PARTIES, JURISDICTION, AND VENUE

9. Plaintiff, Yvonne Black, is a United States Citizen, resident of Marion Township, County of Livingston, in the State of Michigan.
10. Defendant, Jocelyn Benson, is being sued in her official capacity as Michigan's Secretary of State, an office created by Article V § 3, of Michigan's 1963 Constitution. The Secretary of State for Michigan oversees elections in Michigan and is responsible for handling all administrative aspects of the ballot initiative process in the State of Michigan.
11. The Court of Claims has "exclusive" jurisdiction to "hear and determine any claim or demand, statutory or constitutional," or any demand for "equitable[] or declaratory relief . . . against the state or any of its departments or officers" MCL 600.6419(1)(a).
12. Because Yvonne Black raises statutory and constitutional claims, and seeks equitable and declaratory relief, against the Secretary of State, this Court has jurisdiction to hear these claims.
13. For the same reason, venue is appropriate in this Court.

DECLARATORY RELIEF UNDER MCR 2.605 IS APPROPRIATE

14. Under *Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349, 372; 792 NW2d 686 (2010) “[w]henver a litigant meets the requirements of MCR 2.605, it is sufficient to establish standing to seek a declaratory judgment.” *Id.*
15. MCR 2.605(A)(1) states that, “[i]n a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment.”
16. Therefore, Yvonne Black requests declaratory judgment under MCR 2.605

PRELIMINARY INJUNCTION UNDER MCR 3.310 IS APPROPRIATE

17. Under *Gates v Detroit & M Ry Co*, 151 Mich 548, 551; 115 NW 420 (1908) “[t]he object of preliminary injunctions is to preserve the status quo, so that upon the final hearing the rights of the parties may be determined without injury to either.” *Id.*
18. MCR 3.310 (A)(3) states “[A] motion for a preliminary injunction must be filed and noticed for hearing in compliance with the rules governing other motions unless the court orders otherwise on a showing of good cause.”
19. Therefore, Yvonne Black requests preliminary injunction under MCR 3.310.

FACTUAL BACKGROUND

20. The Department of State is the oldest department of Michigan state government and is administered by the secretary of state. Elected to a 4-year term, the secretary of state is a member of the executive branch of government and has constitutional as well as statutory duties.
21. Article 4, § 1, of the Michigan Constitution prohibits the delegation of “legislative power”. Except to the extent limited or abrogated by Article IV, Section 6 or Article V,

Section 2, the legislative power of the State of Michigan is vested in a senate and a house of representatives.

22. Neither the Michigan Constitution or Act 116 of 1954, affords the Secretary of State, or any other government official elected or appointed, authority to mail all people on the list of Michigan registered voters an application to vote by mail without prior request by elector for an absent voter ballot application..

23. The MICHIGAN ELECTION LAW Act 116 of 1954 says in relevant part:

at any time during the 75 days before a primary or special primary, but not later than 8 p.m. on the day of a primary or special primary, an elector may apply for an absent voter ballot. The elector shall apply in person or by mail with the clerk of the township or city in which the elector is registered. An individual may submit a voter registration application and an absent voter ballot application at the same time if applying in person with the clerk or deputy clerk of the city or township in which the individual resides. Immediately after his or her voter registration application and absent voter ballot application are approved by the clerk or deputy clerk, the individual may, subject to the identification requirement in section 761(6), complete an absent voter ballot at the clerk's office. An application for an absent voter ballot under this section may be made in any of the following ways: (a) By a written request signed by the voter. (b) On an absent voter ballot application form provided for that purpose by the clerk of the city or township. (c) On a federal postcard application. An applicant for an absent voter ballot shall sign the application. A clerk or assistant clerk shall not deliver an absent voter ballot to an applicant who does not sign the application. A person shall not be in possession of a signed absent voter ballot application except for the applicant; a member of the applicant's immediate family; a person residing in the applicant's household; a person whose job normally includes the handling of mail, but only during the course of his or her employment; a registered elector requested by the applicant to return the application; or a clerk, assistant of the clerk, or other authorized election official. A registered elector who is requested by the applicant to return his or her absent voter ballot application shall sign the certificate on the absent voter ballot application. The clerk of a city or township shall have absent voter ballot application forms available in the clerk's office at all times and shall furnish an absent voter ballot application form to anyone upon a verbal or written request. You must be a United States citizen to vote. If you are not a United States citizen, you will not be issued an absent voter ballot. It is a violation of Michigan election law for a person other than those listed in the instructions to return, offer to return, agree to return, or solicit to return your absent voter ballot application to the clerk. An assistant authorized by the clerk who receives absent voter ballot applications at a location other than the clerk's office must have credentials signed by the clerk. Ask to see his or her credentials before entrusting your application with a person claiming to have the clerk's authorization to return your application.

INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS Step 1.
After completely filling out the application, sign and date the application in the place

designated. Your signature must appear on the application or you will not receive an absent voter ballot. Step 2. Deliver the application by 1 of the following methods: (a) Place the application in an envelope addressed to the appropriate clerk and place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier. (b) Deliver the application personally to the clerk's office, to the clerk, or to an authorized assistant of the clerk. (c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or a person residing in the voter's household may mail or deliver the application to the clerk for the applicant. (d) If an applicant cannot return the application in any of the above methods, the applicant may select any registered elector to return the application. The person returning the application must sign and return the certificate at the bottom of the application. (7) A person who prints and distributes absent voter ballot applications shall print on the application the warning, certificate of authorized registered elector returning absent voter ballot application, and instructions required by this section. (8) A person who makes a false statement in an absent voter ballot application is guilty of a misdemeanor. A person who forges a signature on an absent voter ballot application is guilty of a felony. A person who is not authorized in this act and who both distributes absent voter ballot applications to absent voters and returns those absent voter ballot applications to a clerk or assistant of the clerk is guilty of a misdemeanor.

24. On May 21, 2020 the Michigan Secretary of State's Office publicly announced that all registered Michigan voters have been sent absentee ballot applications.

Michigan Department of State ELECTION BULLETIN May 21, 2020

All people on the list of Michigan registered voters have been mailed an APPLICATION to vote by mail. This includes people who have previously been identified as possibly having moved, but who have not yet been removed from the registration list in accordance with the multi-year process required by federal law. Applications that are submitted must have a signature that matches the signature on the registration list to be considered valid and prompt the mailing of an actual ballot (subsequently, ballot envelopes must also be signed with matching signatures). Forging someone else's signature on an application and submitting it to receive a ballot is a crime. It is rarely attempted. The mailing of applications by the government this election does not make it easier than usual to commit such a crime, as the applications are also mailed by both political parties and many other organizations ahead of most elections. For years, the application form has also been freely available online for download. If a person receives an application that is addressed to someone who no longer lives in their residence or is deceased, they are advised to mark the envelope as such and place it back in the mail so that the process of updating the registration list continues. In this way, the statewide mailing of applications will improve the voter list, as election clerks will be able to use mail that has been returned to clean the registration list following the appropriate verification and waiting period.

COUNT I

VIOLATION OF MICHIGAN ELECTION LAW Act 116 of 1954

AND THE MICHIGAN CONSTITUTION

25. Yvonne Black, incorporates the allegations of the foregoing paragraphs as if fully stated herein.
26. The Legislature is *the* lawmaking branch of Michigan's government. Const. 1963, Art. IV, §1. The Executive Branch has no lawmaking authority.
27. The Secretary of State for Michigan oversees elections in Michigan and is responsible for handling all administrative aspects of the ballot initiative process in the State of Michigan. Control regarding application to vote absentee is legislated to the Secretary of State by MICHIGAN ELECTION LAW Act 116 of 1954 168.759 Application to vote absentee; time; manner; form; availability; signature of applicant; false statement as misdemeanor. While Michigan Proposal 3, Voting Policies in State Constitution Initiative (2018) states any voter can vote using an absentee ballot (no-excuse absentee voting) during the 40 days before an election this Constitutional Amendment does not include any language that legally allows the department of secretary of state to mail all people on the list of Michigan registered voters an absentee ballot application prior to a written request by the elector for an absent voter ballot application. Yet, on May 21, 2020 the Secretary of State publicly announced that all registered Michigan voters have been mailed absentee ballot applications.
28. Defendant, Jocelyn Benson, has acted unlawfully by mailing all registered voters absentee ballot applications without prior request by elector for an absent voter ballot application. This unlawful action is detrimental to the Michigan Constitution, Michigan's legislated statutory election laws, and Michigan's legislative process.

REQUEST FOR RELIEF

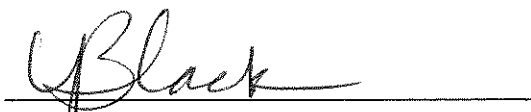
WHEREFORE, Yvonne Black respectfully requests that this Court:

- A. Order “a speedy hearing” of this action and “advance it on the calendar” under MCR 2.605(D).
- B. Order a preliminary injunction “on a showing of good cause” under MCR 3.310 (3).
- C. Declare and adjudge that:
 - 1. The Secretary of State's legal authority, by means of the Michigan Constitution or Michigan Statute, does not include mailing all registered voters absentee ballot applications without prior request by elector for an absent voter ballot application.
- D. Grant such other relief as this Court deems just and proper.

Respectfully submitted,

Dated: May 26, 2020

I declare that the statements above are true to the best of my knowledge, information, and belief.



Yvonne Black