

PREPARED BY THE COURT

LEAGUE OF WOMEN VOTERS OF
NEW JERSEY and AMERICAN CIVIL
LIBERTIES UNION OF NEW JERSEY,

Plaintiffs,

v.

TAHESHA WAY, in her official capacity
as Secretary of State of New Jersey, and
ROBERT GILES, in his official capacity
as Director of the Division of Elections,

Defendants.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION-
MERCER COUNTY**

DOCKET NO. MER L-1831-20

CIVIL ACTION

**ORDER DENYING PLAINTIFFS'
APPLICATION FOR INJUNCTIVE AND
DECLARATORY RELIEF AND
DISMISSING THE VERIFIED
COMPLAINT**

Attorneys for Plaintiffs:

Alexander Shalom
Tess Borden
Jeanne LoCicero
AMERICAN CIVIL LIBERTIES UNION
OF NEW JERSEY FOUNDATION
P.O. Box 32159
Newark, NJ 07102
(973) 854-1714

Attorney for Defendants:

Susan M. Scott, DAG
Office of the New Jersey Attorney General
Department of Law and Public Safety,
Division of Law
Community Affairs, State and Elections
Section
Richard J. Hughes Justice Complex
25 Market Street, P.O. Box 112
Trenton, NJ 08625

Attorney for Rutgers International Human Rights Clinic, appearing as *Amicus Curiae*:

Penny M. Venetis
Rutgers International Human Rights Clinic
Rutgers Law School
123 Washington Street
Newark, NJ 07102
(973) 353-5687
(917) 617-3524

THIS MATTER having come before the court by way of a Verified Complaint and Order to Show Cause seeking injunctive and declaratory relief for New Jersey residents displaced from their homes as the result of the COVID-19 pandemic who timely seek but do not receive by mail a ballot at their alternate address by October 30, 2020 for the November 3, 2020

General Election, and cannot use any of the other available forms of voting; and Plaintiffs, having represented in their Complaint that without such relief, the affected displaced voters will be disenfranchised, and deprived of their constitutional rights including their rights to vote; and the State Defendants, having filed opposition to Plaintiffs' requested relief, arguing that the application was filed too close to the November 3, 2020 general election to avoid disruption to the voting process and that the relief sought would be unduly burdensome to election officials across the state, and could cause a risk of errors and voter confusion; and the Defendants, arguing further that the Plaintiffs lack standing to bring the action, and do not demonstrate a likelihood of success on the merits as required for the granting of injunctive relief; and the Defendants, arguing further that a balancing of equitable factors and the public interest weigh against granting this untimely request; and the Rutgers International Human Rights Clinic, having appeared *amicus curiae* in this matter, urging this court to deny the remedy sought by Plaintiffs of providing electronic ballots to the affected voters to avoid their disenfranchisement, but noting that the use of an overnight courier service could be considered to address the concerns of Plaintiffs; and the Clinic having noted that use of voting systems connected to the internet is reserved for the disabled and overseas/military voters, as set forth in a Memorandum of Understanding between the State and Plaintiffs in a separate matter; and the court, having held oral argument on October 23, 2020 and having found that Plaintiffs' complaint is untimely and that the granting of any form of statewide relief for an unknown number of individual voters at this date could disrupt the election and distract election officials from their other critically important duties; and the court finding that, on balance of the equities, injunctive relief would create an excessive burden on state election officials and workers and would not serve the public interest; and the court finding that the State's process for elections, including provisions for

displaced New Jersey residents already in place are adequate and not constitutionally infirm; and for the reasons set forth on the record; and for good cause shown:

IT IS on this 23rd day of October, 2020, **HEREBY ORDERED** that:

1. Plaintiffs' requests for immediate, preliminary and permanent injunctive relief, ordering Defendants to provide a process for displaced New Jersey residents who have registered to vote and requested a mail-in ballot but have not received one to cast their ballot by mail, either through the electronic delivery of ballots to such residents or institution of some sort of courier service for ballots, are DENIED.
2. Plaintiffs' requests for declaratory relief are DENIED.
3. The complaint is dismissed.

For the Court,

/s/ Hon. Mary C. Jacobson, A.J.S.C.