

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
FRANKFORT

No. 3:17-cv-00094-GFVT

JUDICIAL WATCH, INC.,)
Plaintiff)
V.)
UNITED STATES OF AMERICA,)
Plaintiff-Intervenor,)
V.)
MICHAEL G. ADAMS in his official)
capacity as Secretary of State, *et al.*,)
Defendants)

**SECRETARY OF STATE MICHAEL
G. ADAMS' MOTION FOR
CLARIFICATION OF CONSENT
JUDGMENT**

Comes Michael G. Adams, in his official capacity as Kentucky Secretary of State (“Secretary Adams”), by counsel, and submits the following Motion for Clarification regarding interpretation of paragraph 34(b)(5) of the Consent Judgment.

Secretary Adams remains committed to removal of ineligible voters from Kentucky’s voter rolls within the prescribed federal and state statutes and regulations. Since he was sworn into office on January 6, 2020, Kentucky has removed over 320,000 voters – Republicans, Democrats, and Independents – from its rolls, approximately half of whom were deceased.

The Secretary of State, as Chief Election Official, entered into a membership agreement with the Electronic Registration Information Center, Inc. (“ERIC”) on February 26, 2019. This agreement allowed for the Commonwealth of Kentucky to comply with paragraph 34(b)(5) of the

Consent Judgment, which states sources of information used regularly for voter rolls maintenance purposes should include “reliable evidence of address changes from the Electronic Registration Information Center.” Other information which is to be used is “data from the U.S. Postal Service National Change of Address (NCOA) program, mail sent by the Kentucky State Board of Elections or local election officials returned as undeliverable with or without forwarding address, lists from the Kentucky Transportation Cabinet of former Kentucky residents who have surrendered Kentucky driver licenses or other state issued identification to motor vehicle authorities in another state and data from other states indicating that a Kentucky registrant may have moved to that state.”

The partnership with ERIC has been fruitful, as it not only provided evidence of voters who had moved from our state, but also provided the State Board of Elections with the Social Security master death index. Recently, the partnership has been made less attractive as many states have resigned their participation: Florida, Missouri, West Virginia, Ohio, Iowa and Virginia.¹ It is likely more states will withdraw in the near future.²

Secretary Adams has already begun researching whether the Commonwealth can receive the NCOA data as a stand-alone product, as well as the Social Security master death index, both of which are received as part of Kentucky’s membership in ERIC. Secretary Adams is also discussing with other states’ chief election officials additional, bilateral measures they might take which would assist the Commonwealth and those states in maintaining their voter rolls.

ERIC is a membership-based organization. As more member states join, the yearly membership fee decreases. The inverse is also true – as members resign, the yearly membership

¹ See Miles Parks, Louisville Public Media, “3 more Republican states announce they’re leaving a key voting data partnership,” March 6, 2023 at <https://www.npr.org/2023/03/06/1161374479/electronic-registration-information-center-eric-florida-missouri-west-virginia>.

² See Matt Vasilogambros, Governing, “Why Are GOP-Led States Leaving Voter Registration Group ERIC,” May 23, 2023, at <https://www.governing.com/politics/why-are-gop-led-states-leaving-voter-registration-group-eric>.

dues increase. The State Board of Elections' FY 2023 dues were \$40,039. The projected dues for FY24 will increase to either \$58,797.00 or \$65,115.00, depending on whether Texas resigns, which appears to be imminent. It is also possible that, because of the multitude of resignations over the last few months, ERIC will dissolve.

ERIC, at its essence, is a great resource. The more states that belong, the more effective it is for the member states to identify their voters who have moved and no longer vote in their states. From U.S. Census Bureau data,³ Kentuckians move most to Ohio, Indiana, Tennessee, Florida and Texas and relocate from Ohio, Indiana, Tennessee, Florida and Virginia.⁴ None of these states is currently a member of ERIC, having just resigned or with no intention to join.

Although the Consent Decree specifically mentions utilization of ERIC, Secretary Adams requests the Court to clarify if the Consent Decree *requires* utilization of ERIC – regardless of cost, and value – if other resources may be used effectively to identify and ultimately remove voters who should come off our rolls. While Secretary Adams has previously defended the ERIC organization and process from misinformation and conspiracy theories, political developments outside our state and outside his control draw into question the continued usefulness of ERIC to Kentucky.

Secretary Adams will continue to work with the parties to this action, and anyone else, to ensure compliance with federal and state law, and to improve public confidence in Kentucky's elections.

³ United Census Bureau, <https://www.census.gov>.

⁴ See Aaron Mudd, Lexington Herald Leader, "Here are the 5 states new Kentuckians are moving from most. Plus the 5 drawing them away," July 15, 2022, at <https://www.kentucky.com/news/state/kentucky/article263441158.html>.

Respectfully submitted,

/s/ Michael R. Wilson

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CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2023, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notice of the electronic filing to all counsel of record.

/s/ Michael R. Wilson

*Counsel for Defendant Michael G. Adams,
in his official capacity as Secretary of State*