

SUPREME JUDICIAL COURT
for Suffolk County
Case Docket

BRIAN CHARLSON, KIM CHARLSON, DEANN ELLIOTT, TANJA MILOJEVIC,
CORY KADLIK, BARBARA RIVERO, BAY STATE COUNCIL OF THE BLIND,
and BOSTON CENTER FOR INDEPENDENT LIVING v. WILLIAM FRANCIS
GALVIN, in his Official Capacity as Secretary of the Commonwealth of
Massachusetts
SJ-2020-0588

CASE HEADER

Case Status	Decided: petition allowed	Status Date	08/25/2020
Nature	Equity Action c 214 s 1	Entry Date	08/21/2020
Sub-Nature	Elections Violation	Single Justice	Lowy, J.
TC Ruling		TC Ruling Date	
SJ Ruling		TC Number	
Pet Role Below		Full Ct Number	
Lower Court		Lower Ct Judge	

INVOLVED PARTY

Brian Charlson, Et. al.
Plaintiff/Appellee

William Francis Galvin, as Secretary of the Commonwealth of
Massachusetts
Defendant/Respondent

ATTORNEY APPEARANCE

[Tatum A. Pritchard, Esquire](#)
[Matthew Steele, Esquire](#)

[Michelle Tassinari, Esquire](#)
[Anne Sterman, Assistant Attorney General](#)

DOCKET ENTRIES

Entry Date	Paper	Entry Text
08/21/2020		Case entered.
08/21/2020	#1	Emergency Petition for Relief Pursuant to G. L. c. 249, § 5, G. L. c. 214, § 1, and G. L. c. 231, § 1, with Certificate of Service, Addendum filed by Atty. Tatum A. Pritchard.
08/24/2020	#2	Letter in Response to Petition with attachments filed by Atty. Anne Sterman.
08/24/2020	#3	<p>ORDER: "This case came before the Court, Lowy, J., on an emergency petition for relief pursuant to G. L. c. 249, § 5; G. L. c.214, § 1; and G. L. c. 231, § 1. The Attorney General, in a letter dated August 24, 2020 filed with the court, indicated the parties were amenable to mediation of the issues raised in the petition. To assist their negotiations, I am appointing a special master, Honorable Robert J. Cordy (ret.). The clerk shall arrange a conference between counsel and the special master as soon as possible.</p> <p>If the parties are able to reach an agreement on all terms by August 25, 2020, they shall provide the agreement in the form they propose it to be approved. If an agreement on all terms is not forthcoming, the parties are directed to identify with specificity, in a joint document, all terms that are agreed and those terms that are proposed by one side or the other but which remain in dispute; I will promptly report the matter to the full court. The parties should anticipate that, if they are unable to reach a full agreement, they will be required to provide the full court with a statement of agreed facts sufficient to resolve the disputed items. The timetable for any further briefing and a hearing, if any, if the case goes to the full court, shall be set by the full court." (Lowy, J.)</p>
08/25/2020		Under advisement. (Lowy, J.).
08/25/2020	#4	<p>JUDGMENT: "This matter came before the Court on the Emergency Petition for Declaratory Relief filed by Brian Charlson, et al. ("Petitioners") against William Francis Galvin, in his Official Capacity as Secretary of the Commonwealth of Massachusetts (the "Secretary"), dated August 21, 2020 (the "Petition").</p> <p>For good cause stated in the Petition, after notice and a hearing as appropriate under the circumstances, by agreement of all parties, and because there is a pandemic in the Commonwealth that has led to social distancing and the Governor declaring a State of Emergency, the Court hereby enters judgment in the above-captioned matter declaring as follows:</p> <p>1. This Agreed Judgment applies only to requests for disability accommodations related to ballots for the September 1, 2020 primary election.</p> <p>2. In addition to other methods of voting available to registered voters seeking disability-related accommodations to vote permitted by applicable law, and notwithstanding anything in applicable law to the contrary, a voter seeking an accommodation to vote because of a disability shall be permitted to seek such accommodations from the Secretary as follows:</p> <p>(a) The voter shall submit a request for an accommodation to the Accessible Vote by Mail Coordinator in the Secretary's Office ("AVBM Coordinator"). The request shall clearly state that the voter is seeking an accommodation</p>

by reason of a disability. The request for an accommodation shall include the voter's first name, last name, date of birth, address at which the voter is registered to vote, mailing address, and an email address and/or telephone number. Such request may be made by to the AVBM Coordinator by telephone or by e-mail.

(b) The voter shall also submit to the AVBM Coordinator a completed and signed application for a mail-in ballot. Such request may be submitted electronically. If the voter is not enrolled in a political party, this application must also indicate for the September 1, 2020 primary the party for which the voter wants a ballot.

(c) Only registered voters may obtain a ballot pursuant to this paragraph. Individuals seeking to make a request under this paragraph should first confirm that they are registered to vote before submitting a request to the Secretary.

3. If the AVBM Coordinator receives from the voter an accommodation request and application for a mail-in ballot as set forth in paragraph 2, and if the AVBM Coordinator can verify that the voter is registered and that the materials required by paragraph 2 have been completed by the voter, then the Secretary shall:

(a) Add the voter to the accessible voting system operated by VotingWorks so that the voter can obtain an accessible ballot and voter instructions through this system. The AVBM Coordinator will also provide the voter with an access PIN verbally if the request was on a call or in a separate email.

(b) Provide information to the voter by telephone or by e-mail to permit the voter to ascertain the location of where the voter's completed ballot must be sent in order to be officially cast with the voter's local election office.

(c) Provide the voter by e-mail an accessible electronic version of the affidavit of compliance that must accompany a ballot in order to be officially cast with the voter's local election office.

(d) Notify the voter's local election officials and direct them to send by first-class mail to the voter: an inner envelope where the ballot is placed after voting which contains an affidavit of compliance to be filled out by the voter, and an outer envelope that is pre-addressed to the local election official with postage guaranteed. The local election officials shall not send a ballot or voter instructions to the voter. The Secretary is otherwise not responsible for ensuring that these voting supplies reach the voter before September 1, 2020.

4. The Secretary shall accept requests for accommodations and applications under this Agreed Judgment relating to the September 1, 2020 primary election pursuant to paragraph 2 until noon on August 28, 2020.

5. For the ballot of a voter voting pursuant to this agreement to be counted, the ballot must be completed and printed, and the following materials must be received by the voter's local election official in a sealed envelope (either the voter's own envelope or in the envelope provided by local election officials) no later than the hour fixed for closing the polls on the day of the primary election, as provided in Mass. Stat. 2020 c. 115 § 6(g)(3): (a) the completed and printed ballot, and (b) the signed affidavit of compliance bearing the name of the voter, which can be either a printed and signed copy of the affidavit of compliance furnished by the Secretary pursuant to paragraph 3(c) or a printed and signed affidavit of compliance furnished by the local election officials pursuant to paragraph 3(d). The voter is responsible for ensuring that all materials are properly completed and returned in compliance with the Agreed Judgment and other applicable general laws.

6. Petitioners shall assist the Secretary with the creation of the accessible affidavit of compliance described in paragraph 3(c).

7. The Secretary shall display on the Election Division's website information about how a voter may request an accommodation pursuant to this order for the September 1, 2020 primary election. The Secretary's Election Division's Twitter account shall also send a Tweet informing the public concerning the provisions of this Agreed Judgment. The Secretary shall also provide information relative to this Agreed Judgment to local election officials.

8. At the close of business each business day between the date of this order and August 28, 2020, the Secretary shall through counsel report to the Petitioners the number of accommodation requests that have been received by the AVBM Coordinator and the number of requests that have been processed or remain unprocessed (including because the request itself is incomplete).

9. This Court shall retain jurisdiction to resolve any disputes between one or more of the Petitioners and the Secretary arising out of or related to this Agreed Judgment." (Lowy, J.)

08/26/2020 #5

EMAIL Notice to Counsel/Parties and Lower Court Re: P.#'s 3 & 4 filed.

08/26/2020

Filing fee paid. (\$315)

08/27/2020 #6

Joint MOTION To Amend Judgment filed by Atty. Tatum Pritchard, Atty. Matthew Steele and AAG Anne Sterman. (8/27/2020" "Per the within, Motion is ALLOWED WITHOUT HEARING." (Lowy, J.)

08/27/2020

Under advisement. (Lowy, J.).

08/27/2020 #7

EMAIL Notice to Counsel/Parties Re: P.# 6 filed.