

FILED

Clerk of the
Circuit Court

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY 4 PM 1:43

MELVIN JOHNSON
14610 Man-O-War Drive,
Bowie, Maryland 20721

Plaintiff

QAAREE PALMER
6212 Ferore Way
Baltimore, Maryland 21224

Plaintiff

v.

PRINCE GEORGE'S COUNTY
BOARD OF ELECTIONS
1100 Mercantile Lane
Suite 115A
Largo, Maryland 20774

Defendant

Serve on:
Andree Green, County Attorney
PRINCE GEORGE'S COUNTY OFFICE OF LAW
County Administration Building, Room 5121
14741 Governor Oden Bowie Drive,
Upper Marlboro, MD 20772 - 3050

MARYLAND STATE BOARD
OF ELECTIONS
151 West Street, Suite 200
Annapolis, Maryland 21401

Co-Defendant

Serve on:
Nancy K. Kopp

PR GEO CO MD # 94

CASE#: CAL 16-42799

MARYLAND STATE TREASURER *
80 Calvert Street, *
Annapolis, Maryland 21401 *

LINDA H. LAMONE *
In her official capacity as State Administrator *
of Maryland State Board of Elections *
151 West Street, Suite 200 *
Annapolis, Maryland 21401 *

Co-Defendant *

**SECOND AMENDED COMPLAINT FOR CIVIL RIGHTS VIOLATIONS
AND DEMAND FOR JURY TRIAL**
(Redline Copy)

NOW COMES, Plaintiffs Melvin Johnson and Qaaree Palmer, jointly and severally, by and through their attorneys, J. Wyndal Gordon of **THE LAW OFFICE OF J. WYNDAL GORDON, P.A.**, Latoya Francis-Williams of Counsel to **THE LAW OFFICE OF A. DWIGHT PETTIT, P.A.**, Raouf M. Abdullah, of **RMA & ASSOCIATES, LLC**, and Lanet Scott of **THE LAW OFFICE OF LANET SCOTT, ESQ.**, to submit this Amended Complaint pursuant to the State Constitution, Maryland Declaration of Rights, U.S. Constitution, 42 U.S.C. §§ 1983, 1988, and CJP § 3-409 alleging as true the following:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over this action and venue is proper in this circuit court pursuant to the concurrent and pendant jurisdiction of the court over State and federal constitutional questions. CJP § 1-501, *see also R.A. Ponte Architects, Ltd. v. Investors' Alert, Inc.*, 382 Md. 689, 696-97 (2004), *Felder v. Casey*, 487 U.S. 131 (1988), *see also* 42 U.S.C. §§ 1983, 1988, Md. Const. art. 1 §§ 1 (Elective Franchise [Qualifications]) and 2 (Voter Registration), Md. Decl. of Rights arts. 7 (Right to Vote) and 24 (Equal Protection), First Amendment (Right to Vote), Fourteenth

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Amendment (Equal Portection). Notice of Intent was duly served upon the proper officials via *hand delivery* under CJP § 5-304, and SG §§ 12-106 and 12-108.

II. PARTIES

Plaintiffs incorporate by reference the allegations contained in paragraph one as if fully set forth herein:

2. Plaintiff Melvin Johnson, and others similarly situated, is an unregistered but eligible voter and resident of the County of Prince George's, State of Maryland, and citizen of the United States who is currently being detained in the Prince George's County Department of Corrections under ID#: 212197.

3. Plaintiff, Qaaree Palmer, and others similarly situated, is an unregistered but eligible voter and resident of the County of Prince George's, State of Maryland, and citizen of the United States who is currently being detained in the Prince George's County Department of Corrections under ID#: 034059.

4. That Defendant, Prince George's County Board of Elections ("County Board" or "local board"), is authorized by State Election laws to make rules consistent with State laws to ensure the proper and efficient registration of voters and conduct of elections; it is, *inter alia*, statutorily mandated to: (a) oversee the conduct of all elections held in [Prince George's County] and ensure that the elections process is conducted in an open, convenient, and impartial manner; (b) serve as the local board of canvassers and certify the results of each election conducted by the local board; (c) provide to the general public timely information and notice, by publication or mail, concerning voter registration and elections; and (d) maintain records in accordance with the plan

adopted by the State Board under § 2-106 of the Election Article. *See* Elect. Code §2-202, et seq.

5. The Maryland State Board of Elections (State Board) is a state agency organized under the laws of Maryland and is charged with managing and supervising elections in the State and ensuring compliance with the requirements of the Election Law Article and any applicable federal law by all persons involved in the elections process; the State Board's duties are *inter alia* to: (a) supervise the conduct of elections in the State; (b) direct, support, monitor, and evaluate the activities of each local board; (c) maximize the use of technology in election administration, including the development of a plan for a comprehensive computerized elections management system; (d) canvass and certify the results of elections as prescribed by law; (e) make available to the general public, in a timely and efficient manner, information on the electoral process, and information gathered and maintained regarding elections; (f) receive, maintain, and serve as a depository for elections documents, materials, records, statistics, reports, certificates, proclamations, and other information prescribed by law or regulation. Elect. Code §2-102, et seq.

6. Linda Lamone is the State Administrator of Elections statutorily charged with managing and supervising elections in the State and ensuring compliance with the requirements of the state code and any applicable federal law by all persons involved in the elections process, see Elect. Code §2-102; she is further charged with supervising *inter alia* the operations of the City/County Boards of Elections, see Elect. Code 2-103(4).

III. STANDING

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 - 6 as if fully set forth herein:

7. Melvin Johnson has standing because he is an eligible but unregistered voter who

was denied the right to register, access to the ballot, and the right to vote in the November General Election by the City and State Board of Elections.

8. Qaaree Palmer has standing because he is an eligible but unregistered voter who was denied the right to register, access to the ballot, and the right to vote in the November General Election by the City and State Board of Elections.

IV. STATEMENT OF FACTS

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 - 8 as if fully set forth herein:

9. In February, 2016, after Governor Larry Hogan (R)'s veto, and a General Assembly override, Maryland enacted Election law 3-102(a) and (b), et seq., to restore voting rights to all ex-offenders upon re-entry into the community after serving a court-ordered sentence for the felony conviction—even if they are on active parole or probation.

10. Under this new law, an individual may register to vote if he/she:

- (i) is a citizen of the United States;
- (ii) is at least 16 years old;
- (iii) is a resident of the State as of the day the individual seeks to register; and
- (iv) registers pursuant to this title.

11. The General Assembly however carved out exceptions to this rule that actually restored the voting rights of over 40,000 Maryland residents; the exceptions state the following:

- (1) has been convicted of a felony and is currently serving a court-ordered sentence of imprisonment for the conviction;
- (2) is under guardianship for mental disability and a court of competent jurisdiction has specifically found by clear and convincing evidence that the individual

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cannot communicate, with or without accommodations, a desire to participate in the voting process; or

- (3) has been convicted of buying or selling votes. *See* Cox, Erin, "Released felons gain right to vote in Maryland after veto override" *Baltimore Sun*, February 9, 2016 ("*More than 40,000 recently released Maryland felons will regain the right to vote in time for this year's election.*") <http://www.baltimoresun.com/news/maryland/politics/bs-md-felons-voting-20160209-story.html>

12. This law coupled with other Maryland election laws and regulations give not only ex-felony offenders who served-out their time, the right to register and vote, but it also gives pre-trial detainees who have not been convicted of the charged crime(s) resulting in their pre-trial detention, the right to vote –so long as they are not serving a court-ordered sentence of imprisonment for a felony conviction or fall within one of the other exceptions noted above.

13. Further, individuals who have been duly convicted, served their term of court-ordered sentence of imprisonment, are on probation/parole, but have been since accused of violating their terms of parole/probation and are currently incarcerated awaiting a parole/probation hearing to determine whether said parole/probation has in fact been violated, are too, eligible to register and vote.

14. Furthermore, individuals who have been duly convicted of a misdemeanor (ex. 2nd degree assault, some traffic offenses, etc.) are eligible to register and vote whether or not they are currently serving a court-ordered term of incarceration. *See, e.g., United States v. Hassan El*, 5 F.3d 726 (4th Cir. 1993), *cert denied*, 511 U.S. 1006 (1994) (holding that common law simple assault is

neither a felony or an "infamous crime" under Maryland law, the defendant did not lose his right to vote as a result of his assault conviction).

15. State of Maryland Department of Corrections, houses and has in its custody hundreds of individuals who are eligible to register and vote pursuant to Maryland state law as above mentioned within **Prince George's County** alone; the lack of a State strategy governing inmate voter registration and voting during the November 8, 2016 General Election infringed upon the fundamental right to vote of these affected individuals; Maryland owes duty to the affected individuals who are eligible to vote and housed in State owned facilities to implement the statutory and/or regulatory plan or procedure for ensuring that inmate voting rights are not infringed upon solely because they are in custody awaiting trial or serving time on a misdemeanor conviction(s).

16. Neither the City of Baltimore, the 23 other counties, nor the State of Maryland, had an official local or statewide policy, procedure or plan, for their detention centers (including juvenile centers for 16+ y.o.), intake and correctional facilities owned, supervised, operated and or managed by the State (or local government if applicable), to:

- a. permit pre-trial detainees who are eligible and wish to register and vote the opportunity to do so,
- b. permit convicted misdemeanants serving a court ordered sentence of imprisonment, who are eligible and wish to register and vote the opportunity to do so, and
- c. confirm the number of inmates who are eligible and wish to register and vote in upcoming elections.

17. Nor did Baltimore City, the 23 other counties, nor the State of Maryland, have an official local or statewide policy, procedure, or plan to register eligible voters desiring to do so by the October 18, 2016 deadline, or distribute ballots, absentee or otherwise, to pre-trial detainees or

10/26/17

convicted misdemeanants who are registered voters wanting to exercise their right to vote during the early voting period, October 27, 2016 - November 3, 2016, or Election Day, November 8, 2016.

18. Because of an eligible registrant's/voter's usually unforeseen or untimely arrest and pre-trial detention (where a person is held despite lawful presumption of innocence until proven guilty), it is unlikely, and unreasonable, to expect a pre-trial detainee to mail in a timely request to the State or local boards (in advance of, or during his/her period of detention) for a voter registration application to complete and return to the State and/or local board before Election Day, --unless he/she, at the very least, has been notified and informed of his/her right to do so by the local and State Boards of Elections and has been provided the physical wherewithal, financial means, and lack of impediments to exercise that right.

19. It is even more unlikely, and unreasonable, to expect that without a local or statewide plan to enfranchise these affected individuals short of court intervention, the detention center(s) in Baltimore City, the 23 other counties, or the correctional facilities within the State of Maryland, will not, and in fact, *did not*, provide their inmates with an actual ballot to cast at anytime during early voting or election day.

20. As it stands now, individuals who were being held on pre-trial detention and unable to make bail on or after October 27, 2016, early voting, and before the November 8, 2016, general election, were denied the right to register and/or vote; and individuals who are serving a court-ordered sentence of imprisonment for misdemeanor violations were also denied the right to register and/or vote.

21. Neither through the intake process at the county detention centers and State intake and correctional institutions, nor through the State and local boards of elections, are any inquiries

made or information given to inmates about voting, voter eligibility, or voter registration (which may occur through the early voting period in Maryland), and neither one of the aforementioned agencies are providing information or access to the ballot for persons eligible to register and/or vote; the duty to do so falls on the State and local board of elections; the failure of the State and local boards to do the aforementioned for the November general election violated the State Constitution and Declaration of Rights, as well as the U.S. Constitution under the First and Fourteenth Amendment by, among other things, thereby undermining the purpose of State Election law which is to inspire public confidence and trust by assuring that: (1) *all persons* served by the election system are *treated fairly and equitably*; (2) *all qualified persons* may *register and vote* and that those who are not qualified do not vote; (3) those who administer elections *are well-trained*, that they serve both those *who vote and those who seek votes*, and that they put the public interest ahead of partisan interests; (4) *full information on elections is provided to the public*, including disclosure of campaign receipts and expenditures; (5) citizen convenience is emphasized in all aspects of the election process; (6) security and integrity are maintained in the casting of ballots, canvass of votes, and reporting of election results; (7) the prevention of fraud and corruption is diligently pursued; and (8) any offenses that occur are prosecuted.

22. The State and local board of elections have further and most grievously violated the State and Federal Equal Protection and voting rights laws by denying eligible voters the right to register and vote despite their incarceration or detention as voting rights are not illusory but actually guaranteed by the clearly established laws of the State and U.S.

23. Eligible voters are and will continue to be greatly injured and irreparably harmed by

the acts and omissions of State and local boards of elections by perpetually denying their right to register and vote in the all elections held within the State, solely and exclusively because they are being involuntarily detained pretrial in a State detention center or serving time on a misdemeanor offense in a State correctional institution.

Violation of Elect. Code 3-102

Ex-offender Restoration of Voting Rights

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 - 23 as if fully set forth herein:

24. Maryland Election Article § 3-102 guarantees the right to register and to vote to any individual who is a citizen of the United States; is at least 16 years old; is a resident of the State as of the day the individual seeks to register; and registers pursuant to the Article. *See also* Md. Const. Art. I §§ 1 and 2, Decl. of Rights Art. 7 & 24.

25. Plaintiffs collectively, submit that they and similarly situated individuals held in pre-trial detention or serving a court-ordered sentence of imprisonment for misdemeanor offenses, who meet the above described qualifications, are being denied the right to register and vote, even though they do not fall within the narrow exception to this statute.

26. The State's denial of the affected individuals rights to register and vote in the general election held on November 8th, 2016, is inconsistent with the Election Law Article, the State Constitution and Declaration of Rights, and the U.S. Constitution, as well as other laws governing the elections process as more fully explained below.

Violation of Elect. Code § 2-202

Powers and Duties of Local Board

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 - 26 as if fully set forth herein:

27. The local board of election is charged with, inter alia: (1) overseeing the conduct of all elections held in its jurisdiction and ensuring that the elections process is conducted in an open, convenient, and impartial manner, (2) providing the supplies and equipment necessary for the proper and efficient conduct of voter registration and election; (3) providing to the general public timely information and notice, by publication or mail, concerning voter registration and elections, and (4) establishing and altering the boundaries and number of precincts in accordance with § 2-303 of this title, and providing a suitable polling place for each precinct, and assigning voters to precincts.

28. The local board violated its powers and duties by: (1) not following the law as aforementioned, (2) not establishing a regulatory plan or making any arrangements in accordance with the Election law to ensure the enfranchisement of pre-trial detainees and individuals serving court-ordered sentences of imprisonment for misdemeanor violations in city/county and State detention centers, intake and correctional facilities under its jurisdiction; and (3) denying Plaintiffs the right to:

- a. information concerning voter registration and elections,
- b. register,
- c. access to the [regular] ballot, absentee, provisional or otherwise, and
- d. vote.

And as a direct and proximate cause of Defendants failure to satisfy its duties by a series of acts and/or omissions, Plaintiffs suffered serious and substantial constitutional injuries, and damages.

Violation of Elect. Code § 2-102

Powers and Duties of State Board

U.S.
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OF
APPEALS
FOR
THE
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CIRCUIT

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 - 28 as if fully set forth herein:

29. The State board is charged with, *inter alia*, (a) managing and supervising elections in the State and *ensuring compliance* with the requirements State election law and *any applicable federal law* by all persons involved in the elections process; (b) directing, supporting, monitoring, and evaluating the activities of each local board; and (c) maximizing the use of technology in election administration, including the development of a plan for a comprehensive computerized elections management system.

30. COMAR 33.19.01.01 (Applicability to Elections) provides that “[s]ame day registration and address changes are available during *early voting* for Presidential primary and general elections.”

31. COMAR 33.19.04.01 (Same Day Registration) provides that “[a]n election judge shall issue an individual a regular ballot if the individual (a) is a pre-qualified voter; and (b) provides proof of residency in the county where the individual is attempting to register and vote.

32. COMAR 33.19.04.03 (Responsibility of Election Judges) provides that election judges assigned to same day registration and address changes shall (a) ensure that all individuals who are not eligible to vote a regular ballot are offered a provisional ballot; and (b) ensure that each individual is issued the appropriate ballot.

33. COMAR 33.19.04.01 also provides that “[a]n election judge shall issue an individual a provisional ballot if the individual (1) is not a pre-qualified voter; or (2) cannot provide proof of residency in the county where the individual is attempting to register and vote.

34. The State board violated its powers and duties by failing to follow the

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aforementioned laws, and refusing to establish any statewide plan or make any arrangements to ensure compliance with the Election law in order to protect the right to vote guaranteed to pre-trial detainees, and individuals serving court-ordered sentences of imprisonment for misdemeanor violations who are being held within the custody of city/county detention centers, and/or intake and correctional facilities throughout Maryland. And as a direct and proximate cause of Defendants failure to exercise its power and/or satisfy its duties by a stream of acts and omissions, Plaintiffs suffered serious and substantial constitutional injuries, and damages.

Violation of Elect. Code § 3-201

Applying to Register to Vote

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 - 34 as if fully set forth herein:

35. Election Law § 3-201 “[a]n individual may apply to become a registered voter with the assistance of a volunteer authorized by the State or local board.”

36. The State and local board of elections refused to allocate any resources to provide authorized volunteers to assist pre-trial detainees and individuals serving a court ordered period of imprisonment for misdemeanor violations with voter registration.

37. That authorized volunteers are the only means by which these affected individuals would have been able to gain or maintain the right to vote in the past General election because (a) time was of the essence, and (b) their physical detention behind steel doors, iron gates, reinforced bullet proof glass, cinder-blocks, and cement slabs, created an impenetrable barrier to these rights.

38. Consequently, pretrial detainees (guilty only of not being out on bail), and/or

misdemeanants serving time alleged herein, were denied *timely* information and access to (a) the local or State election board offices; (b) a registration site administered by a local board; (c) a mail carrier; (d) the Motor Vehicle Administration; (e) a voter registration agency; and (f) the State Board's online voter registration system in order to timely exercise these rights.

39. Something as simple as providing registration and voter information upon entry into the facility, use of a voting kiosk/machine, or a access to duly authorized volunteers with a hand-held devices is all that was needed to alleviate at least some part of the problem because one can register to vote via internet access –which, unfortunately, is not provided to inmates but readily available to the State and local boards; the State and local boards refused to even do that. *See* Elect. Code § 3-204.1, et seq., (Online voter registration system).

40. Without timely access to State and local board election information, authorized volunteers, and election judges, to assist with registering voters, and issuing and collecting ballots, pre-trial detainees, such as **Johnson and Palmer**, and those who are serving court-ordered sentences of imprisonment for misdemeanor violations, and who were held in the custody and control of city/county detention centers, intake and correctional facilities throughout Maryland during the General Election were denied their right to vote in violation of Maryland Election law, the Maryland Constitution and Declaration of Rights, the U.S. Constitution, and applicable constitutional law as further described below; as a direct and proximate cause of Defendants failure to exercise its power and/or satisfy its duties by a stream of acts and omissions, Plaintiffs suffered serious and substantial constitutional injuries, and damages.

COUNT I:

42 U.S.C. 1983 CIVIL RIGHTS

COUNT I(a):

State Constitution Violations, Article I §§ 1 & 2,

COUNT I(c): U.S. Constitutional Rights Violations, First & Fourteenth Amendment

41. That 42 U.S.C. 1983 entitled Civil action for deprivation of rights provides:

42. Maryland Constitution, Article I, § 1 entitled *Elections to be by ballot*;

All elections shall be by ballot. Except as provided in Section 3 of this article, every citizen of the United States, of the age of 18 years or upwards, who is a resident of the State as of the time for the closing of registration next preceding the election, shall be entitled to vote in the ward or election district in which the citizen resides at all elections to be held in this State. A person once entitled to vote in any election district, shall be entitled to vote there until the person shall have acquired a residence in another election district or ward in this State.

The General Assembly shall provide by law for a uniform Registration of the names of all the voters in this State, who possess the qualifications prescribed in this Article, which Registration shall be conclusive evidence

to the Judges of Election of the right of every person, thus registered, to vote at any election thereafter held in this State; but no person shall vote, at any election, Federal or State, hereafter to be held in this State, or at any municipal election in the City of Baltimore, unless his name appears in the list of registered voters; the names of all persons shall be added to the list of qualified voters by the officers of Registration, who have the qualifications prescribed in the first section of this Article, and who are not disqualified under the provisions of the second and third sections thereof.

44. Maryland Constitution, Declaration of Rights Article 7 entitled *Free and frequent elections; right of suffrage* provides:

That the right of the People to participate in the Legislature is the best security of liberty and the foundation of all free Government; for this purpose, elections ought to be free and frequent; and every citizen having the qualifications prescribed by the Constitution, ought to have the right of suffrage.

45. Maryland Constitution, Declaration of Rights Article 24 entitled *Due Process [Equal Protection]* provides:

That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.

46. Article 24 embodies the concept of Equal Protection of the laws to the same extent as the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. *Murphy v. Edmonds*, 325 Md. 342, 353 (1992).

47. That the First Amendment to the U.S. Constitution provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

48. The rights guaranteed by the First Amendment also includes the fundamental right

Case 8:17-cv-02867-DKC Document 2 Filed 09/26/17 Page 17 of 25

to vote. *Hornbeck v. Somerset County Bd. of Educ.*, 295 Md. 597, 641 (1983).

49. That the Fourteenth Amendment to the U.S. Constitution provides:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

50. By violating the laws identified and explained in paragraphs 1 - 49, Defendants (collectively, including Linda Lamone in her capacity as compliance officer, manager, and supervisor over State elections and local boards, *see* paragraph 6) violated Plaintiffs clearly established rights under the State and Federal Constitutions identified in Counts I - I(c) above by *inter alia* engaging in a custom, policy and practice of unlawfully denying Plaintiffs their the right to register, vote, and their right to access the ballot, and flat-out denying Plaintiffs aforementioned rights, simply because they are pretrial detainees and/or misdemeanants serving time; as a result of said denials, Plaintiffs have been deprived of their State and constitutional rights as described throughout this complaint; that Plaintiffs have suffered extreme hardship and damages as pretrial detainees and/or individuals serving time on misdemeanor offenses.

51. That the State and local board cannot guarantee a fundamental right to participate in the electoral process as herein alleged, then take it away at the same time simply because it may be only slightly inconvenienced; and they cannot establish classes of voters to discriminate against and, again, by doing so they violate Plaintiffs rights in Counts I - I(c).

52. That the State and local boards have no compelling reason/interest for denying

Plaintiffs their fundamental right to register, vote or access to the ballot, that passes constitutional muster.

53. That as a direct and proximate cause of Defendants failure to exercise its power and/or satisfy its duties by a series of acts and omissions in violations of the laws identified in paragraphs 1 - 40, Plaintiffs suffered serious and substantial constitutional injuries, and damages, and is seeking any and all applicable relief available under 42 U.S.C. 1988 and other releif as further described in the below *ad damnum* clause.

COUNT II

Declaratory Relief

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 - 53 as if fully set forth herein:

54. That based upon all of the above, Plaintiffs submit that they are entitled to declaratory relief because they can prove by clear and convincing evidence that substantial irreparable harm will result if city and state pre-trial detainees, such as themselves, and individuals serving court-ordered sentences of imprisonment for misdemeanor violations, are impeded from exercising their fundamental right to vote granted by the State and guaranteed by constitution as identified above in paragraphs 1 - 53, by reason of their detention in a City/State owned facility.

55. That accordingly, an actual controversy exists between the instant contending parties; that antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation; and Plaintiffs are assercting a legal relation, status, right, or

privilege that is being denied by an adversary party, who also has or asserts a concrete interest in it.

56. The issues raised by Plaintiffs are not been rendered moot by the election, because they are "capable of repetition, yet evading review." *Storer v. Brown*, 415 U.S. 724, 737 n. 8 (1974), quoting *Rosario v. Rockefeller*, 410 U.S. 752, 756 n. 5 (1973).

57. That all of the local/municipal, State government and public official action alleged in paragraphs 1-56 was performed with actual and/or constructive knowledge that the right to vote (and otherwise participate in the electoral process) is a clearly established constitutional right as alleged above, and those rights are/were being denied to Plaintiffs and others, and it was done, is being done, and will continue to be done, with deliberate indifference until they are stopped by some form of court intervention; the legislature has already prescribed their duties and responsibilities by the above enactments but the local/municipal, State government and public officials charged with carrying out the legislative purpose, intent, and ensuring compliance have refused to obey and execute their legislative mandates.

WHEREFORE, Plaintiffs severally requests that this court GRANT a judgement against Defendants jointly and/or severally in an amount that exceeds \$75,000, *see* Md. Rule 2-305(b), GRANT an award of attorney's fees and punitive damages if they become applicable; Plaintiffs further request that this court GRANT an Order declaring that all City and State detention centers, intake and correctional facilities under its jurisdiction shall not impede the rights of Plaintiffs are entitled to the right to information about registering, accessing the ballot and voting while incarcerated; Plaintiff further requests that this court issue and order declaring that:

- a. all pre-trial detainees and individuals serving a court-ordered period of

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imprisonment for misdemeanor offenses who are eligible to vote, shall receive an official ballot and the opportunity to cast a vote in all upcoming elections at all times afforded to citizens who are not detained;

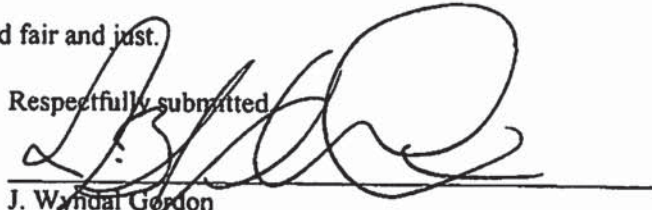
- b. voting and election information including the opportunity to register shall be provided within a reasonable time upon booking into each facility throughout the State of Maryland within the jurisdiction of this court;
- c. all pre-trial detainees and individuals serving a court-ordered sentence of imprisonment for misdemeanor offenses at a facility owned by the State of Maryland shall be provided with accurate information and education on their right to vote and the process for exercising that right;
- d. all pre-trial detainees and individuals serving a court-ordered period of imprisonment for misdemeanor offenses, who are duly registered to vote, shall be provided with a copy of the official general election ballot to review ballot questions, candidates and proposed funding questions relevant to their jurisdiction;
- e. the State and local board cover the cost of providing ballots to all eligible persons in a timely fashion that are clear and legible;
- f. that the State and local board account for and maintain control over the ballots from the beginning of production to post-election storage and disposition in accordance with Elec. Code § 9-216;
- g. that each ballot cast by all eligible persons in their institutions be counted;

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- h. that the State and local boards provide a polling place in each facility to allow an efficient voting process and reduce the possibility of missing ballots, irregularities or allegations of disenfranchisement.

Plaintiffs also request that this court GRANT such other and further relief in law or equity deemed fair and just.

Respectfully submitted



J. Wyndal Gordon

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15/
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Counsel for Plaintiffs



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Co-Counsel for Plaintiffs

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Co-Counsel for Plaintiffs

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IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY

MELVIN JOHNSON
14610 Man-O-War Drive,
Bowie, Maryland 20721

Plaintiff

QAAREE PALMER
6212 Ferore Way
Baltimore, Maryland 21224

Plaintiff

v.

**PRINCE GEORGE'S COUNTY
BOARD OF ELECTIONS**
1100 Mercantile Lane
Suite 115A
Largo, Maryland 20774

Defendant

Serve on:
Andree Green, County Attorney
PRINCE GEORGE'S COUNTY OFFICE OF LAW
County Administration Building, Room 5121
14741 Governor Oden Bowie Drive,
Upper Marlboro, MD 20772 - 3050

**MARYLAND STATE BOARD
OF ELECTIONS**
151 West Street, Suite 200
Annapolis, Maryland 21401

Co-Defendant

Serve on:
Nancy K. Kopp

CASE#: CAL-16-42799

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MARYLAND STATE TREASURER *

80 Calvert Street, *

Annapolis, Maryland 21401 *

LINDA H. LAMONE *

In her official capacity as State Administrator *

of Maryland State Board of Elections *

151 West Street, Suite 200 *

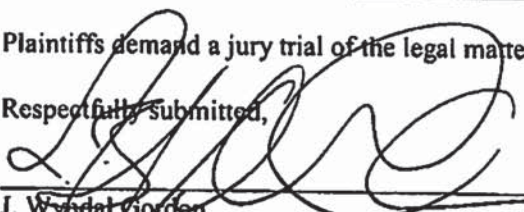
Annapolis, Maryland 21401 *

Co-Defendant *

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial of the legal matters contained herein.

Respectfully submitted,


J. Wyndal Gordon

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LS/
Lanet Scott

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202.526.4808

Co-Counsel for Plaintiffs

IN THE CIRCUIT COURT FOR Prince George's County**CIVIL - NON-DOMESTIC CASE INFORMATION REPORT**

(City or County)

DIRECTIONS

Plaintiff: This Information Report must be completed and attached to the complaint filed with the Clerk of Court unless your case is exempted from the requirement by the Chief Judge of the Court of Appeals pursuant to Rule 2-111(a).

Defendant: You must file an Information Report as required by Rule 2-323(h).

THIS INFORMATION REPORT CANNOT BE ACCEPTED AS A PLEADING

FORM FILED BY: ☒ PLAINTIFF ☐ DEFENDANT **CASE NUMBER** _____

CASE NAME: Melvin Johnson, et al vs. Prince George's Co. Board of Elections, et al
Plaintiff (Clerk to insert) Defendant

PARTY'S NAME: _____

PARTY'S ADDRESS: _____ **PHONE:** _____

PARTY'S E-MAIL: _____ (Daytime phone)

If represented by an attorney:

PARTY'S ATTORNEY'S NAME: J. Wyndal Gordon **PHONE:** 410.332.4121

PARTY'S ATTORNEY'S ADDRESS: 20 S. Charles St., Ste. 400, Balto., Md. 21201

PARTY'S ATTORNEY'S E-MAIL: JWGAattys@aol.com

JURY DEMAND? ☒ Yes ☐ No

RELATED CASE PENDING? ☐ Yes ☒ No If yes, Case #(s), if known: _____

ANTICIPATED LENGTH OF TRIAL: _____ hours or 3 days

PLEADING TYPE

New Case: ☒ Original ☐ Administrative Appeal ☐ Appeal

Existing Case: ☐ Post-Judgment ☐ Amendment

If filing in an existing case, skip Case Category/ Subcategory section - go to Relief section.

IF NEW CASE: CASE CATEGORY/SUBCATEGORY (Check one box.)

TORTS ☐ Asbestos ☐ Assault and Battery ☐ Business and Commercial ☐ Conspiracy ☐ Conversion ☐ Defamation ☐ False Arrest/Imprisonment ☐ Fraud ☐ Lead Paint - DOB of Youngest Plt: _____ ☐ Loss of Consortium ☐ Malicious Prosecution ☐ Malpractice-Medical ☐ Malpractice-Professional ☐ Misrepresentation ☐ Motor Tort ☐ Negligence ☐ Nuisance ☐ Premises Liability ☐ Product Liability ☐ Specific Performance ☐ Toxic Tort ☐ Trespass ☐ Wrongful Death CONTRACT ☐ Asbestos ☐ Breach ☐ Business and Commercial ☐ Confessed Judgment (Cont'd) ☐ Construction ☐ Debt ☐ Fraud	☐ Government ☐ Insurance ☐ Product Liability PROPERTY ☐ Adverse Possession ☐ Breach of Lease ☐ Detinue ☐ Distress/Distain ☐ Ejectment ☐ Forcible Entry/Detainer ☐ Foreclosure ☐ Commercial ☐ Residential ☐ Currency or Vehicle ☐ Deed of Trust ☐ Land Installments ☐ Lien ☐ Mortgage ☐ Right of Redemption ☐ Statement Condo ☐ Forfeiture of Property / Personal Item ☐ Fraudulent Conveyance ☐ Landlord-Tenant ☐ Lis Pendens ☐ Mechanic's Lien ☐ Ownership ☐ Partition/Sale in Lieu ☐ Quiet Title ☐ Rent Escrow ☐ Return of Seized Property ☐ Right of Redemption ☐ Tenant Holding Over	PUBLIC LAW ☐ Attorney Grievance ☐ Bond Forfeiture Remission ☒ Civil Rights ☐ County/Mncpl Code/Ord ☐ Election Law ☐ Eminent Domain/Condemn. ☐ Environment ☐ Error Coram Nobis ☐ Habeas Corpus ☐ Mandamus ☐ Prisoner Rights ☐ Public Info. Act Records ☐ Quarantine/Isolation ☐ Writ of Certiorari EMPLOYMENT ☐ ADA ☐ Conspiracy ☐ EEO/HR ☐ FLSA ☐ FMLA ☐ Workers' Compensation ☐ Wrongful Termination INDEPENDENT PROCEEDINGS ☐ Assumption of Jurisdiction ☐ Authorized Sale ☐ Attorney Appointment ☐ Body Attachment Issuance ☐ Commission Issuance	☐ Constructive Trust ☐ Contempt ☐ Deposition Notice ☐ Dist Ct Mtn Appeal ☐ Financial ☐ Grand Jury/Petit Jury ☐ Miscellaneous ☐ Perpetuate Testimony/Evidence ☐ Prod. of Documents Req. ☐ Receivership ☐ Sentence Transfer ☐ Set Aside Deed ☐ Special Adm. - Atty ☐ Subpoena Issue/Quash ☐ Trust Established ☐ Trustee Substitution/Removal ☐ Witness Appearance-Compel PEACE ORDER ☐ Peace Order EQUITY ☐ Declaratory Judgment ☐ Equitable Relief ☐ Injunctive Relief ☐ Mandamus OTHER ☐ Accounting ☐ Friendly Suit ☐ Grantor in Possession ☐ Maryland Insurance Administration ☐ Miscellaneous ☐ Specific Transaction ☐ Structured Settlements
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IF NEW OR EXISTING CASE: RELIEF (Check All that Apply)

- | | | | |
|--|--|--|---|
| ☐ Abatement | ☐ Earnings Withholding | ☐ Judgment-Interest | ☐ Return of Property |
| ☐ Administrative Action | ☐ Enrollment | ☐ Judgment-Summary | ☐ Sale of Property |
| ☐ Appointment of Receiver | ☐ Expungement | ☐ Liability | ☐ Specific Performance |
| ☐ Arbitration | ☐ Findings of Fact | ☐ Oral Examination | ☐ Writ-Error Coram Nobis |
| ☐ Asset Determination | ☐ Foreclosure | ☐ Order | ☐ Writ-Execution |
| ☐ Attachment b/f Judgment | ☐ Injunction | ☐ Ownership of Property | ☐ Writ-Garnish Property |
| ☐ Cease & Desist Order | ☐ Judgment-Affidavit | ☐ Partition of Property | ☐ Writ-Garnish Wages |
| ☐ Condemn Bldg | ☒ Judgment-Attorney Fees | ☐ Peace Order | ☐ Writ-Habeas Corpus |
| ☐ Contempt | ☐ Judgment-Confessed | ☐ Possession | ☐ Writ-Mandamus |
| ☐ Court Costs/Fees | ☐ Judgment-Consent | ☐ Production of Records | ☐ Writ-Possession |
| ☒ Damages-Compensatory | ☒ Judgment-Declaratory | ☐ Quarantine/Isolation Order | |
| ☒ Damages-Punitive | ☐ Judgment-Default | ☐ Reinstatement of Employment | |

If you indicated **Liability** above, mark one of the following. This information is not an admission and may not be used for any purpose other than Track Assignment.

- ☐ Liability is conceded. ☐ Liability is not conceded, but is not seriously in dispute. ☒ Liability is seriously in dispute.

MONETARY DAMAGES (Do not include Attorney's Fees, Interest, or Court Costs)

- ☐ Under \$10,000 ☐ \$10,000 - \$30,000 ☐ \$30,000 - \$100,000 ☒ Over \$100,000
- ☐ Medical Bills \$ _____ ☐ Wage Loss \$ _____ ☐ Property Damages \$ _____

ALTERNATIVE DISPUTE RESOLUTION INFORMATION

- Is this case appropriate for referral to an ADR process under Md. Rule 17-101? (Check all that apply)
- A. Mediation ☒ Yes ☐ No C. Settlement Conference ☐ Yes ☐ No
- B. Arbitration ☐ Yes ☐ No D. Neutral Evaluation ☐ Yes ☐ No

SPECIAL REQUIREMENTS

- ☐ If a Spoken Language Interpreter is needed, check here and attach form CC-DC-041
- ☐ If you require an accommodation for a disability under the Americans with Disabilities Act, check here and attach form CC-DC-049

ESTIMATED LENGTH OF TRIAL

With the exception of Baltimore County and Baltimore City, please fill in the estimated LENGTH OF TRIAL.

(Case will be tracked accordingly)

- ☐ 1/2 day of trial or less ☒ 3 days of trial time
- ☐ 1 day of trial time ☐ More than 3 days of trial time
- ☐ 2 days of trial time

BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM

For all jurisdictions, if Business and Technology track designation under Md. Rule 16-308 is requested, attach a duplicate copy of complaint and check one of the tracks below.

- ☒ Expedited - Trial within 7 months of Defendant's response ☐ Standard - Trial within 18 months of Defendant's response

EMERGENCY RELIEF REQUESTED

**COMPLEX SCIENCE AND/OR TECHNOLOGICAL CASE
MANAGEMENT PROGRAM (ASTAR)**

FOR PURPOSES OF POSSIBLE SPECIAL ASSIGNMENT TO ASTAR RESOURCES JUDGES under Md. Rule 16-302, attach a duplicate copy of complaint and check whether assignment to an ASTAR is requested.

☐ **Expedited** - Trial within 7 months
of Defendant's response

☐ **Standard** - Trial within 18 months of
Defendant's response

IF YOU ARE FILING YOUR COMPLAINT IN BALTIMORE CITY, OR BALTIMORE COUNTY, PLEASE FILL OUT THE APPROPRIATE BOX BELOW.

- CIRCUIT COURT FOR BALTIMORE CITY (CHECK ONLY ONE)

- ☐ **Expedited** Trial 60 to 120 days from notice. Non-jury matters.
- ☐ **Civil-Short** Trial 210 days from first answer.
- ☐ **Civil-Standard** Trial 360 days from first answer.
- ☐ **Custom** Scheduling order entered by individual judge.
- ☐ **Asbestos** Special scheduling order.
- ☐ **Lead Paint** Fill in: Birth Date of youngest plaintiff _____.
- ☐ **Tax Sale Foreclosures** Special scheduling order.
- ☐ **Mortgage Foreclosures** No scheduling order.

CIRCUIT COURT FOR BALTIMORE COUNTY

- ☐ **Expedited**
(Trial Date-90 days) Attachment Before Judgment, Declaratory Judgment (Simple), Administrative Appeals, District Court Appeals and Jury Trial Prayers, Guardianship, Injunction, Mandamus.
- ☐ **Standard**
(Trial Date-240 days) Condemnation, Confessed Judgments (Vacated), Contract, Employment Related Cases, Fraud and Misrepresentation, International Tort, Motor Tort, Other Personal Injury, Workers' Compensation Cases.
- ☐ **Extended Standard**
(Trial Date-345 days) Asbestos, Lender Liability, Professional Malpractice, Serious Motor Tort or Personal Injury Cases (medical expenses and wage loss of \$100,000, expert and out-of-state witnesses (parties), and trial of five or more days), State Insolvency.
- ☐ **Complex**
(Trial Date-450 days) Class Actions, Designated Toxic Tort, Major Construction Contracts, Major Product Liabilities, Other Complex Cases.

November 21, 2016

Date

20 S. Charles Street, Suite 400

Address

Baltimore, Maryland 21201

City, State, Zip

J. Wyndal Gordon

Signature of Counsel / Party

J. Wyndal Gordon

Printed Name