

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

ROBERT DAVIS and SHANE ANDERS,

Case No. 20-12127

Plaintiffs,

v.

Honorable Nancy G. Edmunds

WAYNE COUNTY BOARD OF  
CANVASSERS,

Defendant.

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**ORDER DENYING PLAINTIFFS'  
EMERGENCY MOTION TO STAY [42]**

Pending before the Court is Plaintiffs' Emergency Motion for an Order Staying the Destruction of Absentee Ballots Cast and Used in AV Voting Precinct #23 in the City of Dearborn Pursuant to Mich. Comp. Laws § 168.811.<sup>1</sup> (ECF No. 42.) Through their motion, Plaintiffs ask the Court to enter an emergency order preventing Defendant from destroying certain absentee ballots which Plaintiffs contend are essential to their claims in this lawsuit.

On September 18, 2020, Defendant filed a response to Plaintiffs' motion. (ECF. No. 44.) In connection with its response, Defendant produced evidence establishing that: (1) it is not in possession of the ballots at issue; (2) the City of Dearborn, a nonparty, is in possession of the ballots; and (3) the City of Dearborn is required by law to retain the ballots for twenty-two months.

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<sup>1</sup> Plaintiffs also filed a motion for emergency consideration of their Motion to Stay. (ECF No. 43.) The Court granted that motion by docket-text order and is considering the instant motion on an emergency basis.

Having reviewed the record in this matter in its entirety and being fully advised in the premises, the Court finds that Plaintiffs fail to establish they are entitled to the relief they seek. Plaintiffs fail to present any evidence establishing a likelihood that Defendant will destroy the ballots prior to a ruling on the merits of Plaintiffs' claims. Plaintiffs also fail to establish that Defendant is in possession or control of the ballots. And Plaintiffs fail to establish that the City of Dearborn, a non-party, will not honor its legal obligation to maintain the ballots for twenty-two months. For these reasons, Plaintiffs' motion is **DENIED.**

**SO ORDERED.**

s/Nancy G. Edmunds  
Nancy G. Edmunds  
United States District Judge

Dated: September 21, 2020

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 21, 2020, by electronic and/or ordinary mail.

s/Lisa Bartlett  
Case Manager