

Big Victory for Voters with Disabilities in Wisconsin!

Written by Matt Rothschild, Wisconsin Democracy Campaign

Thursday, 01 September 2022 16:19 - Last Updated Friday, 02 September 2022 16:44



Federal Judge overrules Wisconsin Supreme Court, along with a state statute, that violated the rights of voters with disabilities to obtain assistance in the delivery of their absentee ballots.

MADISON—Yesterday was a day for celebration!

Federal Judge James Peterson ruled that a recent decision by the Wisconsin Supreme, along with a state statute, violated the rights of four voters with severe physical disabilities to obtain assistance in the delivery of their absentee ballots.

He granted summary judgment to these plaintiffs who brought the case (Carey v. WEC) and ruled that any disabled voter who needs assistance in the delivery of their absentee ballot can't be denied such assistance.

At issue was a state statute that said that an absentee ballot must be "delivered in person, to the municipal clerk." Also at issue was the Wisconsin Supreme Court July decision in the Teigen case that said voters themselves had to deliver that ballot to the clerk. The Wisconsin Supreme Court had also left unclear, in that decision, whether voters could get assistance in putting their absentee ballots in the mail.

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Now voters with disabilities, if they need it, will be able to get assistance both in delivering their absentee ballot to the clerk and in putting their absentee ballot in the mail.

Judge Peterson, the chief judge of the U.S. District Court for the Western District of Wisconsin, pointed out that the Wisconsin statute and the decision by the Wisconsin Supreme Court had left voters with physical disabilities in a quandary.

He noted that they risked “imminent injury regardless of what they do. If they choose to comply with [the statute], they will have to forfeit their right to vote or attempt to vote in person with great difficulty and perhaps even at risk to their health and safety. But if plaintiffs violate [the statute] by obtaining assistance to vote absentee, their vote could be rejected, and they could be sanctioned for violating the law.”

This is an unacceptable bind to put any voter in, Judge Peterson ruled.

And he explained that the Wisconsin statute and the ruling by the Wisconsin Supreme Court collide head on with the protections under the Voting Rights Act.

“The Voting Rights Act is clear: disabled voters who need assistance in returning an absentee ballot are entitled to ask a person of their choosing for that assistance,” he wrote. He quoted the relevant section of the Voting Rights Act, which states:

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Statewide high turnout for voters with disabilities in Wisconsin's 2022 primary election