

among other things, registering voters in the county of Greenville, South Carolina. The Plaintiffs Longnecker and West, notwithstanding Defendants' assertions of technical inadequacies in the application process, attempted unsuccessfully to register to vote in Greenville County. The Plaintiff Ahmad, based on the record before this Court, has made no similar attempt to register to vote.

For several decades, the Greenville Board has required college students with on-campus addresses to fill out an additional questionnaire bearing upon their residency in the county of Greenville. The Plaintiffs take exception to the additional requirement under several theories of law, including Equal Protection arguments under the Fourteenth Amendment to the Constitution and the assertion of rights under the Twenty-Sixth Amendment to the Constitution. The Greenville Board acknowledges the practice of requiring the additional questionnaire and argues that the measure is mandated under relevant statutory law to determine residency before registering a potential elector.

The South Carolina State Election Commission and its Executive Director, (hereinafter "State Commission") take no position with respect to the specific dispute before the Court. However, State Commission acknowledges its prior letter to the Greenville Board, which clearly supports the position of the Plaintiffs in this matter, and stands by its assertion that the additional questionnaire violates state and federal election laws.

STANDARD FOR AWARD OF TEMPORARY INJUNCTIVE RELIEF

Rule 65 of the South Carolina Rules of Civil Procedure sets forth the procedure for issuing Temporary Injunctive Relief. Under the relevant case law, a party seeking injunctive relief must demonstrate irreparable harm, a likelihood of success on the merits, and the absence

of an adequate remedy of law. *Rawlinson Road Homeowners Association, Inc., vs. Jackson*, 395 S.C. 25, 35 (Ct. App. 2011). The Courts recognize that an injunction is a drastic remedy and should be issued only to prevent irreparable harm suffered by the moving party. *AJG Holdings, LLC, vs. Dunn*, 382 S.C. 43 (Ct. App. 2009). The Court must consider each of the three elements to determine whether the drastic remedy of Temporary Injunctive Relief should be granted. Those shall be addressed in turn.

I. Irreparable harm.

Plaintiffs Longnecker and West have attempted to register to vote in the county of Greenville. Failing registration, Longnecker and West will not be afforded the privilege of exercising their constitutional rights in the upcoming election. That opportunity will be forever lost. Longnecker and West, therefore, will suffer irreparable harm from an inability to register.

II. Likelihood of success on the merits.

This Court is without the benefit of an evidentiary hearing to fully flesh out the facts that may ultimately be presented in a trial on the merits. However, several published cases in our country address similar circumstances. The United States Supreme Court's ruling in *Symm v. United States*, 439 U.S. 1105 (1979), affirming the lower Court's decision in *United States v. Texas*, 445 F. Supp. 1245 (S.D. Tex. 1978), addresses very similar facts and very well may be controlling. In that case similar, indeed very similar, conduct by the elections authority in Texas was found to violate the rights of students and was proscribed as unconstitutional. Without a full evidentiary hearing, this Court is reluctant to take an absolute position as to ultimate controlling law or facts. However, the Plaintiffs Longnecker and West have established a *prima facie* case for the ultimate requested relief.

III. No adequate remedy at law.

Notwithstanding the ultimate decision by the Court in this matter, the Plaintiffs Longnecker and West would never have the opportunity to vote in the instant election again. Therefore, no Court award could adequately remedy the harm that would be suffered by these Plaintiffs were they not afforded their constitutional rights to exercise a vote. Therefore, the Plaintiffs Longnecker and West have met their burden for demonstrating that there is no adequate remedy at law.

CONCLUSION

The Plaintiffs Longnecker and West have made a *prima facie* showing warranting an award of Temporary Injunctive Relief. The Plaintiff Ahmad, on the other hand, has, at a threshold, failed to demonstrate standing to pursue his claim inasmuch as he has made no effort to register to vote. Furthermore, this Court is cognizant of the relative harm that would visit upon the respective parties in denying or granting the temporary relief. In denying the requested relief, the Plaintiffs would forever lose their right to exercise a highly prized and fundamental democratic right to vote in this particular election. In granting the relief, on the other hand, the Greenville Board will simply be required to register voters in accordance with its prescribed duties.

NOW, THEREFORE, Temporary Injunctive Relief is granted in favor of the Plaintiffs Benjamin Longnecker and Katherine West. The Greenville County Board of Voter Registration and Elections, by and through its Director, shall immediately and temporarily cease and desist

from requiring the additional questionnaire from on-campus residents of Greenville County colleges, schools, and universities. This Order is without prejudice to any party at a final hearing on the merits. Given the nature and circumstances of this matter, no posting of bond shall be required.

AND IT IS SO ORDERED.

ROBIN B. STILWELL
THIRTEENTH JUDICIAL CIRCUIT

October 7, 2016
Greenville, South Carolina



Greenville Common Pleas

Case Caption: Sulaiman Ahmad , plaintiff, et al vs. Conway Belangia , defendant, et al
Case Number: 2016CP2305477
Type: Order/Temporary Injunction

So Ordered

s/ Robin B. Stilwell 2158