

ARIZONA SUPREME COURT

MARICOPA COUNTY RECORDER
STEPHEN RICHER, in his Official
CAPACITY,

Petitioner,

vs.

ARIZONA SECRETARY OF STATE
ADRIAN FONTES, in his Official
Capacity,

Respondent.

Case No.: CV-24-0221-SA

**AMICUS BRIEF of
POTENTIALLY-IMPACTED
VOTERS**

LAW OFFICES OF PAUL WEICH
Paul M. Weich (AZ Bar No 014089)
2234 South McClintock Drive
Tempe, Arizona 85282
(480) 759-1983

Paul.Weich@PWLAWarizona.com

Attorneys for Amici Martin Brannan and Doug Van
der Veen

1 Proposed amici curiae Martin Brannan, Doug Van der Veen and John
2 Groseclose, by and through undersigned counsel, ask this Court to not grant the
3 requested relief requested in the Emergency Petition for Special Action for the
4 reasons set forth herein. Beyond the confusion, concern and fear that the filing of
5 this proposed Special Action has created, such a determination will cause
6 unreasonable hardships for the amici and chaos for the counties and the thousands
7 of Election Day Poll Workers throughout the state. These are exactly the concerns
8 that led to the *Purcell* principle. Granting the requested relief will require all 15
9 Arizona counties to violate the notice provisions which just went into effect earlier
10 this month. Finally, it will cause the 97,928 voters impacted voters to be treated
11 differently than the estimated 900,000 long-time Arizonans and voters who
12 similarly did have not provided DPOC but were not affected by the MVD
13 “issuance date” updates issue. Finally,
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19 The three amici appear to be a part of the impacted class of 97,928
20 long-time Arizonans and voters. They first obtained their Arizona Driver’s License
21 before October 1, 1996, obtained a duplicate(s) license after that date (with an
22 updated “issuance date”), and registered to vote in Arizona – or re-registered in a
23 new county – afterwards (and likely after December 8, 2004).
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1 Mr. Van der Veen is very concerned that – even though this long-time
2 glitch was apparently not discovered until this past week – he and other voters will
3 not be notified with enough time to cure this situation which they had no role in
4 causing. Mr. Groseclose learned about this problem yesterday. He has been an
5 Arizona resident his entire life. His driver’s license was first issued in 1987 and his
6 address has changed three times since. Today, he spent several hours on hold and
7 speaking with the Maricopa County Elections Department, “who referred me to the
8 Maricopa County Recorder’s Office, who referred me back to the Arizona
9 DOT/MVD. An hour and a half at the Tempe Larkspur MVD office got me a
10 conversation with a representative who had no idea that there was an issue with
11 proof of citizenship, nor how to update an existing voter registration with proof of
12 citizenship, despite my bringing a brand new passport and an official (embossed)
13 copy of my birth certificate.” Mr. Groseclose is also concerned about the ability of
14 his elderly mother-in-law to cure her DPOC issue if the Court so requires this close
15 to the election.
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22 Mr. Brannan was born in another state but is a long-time Arizonan
23 who served in the military. His ability to obtain the required DPOC before Election
24 Day is limited by several factors, including his military service (did not need to
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1 obtain a passport) and that a copy of his birth certificate from another state will be
2 very difficult in a short time.

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4 The amici's concerns, confusions and anticipated hardships are
5 currently being replayed by hundreds of Arizonans who were paying attention to
6 the announcements and the news yesterday. Depending on this Court's
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8 determination, those issues will be replayed by more than 100,000 Arizonans.

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10 In fact, it is reasonable to assume that they will be replayed by the
11 estimated 1,000,000 (one million) Arizonans who are concerned that they might be
12 impacted, but who will not be.

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14 Throwing this kind of chaos into an election three days before
15 UOCAVA ballots go out, less than 22 days before millions of early ballots are
16 mailed, and 48 days before Election Day is exactly the result that the U.S. Supreme
17 Court was concerned about when they set forth the very Arizona *Purcell* Principle.
18 That per curiam decision was concerned with "voter confusion" and the
19 "consequent incentive to remain away from the polls." The Court urged judges to
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21 give heightened attention to the effects the issuance or non-issuance would have on
22 elections cases. *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006).
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25 The time factors are especially salient in this case. Just this past week,
26 the Arizona Legislature's HB2482 went into effect. That requires County

1 Recorders to give notice TO THE VOTER any time his or her voter registration
2 information – such as full ballot status or fed-only status – is made, and it “shall
3 include instructions” on how the voter can reverse the changes. The new A.R.S.
4 §16-163(E)¹ says the notification shall be made within 24 hours of the change or
5 within 10 days by mail (if the voter is not on a text/email system). This will be next
6 to impossible for Recorders to comply with and for voters to be able to respond –
7 even if they are given until 7pm on Election Day.

15 ¹E. WHEN THE COUNTY RECORDER MAKES A CHANGE TO
16 THE INFORMATION PRESCRIBED BY SECTION 16-152 FOR AN
17 EXISTING REGISTERED VOTER: 1. THE COUNTY RECORDER SHALL
18 NOTIFY THE ELECTOR OF ANY CHANGES MADE TO THE
19 INFORMATION PRESCRIBED BY SECTION 16-152 FOR THE ELECTOR BY
20 SENDING A TEXT MESSAGE OR EMAIL ALERT WITHIN TWENTY-FOUR
21 HOURS AFTER MAKING THE CHANGE AS REQUESTED BY THE
22 ELECTOR'S SUBSCRIPTION PREFERENCES. 2. IF THE ELECTOR HAS
23 NOT SUBSCRIBED TO THE VOTER REGISTRATION ALERT SYSTEM,
24 THE COUNTY RECORDER SHALL NOTIFY THE ELECTOR IN WRITING
25 WITHIN TEN DAYS AFTER THE CHANGE IN THE INFORMATION
26 PRESCRIBED BY SECTION 16-152 FOR THE ELECTOR. THE NOTICE
SHALL INCLUDE INSTRUCTIONS ON HOW THE ELECTOR MAY CHECK
THE ELECTOR'S VOTER REGISTRATION STATUS, MAKE ANY
REVISIONS TO THE ELECTOR'S VOTER REGISTRATION INFORMATION
AND NOTIFY THE COUNTY RECORDER IF THE ELECTOR DID NOT
REQUEST OR AUTHORIZE THE CHANGE TO THE INFORMATION
PRESCRIBED BY SECTION 16-152 FOR THE ELECTOR'S VOTER
REGISTRATION


1 A.R.S. §16-134 does give voters until the polls close on Election Day
2 to cure such situations. However, in addition to the hardships and confusion, the
3 Court's determination in this case could add a level of chaos to polling places
4 around the state that has not before been seen. As a long-time Arizona Poll Worker
5 and Poll Observer, undersigned counsel has been in polling places around the state
6 since the early 1990s. Hundreds or thousands of voters trying to provide DPOC
7 and/or arguing about which ballot they should receive would introduce problems
8 that have not been seen since the ID requirements were first put into place and poll
9 workers dealt with provisional and conditional provisional ballots unequally from
10 polling place to polling place. For example, if a voter brings a birth certificate, the
11 Poll Workers will need to check and obtain a "legible photocopy." That might be
12 especially difficult in rural areas. Voters will attempt to argue with a Poll Worker
13 that MVD did receive the DPOC, updated the license status and that the County
14 has not properly inputted that information. Numerous other examples can be easily
15 foreseen. This cannot be permitted to happen this close to the election.
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22 In addition, approximately 80% of these 97,928 voters will likely
23 receive a fed-only ballot in the mail in three weeks. It is unlikely that the counties
24 will be able to include an explanation of the issue in that ballot packet, and will
25 likely send a separate notice. Some of those estimated 80,000 voters will
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1 investigate and take action to correct the situation. Some of those estimated voters
2 will want to take action but will be UNABLE to correct the situation before
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4 November 5 – especially true for rural voters. But, many will simply vote the
5 shortened ballot, not realizing that their voices are being prevented from being
6
7 fully heard through no fault of their own.

8 Last, but certainly not least, there are an estimated one million
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10 Arizona voters who have never had to provide DPOC because they were
11 grandfathered in by the 2004 ballot measure. (There were 2.6 million voters in
12 2004, and an estimated 1.0 million are still alive and in the state.) The 97,928 in
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14 the class of voters before this Court will be treated far differently from the
15 approximately 900,000 voters who simply did not have their MVD “issuance date”
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17 changed. This difference in treatment for a fundamental right such as voting is
18 unequal and is violative of the U.S. Constitution’s 14th Amendment.

19 RESPECTFULLY SUBMITTED THIS 18TH DAY OF
20 SEPTEMBER, 2024.

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23 
24 /s/ Paul M. Weich
25 Paul M. Weich (#014089)
26 LAW OFFICES OF PAUL WEICH
Attorneys for Proposed Amici Brannan, Van
der Veen, Groseclose