



Seek to resolve inequalities in future elections

WINDOW ROCK — Navajo Nation filed a Complaint and a Motion for a Temporary Restraining Order against the Arizona Secretary of State and the officials of Apache, Coconino and Navajo counties the week of Nov. 19, seeking to protect the voting rights of Navajo citizens in the November 2018 election and seeking to resolve voter inequalities in future elections.

The Temporary Restraining Order sought a slight delay of the certification of the results of the 2018 election in order to allow Navajo Nation members time to cure their early ballots rejected for a lack of a signature on the ballot envelope or a mismatched signature.

After the complaint and TRO were filed, the Navajo Nation had productive discussions with the counties to resolve the issues raised in the complaint, and the Nation agreed to withdraw the request for emergency relief in this election.

Arizona counties, Navajo Nation address voting problems

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“The Navajo Nation has a duty to bring these actions to preserve and defend the hard-won rights of Navajo voters, and the state and the counties have an obligation to ensure that our people have equal access to the ballot box,” Nation President Russell Begaye said. “I look forward to working with the state and the counties to collaboratively develop a solution that will ensure an equal right to vote for our Navajo people.”

Navajo Nation Attorney General Ethel Branch stated the Navajo Nation filed the emergency action to protect Navajo voters’ rights, and that the Nation filed the action as soon as possible after learning of the events requiring the emergency motion to be filed.

She stated the Navajo Nation’s arguments concerned the ability of Navajo voters to cure their ballots and have these ballots counted.

“With respect to the early vote ballots, the state and counties have an obligation to provide instructions in our own language that our Navajo People can understand so that they can properly submit their early ballots,” Branch said. “When our people drop those ballots in the mail, they expect their vote will be counted. Instead, they were not given instruction in our language that they had to sign their ballot affidavits, and they were not instructed to provide a signature that matches what the county has on file. This is in violation of Section 203 of the Voting Rights Act, and resulted in a number of Navajo ballots not being counted this election.”

The signature the counties have on file is often the voter’s driver’s license signature, which could be their signature at 16, and could be up to 45-years-old.

The counties utilize various methods to reach out to voters to cure mismatching or missing signatures on early voter affidavits, but outreach to voters on the Navajo Nation is thwarted by the shortage of post office boxes on the Nation, long traveling distances to post office boxes, the lack of access to cellular phones and computers by tribal members – especially by elderly and Limited English Proficient tribal members (over 70 percent of the voting age population on the Navajo Nation speaks a language other than English), and limited and unreliable access to cellular reception and the internet across significant swathes of the over 57,000-square-mile Nation.

This makes follow-up with voters by mail, e-mail and telephone difficult, and underscores the

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significance of in-person early voting sites on the Nation.

The Navajo Nation also raised equal protection issues with respect to voters who sought to drop their early ballots off at polling sites on election day but were unlawfully instructed that they could not submit their early ballots at the polls.

All early voters in Arizona who did not sign their ballot affidavit were denied equal protection because they were not given an opportunity to confirm their identity by signing their affidavit within five days.

This is in contrast to the early voters with mismatching signatures who were allowed to cure their ballots by confirming their signatures within five days, and election-day voters who showed up at the polls and cast provisional ballots without presenting identification cards. They too had an additional five days after election day to ensure their ballot would be counted by presenting proper identification to election officials.

“Early voters are not all treated the same in Arizona, and we intend to change that by working with the Secretary of State and the legislature to develop a solution that will ensure equal protection under the law for all Arizona voters, especially our Navajo-speaking tribal members,” Branch said. “The failure to allow voters who submitted unsigned affidavits an opportunity to validate their early ballots when other early and election-day voters did have that opportunity, even five business days past election day, violates the equal protection clause of the United States Constitution, constitutes irreparable harm to those voters, and violates the trust our people put in the government to ensure their right to vote.”

Issues of equality in early voting access and voter registration, as well as treatment of early ballots in future elections, will continue to be discussed and are included in the lawsuit.

“I am pleased that the counties are willing to work with the Navajo Nation in remedying the issues identified in our complaint,” Speaker Lorenzo Bates said. “The Navajo Nation is hopeful that a settlement can happen and that Navajo voters will be more protected as we approach the 2020 Election.”