

From: John Pizzo [Redacted]
Sent: Sunday, October 19, 2014 7:59 AM
To: don.wright@ncsbe.gov
Cc: joshua.lawson@ncsbe.gov; brian.livecchi@ncsbe.gov; Kim.strach@ncsbe.gov; [Redacted]
Subject: The long overdue responses to my public records requests of March, 2013

"If there are extant written or electronic communications between the SBE and DMV illustrating the 'cooperation' you mention, please attach them to your reply...."

Mr. Wright, you have yet to respond to my Article 132 request as described above. Since that request was made on March 21, 2013, nearly nineteen (19) months have passed. I believe any reasonable observer or trier of fact would conclude you have withheld this information and further, have offered no explanation for doing so. Also more than a year ago (see message of 3/31/2013 in email thread below), I asked for a copy of the cooperative procedure that the BOE and DOT were using to ensure that DACA driver's licensees were not already registered to vote, and further, how they could be prevented from registering to vote, had they not already done so.

Be cautioned; if you have reason to continue to deny my public records requests, please state what those are; otherwise, your "response clock" has run out of time and I will seek whatever legal remedy is available to me to compel your reluctant cooperation.

I am leaving today for a nine day out-of-state trip. I hope to see you have fulfilled my records request by the time I return.

**John Pizzo
Raleigh, NC**

-----Original Message-----

From: John Pizzo [Address redacted]
To: don.wright <don.wright@ncsbe.gov>
Cc: David.Lewis <David.Lewis@ncleg.net>; George.Cleveland <George.Cleveland@ncleg.net>; Gary.Bartlett <Gary.Bartlett@ncsbe.gov>; ajtata <ajtata@ncdot.gov>; Johnnie.McLean <Johnnie.McLean@ncsbe.gov>; mark.brody <mark.brody@ncleg.net>
Sent: Tue, Apr 2, 2013 7:05 pm
Subject: Re: Mr. Wright: Question for you. (follow-up)

"Part of that cooperation will be our requesting information on persons that receive DACA licenses be forwarded to this agency for a crosscheck with our voter registration database."

Mr. Wright, thank you for this reassuring information. In the likely event of

finding one or more such new DACA licensees already registered to vote in our state, would any such individuals be referred to the appropriate district attorneys for voter fraud prosecution? Would closing the loop include informing the DOT/DMV that these new licensees have committed a prior felonious act that might require surrendering their DACA driver's licenses and/or other temporary 'allowances' that define DACA ? Perhaps Mr. Tata can offer myself and those copied some comment regarding that.

I do note that you have not yet honored my request for the following:
"If there are extant written or electronic communications between the SBE and DMV illustrating the 'cooperation' you mention, please attach them to your reply...."

Please advise when I may expect to receive these records, under the stipulations of NCGS Section 132-1(a)

Regards,

John Pizzo

-----Original Message-----

From: Wright, Don <don.wright@ncsbe.gov>

To: John Pizzo [Address redacted]

Cc: Rep. David Lewis <David.Lewis@ncleg.net>; Rep. George Cleveland <George.Cleveland@ncleg.net>; Jay DeLancy [Address redacted]; Bartlett, Gary <Gary.Bartlett@ncsbe.gov>; Tata, Anthony J <ajtata@ncdot.gov>; McLean, Johnnie <Johnnie.McLean@ncsbe.gov>

Sent: Tue, Apr 2, 2013 8:49 am

Subject: RE: Mr. Wright: Question for you. (follow-up)

Dear Mr. Pizzo,

We have no reason not to believe that the DMV will work with this agency on the DACA issue to make sure those persons are not offered an opportunity to register to vote.

Part of that cooperation will be our requesting information on persons that receive DACA licenses be forwarded to this agency for a crosscheck with our voter registration database. The DMV and this agency have and will continue to work together effectively to implement both state and federal election laws that involve DMV.

Don Wright

NC State Board of Elections

From: John Pizzo [Address redacted]
Sent: Sunday, March 31, 2013 8:43 PM
To: Wright, Don
Cc: Rep. David Lewis; Rep. George Cleveland; Jay DeLancy [Address redacted].; Bartlett, Gary; Tata, Anthony J; McLean, Johnnie
Subject: Mr. Wright: Question for you. (follow-up)

Mr. Wright,

I respectfully request you answer the question I posed.

If you're not ready to answer it, please acknowledge that you have received the question, and advise when I may expect a response, including the requested communications.

Thank you,

John Pizzo

-----Original Message-----

From: John Pizzo [Address redacted]
To: don.wright <don.wright@ncsbe.gov>
Cc: David.Lewis <David.Lewis@ncleg.net>; George.Cleveland <George.Cleveland@ncleg.net>; Jay DeLancy [Address redacted]; Gary.Bartlett <Gary.Bartlett@ncsbe.gov>; Johnnie.McLean <Johnnie.McLean@ncsbe.gov>; ajtata <ajtata@ncdot.gov>
Sent: Thu, Mar 21, 2013 11:02 am
Subject: Mr. Wright: Question for you.

We have assurance of cooperation from DMV on this issue.

>>> I'm glad you have the cooperation of the DMV, but with all due respect, that is too obtuse to be actionable.

Let me try it this way.....

Will the DMV be providing the names and uniquely identifying data (for the new DACA licensees) to the SBE and will the SBE then utilize this information to search its statewide voter roll to determine if any of these individuals are already on it?

If there are extant written or electronic communications between the SBE and DMV illustrating the 'cooperation' you mention, please attach them to your reply, and again, thanks for your prompt reply.

~ John Pizzo

-----Original Message-----

From: Wright, Don <don.wright@ncsbe.gov>
To: John Pizzo [Address redacted]
Cc: Rep. David Lewis <David.Lewis@ncleg.net>; Rep. George Cleveland <George.Cleveland@ncleg.net>; Jay DeLancy [Address redacted]; Bartlett, Gary <Gary.Bartlett@ncsbe.gov>; McLean, Johnnie <Johnnie.McLean@ncsbe.gov>; Tata, Anthony J <ajtata@ncdot.gov>
Sent: Thu, Mar 21, 2013 7:57 am
Subject: RE: Mr. Wright: Question for you.
Dear Mr. Pizzo,

We have assurance of cooperation from DMV on this issue.

Don Wright

From: John Pizzo [Address redacted]
Sent: Wednesday, March 20, 2013 2:49 PM
To: Wright, Don
Cc: Rep. David Lewis; Rep. George Cleveland; Jay DeLancy [Address redacted] Bartlett, Gary; McLean, Johnnie; Tata, Anthony J
Subject: Re: Mr. Wright: Question for you.

Mr. Wright,

Thank you for your prompt informative response.

I'm happy to learn the SBE has been pro-active in preventing DACA licensees from joining the voter rolls.

I would hope that there is also some cooperative effort with the DMV in place to check the voter rolls for those same DACA licensees to insure they are not already registered to vote. That would truly complete the circle.

~ John Pizzo
VIP-NC
Research Director

-----Original Message-----

From: Wright, Don <don.wright@ncsbe.gov>
To: John Pizzo [Address redacted]
Cc: Rep. David Lewis <David.Lewis@ncleg.net>; Rep. George Cleveland <George.Cleveland@ncleg.net>; Jay DeLancy [Address redacted]; Bartlett, Gary <Gary.Bartlett@ncsbe.gov>; McLean, Johnnie <Johnnie.McLean@ncsbe.gov>
Sent: Wed, Mar 20, 2013 1:54 pm
Subject: RE: Mr. Wright: Question for you.
Dear Mr. Pizzo,

This agency took public action in early 2011 to crosscheck DMV data of those persons having legal presence (but not citizenship) with our voter database. As a result of the crosscheck, several voters were removed. The attached memo was released to the public, legislators, advocacy groups and media in 2011. Referrals were made in 2011 to both the U.S. Attorneys and District Attorneys within whose jurisdictions they alleged incidents occurred.

For your information, we are currently working the 2013 DMV legal presence data crosschecking it with voters rolls. The DMV also has had in place internal controls to prevent legal presence drivers licenses holders from using DMV to register to vote. But that would not apply to those legal presence drivers that register outside DMV. We took preemptive action with DMV last month as to making sure DACA persons are not offered DMV opportunity to register. See the attached letter. We were assured by DMV that these DACA persons will not be offered voter registration by the DMV.

Don Wright

From: John Pizzo [Address redacted]
Sent: Tuesday, March 19, 2013 8:59 AM
To: Wright, Don
Cc: david.lewis@ncleg.net; george.cleveland@ncleg.net; Jay DeLancy [Address redacted]
Subject: Mr. Wright: Question for you.

*"in Colorado, election officials found 441 noncitizens on the voter rolls out of nearly 3.5 million voters. Florida officials found 207, or 0.001 percent of the state's 11.4 million registered voters. **In North Carolina, 79 people admitted to election officials that they weren't citizens and were removed from the rolls, along with 331 others who didn't respond to repeated inquires."***

>>> Mr. Wright:

Can you confirm this information? [see highlighted section above]

- 1) If the AP report is correct, were any charged and referred to state district attorneys?
- 2) Is there an SBE report, or reports, available that either support or refute this information?

You might recall that last year, we (VIP-NC) found 239 individuals, just in Wake County, who had registered to vote prior to obtaining citizenship. Eleven of these individuals were subsequently removed from the Wake County voter roll. Since this is merely the tip of the proverbial iceberg, this matter is important to the NC electorate and should be accorded transparency. Please provide whatever information you have regarding the 410 non-citizens discussed in the paragraph quoted above.

Thank you for your prompt attention and reply.

~ John Pizzo
VIP-NC
Research Director

High court divided over Ariz. voter requirement

JESSE J. HOLLAND
Published: 3/18/2013

FILE – This Aug. 5, 2008, file photo shows the U.S. Citizenship and Immigration Services building Phoenix.

The Supreme Court argued Monday, March 18, 2013 over whether states fighting voter fraud and illegal immigration can make people document their U.S. citizenship before allowing them to use a federal voter registration system that was designed to make it easier to vote. (AP Photo/Matt York, File)

WASHINGTON (AP) - Supreme Court justices disagreed Monday over whether states can require would-be voters to prove they are U.S. citizens before using a federal registration system designed to make signing up easier.

Arizona and other states told the justices the precaution is needed to keep illegal immigrants and other noncitizens from voting. But some justices asked whether states have the right to force people to document their citizenship when Congress ordered the states to accept and use federal "motor voter" registration cards that only ask registrants to swear on paper that they are U.S. citizens.

"I have a real big disconnect with how you can be saying you're accepting and using, when you're not registering people when they use it the way the federal law permits them to," Justice Sonia Sotomayor said to Arizona Attorney General Thomas C. Horne.

Said Horne: "It is the burden of the states to determine the eligibility of the voters."

This is the second voting eligibility issue the high court is tackling this session. Last month, several justices voiced deep skepticism about whether a section of the Voting Rights Act of 1965, a law that has helped millions of minorities exercise their right to vote, especially in areas of the Deep South, was still needed.

The court will make decisions in both later this year.

In Monday's case, the court is deciding the legality of Arizona's requirement that prospective voters document their U.S. citizenship in order to use a registration form produced under the federal "motor voter" registration law. The 9th U.S. Circuit Court of Appeals said that that 1993 National Voter Registration Act, which doesn't require such documentation, trumps Arizona's Proposition 200 passed in 2004.

Arizona appealed that decision to the Supreme Court.

The case focuses on Arizona, which has tangled frequently with the federal government over immigration issues involving the Mexican border. But it has broader implications because four other states - Alabama, Georgia, Kansas and Tennessee - have similar requirements, and 12 other states are contemplating such legislation.

The federal "motor voter" law, enacted in 1993 to expand voter registration, requires states to offer voter registration when a resident applies for a driver's license or certain benefits. Another provision of that law - the one at issue before the court - requires states to allow would-be voters to fill out mail-in registration cards and swear they are citizens under penalty of perjury, but it doesn't require them to show proof.

Under Proposition 200, Arizona officials require an Arizona driver's license issued after 1996, a U.S. birth certificate, a passport or other similar document, or the state will reject the federal registration application form.

Justice Antonin Scalia seemed to think that a sworn statement wasn't enough to allow people to register to vote. "If you're willing to violate the voting laws, I suppose you're willing to violate the perjury laws," he said.

But lawyer Patricia Millett, representing those challenging the law, answered that courts accept sworn statements as proof in criminal cases, some of which end in executions. Congress decided that a sworn statement with the risk of perjury was sufficient to register to vote in the federal system, she said. "This is not just a ticket into the state's own registration process so they can go, 'Thank you very much, (throw) it in the garbage can, now do what we would like you to do.' It is a registration form," Millett said.

The Arizona requirement applies only to people who seek to register using the federal mail-in form. The state has its own form and an online system to register to vote when renewing a driver's license. The appeals court ruling did not affect proof of citizenship requirements using the state forms.

Justice Samuel Alito asked if Arizona kept two different voter rolls, one for people who used the state system and one for those who use the federal. The answer was no. That means that some people face one set of requirements to vote, and others a different set, he said. "This seems to me like a crazy system," Alito said.

Opponents of Arizona's law see it as an attack on vulnerable voter groups such as minorities, immigrants and the elderly. They say they've counted more than 31,000 potentially legal voters in Arizona who easily could have registered before Proposition 200 but were blocked initially by the law in the 20 months after it passed in 2004. They say about 20 percent of those thwarted were Latino.

But Arizona officials say they should be able to pass laws to stop illegal immigrants and other noncitizens from getting on their voting rolls. The Arizona voting law was part of a package that also denied some government benefits to illegal immigrants and required Arizonans to show identification before voting.

Checks since last fall by The Associated Press showed that in Colorado, election officials found 441 noncitizens on the voter rolls out of nearly 3.5 million voters. Florida officials found 207, or 0.001 percent of the state's 11.4 million registered voters. **In North Carolina, 79 people admitted to election officials that they weren't citizens and were removed from the rolls, along with 331 others who didn't respond to repeated inquires.**

Horne compared the Arizona system to an airline sending out e-tickets instead of paper tickets but asking for identification before allowing passengers to board the airplane. "That would not contradict the statement that they are accepting and using e-tickets," he said.

But Justice Elena Kagan didn't accept that analogy, saying Arizona went further. "Wouldn't it contradict it if instead of saying 'Well, we'd like you to offer identification,' saying, 'Well, we'd like you also to have a paper ticket?'" she said.

Arizona asked the federal government to add the state's citizenship eligibility requirements to the federal form but was turned away. Scalia said the state should have sued to overturn that decision. "Why didn't you do that?" said Scalia, who indicated that he would look favorably on such a challenge. The decision not to challenge was his predecessor's, Horne said.