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A federal judge suggested in a Wednesday hearing that he'll soon issue a decision siding with Wisconsin voters with disabilities who have sued to ensure they can get help from others when returning an absentee ballot.

The pending order from U.S. District Judge James Peterson would protect the rights of voters with disabilities following a Wisconsin Supreme Court decision earlier this summer that barred voters from having someone else return their absentee ballot. On Wednesday, Peterson proposed an order that would clarify disabled voters must be given assistance to cast a ballot, whether they're voting in person or absentee.

The lawsuit was brought by four voters who have limited mobility or are unable to move their arms and legs. After the Wisconsin court's decision, which prohibited the use of absentee ballot drop boxes and stated that a voter could not have someone else hand their ballot to a municipal clerk, voters with disabilities across the state said the decision would disenfranchise them.

The state Supreme Court's decision in that case, Teigen vs. Wisconsin Elections Commission, was silent on whether someone could place a ballot into a mailbox on behalf of someone else. But comments by Wisconsin Elections Commission Administrator Meagan Wolfe that the law requires voters to place their ballots in the mail themselves spurred the lawsuit.



The disabled voters argued in the lawsuit that the protections provided by federal law under the Voting Rights Act and the Americans with Disabilities Act guaranteed their ability to get assistance when voting.

"For us, the big thing to know is that voters with disabilities have, obviously, a right to vote, but also a very clear right to vote how they can, and if they need assistance they're entitled to it," says Scott Thompson, an attorney at progressive legal organization Law Forward, who argued the case on Wednesday. "We've argued these voters deserve clarification, they're entitled to use ballot return assistance, regardless of what the Wisconsin Supreme Court said in Teigen, and it appears the federal court agrees with us."

The lawsuit requests two actions for the court to order: One would provide clarity on the federal law and how it provides protections to voters with disabilities, and the other would force the WEC to instruct municipal clerks that the federal law must be followed and voters must be given assistance if needed. Thompson says that after the Wednesday hearing, he expects both requests to be granted.

Peterson said in the hearing that he wants to settle the question of conflicting federal and state laws before the November election and that he plans to issue an order by Sept. 2. He said that right now, following the state court's Teigen decision, every voting option for voters who can't return their ballot "would result in some sort of injury."

The Teigen case was brought by a group of voters in Waukesha County who were represented by the Wisconsin Institute for Law & Liberty, a right-wing legal organization. That lawsuit was brought after Republicans became hostile to methods meant to make voting easier following the 2020 presidential election.

Republicans across Wisconsin began to attack the use of absentee ballot drop boxes and ballot return assistance as vulnerable to fraud — frequently using much more nefarious terms such as "ballot harvesting" and "ballot trafficking" to refer to the practice of getting help returning a ballot.

After the lawsuit from the disabled voters was filed, the lawyers for Wisconsin Department of Justice arguing the case said they agreed that these protections exist but that the case should be dismissed. Last week, the U.S. Department of Justice took the rare step of intervening in the case, filing a brief in favor of voters with disabilities that argued the federal laws do in fact protect ballot assistance and that an order from a federal judge is required to ensure those protections remain in Wisconsin.

by Henry Redman, Wisconsin Examiner
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