

FILED

September 4, 2020

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

A20-1017

DSCC, et al.,

Respondents,

vs.

Steve Simon, in his official capacity as
Minnesota Secretary of State,

Respondent,

Republican Party of Minnesota, et al.,

Appellants.

ORDER

This appeal involves constitutional challenges to the voter-assistance limits in Minnesota Statutes §§ 203B.08 and 204C.15 (2018). Specifically, section 204C.15 allows a voter to obtain the assistance of another individual if the voter is unable to “mark a ballot” due to an “inability to read English or [a] physical inability,” Minn. Stat. § 204C.15, subd. 1. Section 203B.08 allows a voter to “designate an agent to deliver” a “sealed absentee return envelope,” either in person or by depositing that ballot in the mail, Minn. Stat. § 203B.08, subd. 1. In both cases, the individual assisting the voter can do so for “no more than three voters” in an “election.” Minn. Stat. §§ 203B.08, subd. 1, 204C.15, subd. 1.

Respondents DSCC, et al. filed a complaint in Ramsey County District Court on January 17, 2020, asserting that the voter-assistance limits conflict with and are preempted by section 208 of the federal Voting Rights Act, 52 U.S.C. § 10508 (2018); burden the right to vote in violation of Article I, Section 2 and Article VII, Section 1 of the Minnesota Constitution; and burden the free speech and associational rights of DSCC and its members, in violation of the First and Fourteenth Amendments to the United States Constitution and Article I, Section 3 of the Minnesota Constitution. DSCC then moved for a temporary injunction. The district court granted this motion, concluding that DSCC is likely to succeed on the merits of all three claims. Thus, the district court temporarily enjoined respondent Steve Simon, Minnesota Secretary of State, from taking any steps to demand compliance with or to enforce the three-voter limit in sections 203B.08 and 204C.15.

On August 3, 2020, appellants Republican Party of Minnesota and Republican National Committee filed a notice of appeal with the court of appeals and on August 12, 2020, filed a petition for accelerated review under Minn. R. Civ. App. P. 118. We granted the petition for accelerated review on August 13, 2020, and following briefing, held oral argument on September 3, 2020.

We review the grant of a temporary injunction for an abuse of discretion. *Fannie Mae v. Heather Apartments Ltd. P'ship*, 811 N.W.2d 596, 599 (Minn. 2012); *Eakman v. Brutger*, 285 N.W.2d 95, 97 (Minn. 1970). The district court abuses its discretion when it grants a temporary injunction based on an erroneous interpretation of the law. *Fannie Mae*, 811 N.W.2d at 599.

Having considered the parties' arguments and the record, we affirm the district court's temporary injunction order in part and reverse in part. We conclude that the district court did not abuse its discretion by enjoining enforcement of the three-voter limit in section 204C.15, subdivision 1, because the court correctly concluded that DSCC showed a likelihood of success on the merits of its claim that section 208 preempts the three-voter limit in section 204C.15. We also conclude that the district court did not abuse its discretion by concluding that the other factors for a temporary injunction, *see Dahlberg Bros., Inc. v. Ford Motor Co.*, 137 N.W.2d 314, 321–22 (Minn. 1965), support granting DSCC's motion to the extent set forth below. Based on this conclusion, we do not need to address the merits of DSCC's challenge to the three-voter limit in Minn. Stat. § 204C.15 under the Minnesota or United States Constitutions.

We conclude, however, that the district court erred as a matter of law by deciding that DSCC has shown a likelihood of success on the merits of its claims that the voter-assistance limit in Minnesota Statutes § 203B.08, subd. 1, is preempted by section 208 of the Voting Rights Act, imposes an undue and unconstitutional burden on voting under the Minnesota Constitution, and violates its free speech or associational rights under the United States Constitution.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The decision of the district court is affirmed in part and reversed in part. Paragraph 4(b) of the district court's injunction order is vacated and the temporary injunction issued by the district court on July 28, 2020, is modified as follows:

a. The Minnesota Secretary of State is temporarily enjoined from enforcing the prohibition in Minnesota Statutes § 204C.15, subd. 1, that limits a person who requires assistance in marking a ballot used for any form of permitted voting, by reason of blindness, disability, or inability to read or write, from using the assistance of a person who has assisted three other voters in the election.

b. Within 7 days of the date of this order, respondent Steve Simon, Minnesota Secretary of State, shall provide written notice to all county attorneys and election officials in Minnesota that the limit in Minnesota Statutes § 204C.15, subd. 1, on the number of voters who need assistance in marking a ballot by reason of blindness, disability, or inability to read or write that an individual can assist in marking a ballot is unenforceable for the voting that will begin on September 18, 2020 for the election on November 3, 2020.

c. Within 7 days of the date of this order, the Secretary of State shall make the following statement available on the website maintained by his office, including in translated form: "A voter who requires assistance in marking a ballot, by reason of blindness, disability, or inability to read or write, may be given assistance to do so by a person of the voter's choice, other than the employer or agent of that employer or officer or agent of the voter's union." This statement, including in translated form, must also be available at all polling locations on or before voting begins on September 18, 2020 for the election on November 3, 2020.

2. The statement provided by the Secretary of State under paragraph 1(b) of this order must explain that the temporary injunction is limited to the voter assistance provision in Minnesota Statutes § 204C.15, subdivision 1, and no longer encompasses the voter assistance provision in Minnesota Statutes § 203B.08, subdivision 1.

3. So as not to impair the orderly election process, this order is issued with opinion to follow.

Dated: September 4, 2020

BY THE COURT:



Lorie S. Gildea
Chief Justice

THISSEN, J., took no part in the consideration or decision of this case.