

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LEIGH REED-PRATT,
Plaintiff,

Case No. 20-cv-
Hon.

v.

JANICE WINFREY, in her official and individual capacities as the
Detroit City Clerk,
DETROIT ELECTION COMMISSION, and
DETROIT DEPARTMENT OF ELECTIONS,
Defendants.

ANDREW A. PATERSON (P18690)

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COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, LEIGH REED-PRATT, by and through
her attorney, ANDREW A. PATERSON, and for her Complaint and
Jury Demand (“Complaint”), states as follows:

I. NATURE OF PLAINTIFF’S CLAIMS

1. Plaintiff’s claims are brought pursuant to 42 U.S.C. § 1983; 28 U.S.C. §§ 1331, 1337, 1343, and 1367; and, the Declaratory Judgment Act, 28 U.S.C. § 2201, *et. seq.*

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over Plaintiff's claims pursuant to 42 U.S.C. 1983; 28 U.S.C. §§ 1331, 1332, 1337, 1343, and 1367.
3. This Court also has jurisdiction to render and issue a declaratory judgment pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, *et. seq.*
4. Venue is proper in the Eastern District of Michigan under 28 U.S.C. § 1391(b)(1). Under 28 U.S.C. § 1391(b)(1), venue is proper in “a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located.” Upon information and belief, all of the named Defendants are residents of the State of Michigan or have a place of business in the State of Michigan, and at least one of the Defendants reside in the Eastern District of Michigan. Therefore, venue is proper within the Eastern District of Michigan under 28 U.S.C. § 1391(b)(1).¹

¹ Under 28 U.S.C. § 1391(b)(1) venue is proper in “a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located.” Furthermore, under 28 U.S.C. § 1391(c)(2), a corporation is deemed to reside “in any judicial district in which such defendant is subject to the court’s personal jurisdiction.” The determination of the proper venue for a civil action in federal court is “generally governed by 28 U.S.C. 1391.” *Atlantic Marine Const. Co. v U.S. District Court for W.Dist. of Texas*, 571 U.S. 49, 55 (2013). “[T]he court must determine

5. All events giving rise to the causes of action pleaded and alleged herein occurred in the Eastern District of Michigan.

III. PARTIES

6. Plaintiff repeats, realleges and incorporates, the foregoing allegations, as though fully set forth and stated herein.
7. Plaintiff, Leigh Reed-Pratt (“**Plaintiff Reed-Pratt**” or “**Plaintiff**”), is a resident and registered voter of the City of Detroit, County of Wayne, State of Michigan. Plaintiff Reed-Pratt voted in the August 4, 2020 primary election.
8. Defendant, Janice Winfrey (“**Defendant City Clerk**” or “**Defendant Winfrey**”), is the duly elected City Clerk for the City of Detroit. Defendant City Clerk has served continuously as the elected City Clerk for the City of Detroit since January 1, 2006.
9. Defendant, Detroit Department of Elections (“**Defendant Department of Elections**”) is a department created by §3-101 of the 2012 Detroit City Charter that is charged with the responsibility to plan, monitor, and administer all elections in the

whether the case falls within one of the three categories set out in 1391(b). If it does, venue is proper[.]” *Id.* at 55.

City of Detroit. The Defendant Department of Elections is headed by the Defendant Detroit Election Commission.

10. Defendant, Detroit Election Commission (“**Defendant City Election Commission**”), pursuant to §3-102 of the 2012 Detroit City Charter, oversees the Defendant Department of Elections and is composed of the Defendant City Clerk, who serves as it Chairperson; the President of the Detroit City Council (Brenda Jones); and the Corporation Counsel for the City of Detroit (Lawrence Garcia).
11. An actual controversy exists between the Plaintiff and the named Defendants.

CAUSES OF ACTION

COUNT I

Plaintiff Reed-Pratt’s Procedural and Substantive Due Process Rights Were Violated By City of Detroit Defendants With The Unilateral Mailing of Unsolicited Absentee Voter Application.

12. Plaintiffs repeat, reallege and incorporate, the foregoing allegations, as though fully set forth and stated herein.
13. This claim is being brought by Plaintiff Reed-Pratt against Defendants Janice Winfrey, in her official and individual capacities,

Detroit Election Commission, and Detroit Department of Elections (collectively referred to herein as “**City of Detroit Defendants**”) pursuant to 42 U.S.C. § 1983 and the Declaratory Judgment Act, 28 U.S.C. § 2201, *et. seq.*

14. On August 4, 2020, Plaintiff Reed-Pratt voted in the democratic primary election.
15. Plaintiff Reed-Pratt physically went to her assigned polling location in the City of Detroit and voted in person in the primary election held on August 4, 2020.
16. Plaintiff Reed-Pratt did **not** vote by absentee ballot in the August 4, 2020 primary election.
17. On or about June 3, 2020, Plaintiff Reed-Pratt, called and advised well-known political and community Activist Robert Davis that she had just received an ***unsolicited*** absentee voter **application** through the mail from the Defendants Winfrey, City Election Commission and Department of Elections, along with a prepaid postage envelope for the mailing back of her absentee voter application. (**See Unsolicited Absentee Voter**

Application and Letter Plaintiff Reed-Pratt received attached as Exhibit A).

18. Plaintiff Reed-Pratt further advised Robert Davis that Plaintiff Reed-Pratt did **not** request, verbally or in writing, for the Defendants Winfrey, City of Election Commission and Department of Elections to send Plaintiff Reed-Pratt an absentee voter **application** for the upcoming August 2020 primary and the November 2020 general elections.
19. The absentee voter application Plaintiff Reed-Pratt received in the mail at her home on June 3, 2020 from the Defendants Winfrey, City Election Commission, and Department of Elections was **unsolicited!**
20. Defendants Winfrey, City Election Commission and Department of Elections' letter, which is dated May 2020, is addressed to "Detroit Voter" and further advised Plaintiff Reed-Pratt how to fill out the **unsolicited** absentee voter **application** that was enclosed and advised Plaintiff Reed-Pratt to use the postage prepaid envelope to return the **unsolicited** absentee voter **application**. (See Defendants' Letter and Unsolicited

Absentee Voter Application mailed to Plaintiff Reed-Pratt attached as Exhibit A).

21. The Defendants Winfrey, City Election Commission, and Department of Elections' actions of mailing out **unsolicited** absentee voter **applications** to Plaintiff Reed-Pratt and other registered voters in the City of Detroit were unlawful and violates Mich. Comp. Laws §168.759(5) and the Michigan Court of Appeals' holding in *Taylor v Currie*, 277 Mich. App. 85; 743 NW2d 571 (2007), *lv denied*, 483 Mich. 907; 762 NW 2d 169 (2009).
22. The City of Detroit Defendants' unlawful actions of mailing **unsolicited** absentee voter applications were arbitrary and capricious and in violation of state law.
23. Proof that the City of Detroit Defendants' unlawful actions were arbitrary and capricious is the fact that since the Michigan Court of Appeals' ruling in *Taylor v Currie*, *supra*, the City of Detroit Defendants have **NEVER** mailed **unsolicited** absentee voter applications to all registered voters in the City of Detroit.
24. In fact, the approved minutes from the Defendant City Election Commission's May 14, 2020 meeting further illustrates

that the City of Detroit Defendants' unlawful actions of mailing **unsolicited** absentee voter applications to Plaintiff Reed-Pratt and other registered voters in the City of Detroit were arbitrary and capricious. (See **Defendant City Election Commission's Approved Minutes from May 14, 2020 Meeting attached as Exhibit B**).

25. The approved minutes from the Defendant City Election Commission's May 14, 2020 meeting further illustrates that the City of Detroit Defendants had deliberate intentions to ignore and violate Michigan Election Law and the Michigan Court of Appeals' holding in *Taylor v Currie, supra*, and mail **unsolicited** absentee voter applications to Plaintiff Reed-Pratt and other registered voters in the City of Detroit due to the COVID-19 pandemic. (Exhibit B).

26. However, although the City of Detroit Defendants' intentions were well-intended, the COVID-19 pandemic does not authorize the City of Detroit Defendants to violate Michigan Election Law or binding court orders.

27. Under Mich.Const.1963, art. 2, § 4(1)(g), Plaintiff Reed-Pratt has a constitutional right to vote by absentee ballot without having to provide a reason.
28. Under Mich.Const.1963, art. 2, § 4(1)(g), Plaintiff Reed-Pratt has a constitutional right to **apply** to vote by absentee ballot in any election held in the City of Detroit.
29. Under Michigan Election Law, a registered voter must **first request**, either verbally or in writing, from their local city or township clerk an application to vote by absentee ballot.
30. Under Mich. Comp. Laws §168.759(5), Plaintiff Reed-Pratt has a statutory right to **request**, either verbally or in writing, an absentee voter **application** from the Defendant Winfrey.
31. However, neither the state constitution nor any provision of Michigan Election Law grants the Defendant Winfrey or any of the other City of Detroit Defendants the right to mail an **unsolicited** absentee voter **application** to Plaintiff Reed-Pratt.
32. Under Michigan's Constitution and Michigan Election Law, it is Plaintiff Reed-Pratt's right to choose whether to request,

either verbally or in writing, an absentee voter **application** from the Defendant Winfrey.

33. As noted, under Mich.Const. 1963, art. 2, §4(1)(g) and Mich. Comp. Laws §168.759(4), in order for a registered voter to vote by absentee ballot in any election, the registered voter must first request, either verbally or in writing, from their local city or township clerk an absentee voter application.

34. Plaintiff Reed-Pratt was denied by the Defendants Winfrey, City Election Commission and Department of Elections of her state constitutional and statutory right to request, either verbally or in writing, an absentee voter application from the Defendant Winfrey.

35. Because Plaintiff Reed-Pratt believed that the Defendants Winfrey, City Election Commission and Department of Elections' actions of mailing an **unsolicited** absentee voter **application** to Plaintiff Reed-Pratt were unlawful and illegal, Plaintiff Reed-Pratt did not feel comfortable using the **unsolicited** absentee voter **application** the City of Detroit Defendants mailed her.

36. Instead, Plaintiff Reed-Pratt chose to vote in person for the primary election held on August 4, 2020.

37. Based upon the conversations Plaintiff Reed-Pratt overheard being held amongst election inspectors/workers in the voting precinct, Plaintiff Reed-Pratt believes Defendants Winfrey, City Election Commission and Department of Elections will attempt to mail **unsolicited** absentee voter **applications** to registered voters in the City of Detroit for the upcoming November 3, 2020 presidential general election.

38. Political and community activist Robert Davis was recently told confidentially by political insiders that Defendant Winfrey will be mailing out **unsolicited** absentee voter **applications** to registered voters in the City of Detroit who voted “in person” at the August 4, 2020 primary election and/or did not return an absentee voter application to vote by absentee ballot for the impending November 3, 2020 presidential general election.

39. The City of Detroit Defendants, individually and collectively, denied Plaintiff Reed-Pratt her due process rights by denying Plaintiff Reed-Pratt her state constitutional and statutory right to

choose whether to request, either verbally or in writing, an absentee voter application from the Defendant Winfrey.

40. Defendants Winfrey, City Election Commission and Department of Elections' unlawful actions denied Plaintiff Reed-Pratt her procedural due process rights as guaranteed under the Fourteenth Amendment of the United States Constitution.

41. Defendants Winfrey, City Election Commission and Department of Elections' unlawful actions denied Plaintiff Reed-Pratt her substantive due process rights as guaranteed under the Fourteenth Amendment of the United States Constitution.

WHEREFORE, Plaintiff Reed-Pratt requests this Court enters judgment against Defendants Winfrey, City Election Commission, and Department of Elections as follows:

- a. compensatory damages in whatever amount above \$75,000.00 Plaintiffs are found to be entitled;
- b. an award of exemplary and punitive damages;
- c. an award of interest, costs and reasonable attorney fees under 42 USC §1988;
- d. a declaration that Plaintiff Reed-Pratt's procedural due process rights have been violated by Defendants Winfrey, City Election Commission, and Department of Elections;
- e. a declaration that Plaintiff Reed-Pratt's substantive due process rights have been violated by Defendants Winfrey, City Election Commission, and Department of Elections;

- f. a declaration that Defendants Winfrey, City Election Commission, and Department of Elections do not have the authority under Michigan's Constitution and/or Michigan Election Law to mail unsolicited absentee voter applications to registered voters in the City of Detroit;
- g. an injunction enjoining the Defendants Winfrey, City Elections Commission and Department of Elections from mailing unsolicited absentee voter applications to registered voters in the City of Detroit; and
- h. an order awarding whatever other equitable relief appears appropriate at the time of final judgment.

COUNT II

State Law Claim-Criminal Contempt Against City of Detroit Defendants.

42. Plaintiff repeats, realleges and incorporates, the foregoing allegations, as though fully set forth and stated herein.
43. This state-law claim for criminal contempt is being brought by Plaintiff Reed-Pratt against Defendants Winfrey, City Election Commission and Department of Elections (collectively referred to herein as "**City of Detroit Defendants**").
44. This Court has the discretion under 28 U.S.C. §1367 to exercise supplemental jurisdiction over Plaintiff Reed-Pratt's state-law claim.
45. This claim for criminal contempt under Michigan law is being brought by Plaintiff Reed-Pratt, as an individual and registered

voter of the City of Detroit, against Defendants Winfrey, City Election Commission, and Department of Elections.

46. Mich. Comp. Laws §600.1701 of the Revised Judicature Act provides, in pertinent part:

The supreme court, circuit court, and all other courts of record, have power to punish by fine or imprisonment, or both, persons guilty of any neglect or violation of duty or misconduct in all of the following cases:

(g) Parties to actions, attorneys, counselors, and all other persons for disobeying any lawful order, decree, or process of the court.

47. Mich. Comp. Laws §600.1715, as amended, which codified the common-law power to punish contempt, provides:

(1) Except as otherwise provided by law, punishment for contempt may be a fine of not more than \$7,500.00, or imprisonment which, except in those cases where the commitment is for the omission to perform an act or duty which is still within the power of the person to perform shall not exceed 93 days, or both, in the discretion of the court. The court may place an individual who is guilty of criminal contempt on probation in the manner provided for persons guilty of a misdemeanor as provided in chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1 to 771.14a.

(2) If the contempt consists of the omission to perform some act or duty that is still within the power of the person to perform, the imprisonment shall be terminated when the person performs the act or duty or no longer has the power to perform the act or duty, which shall be specified in the order of commitment, and pays the fine, costs, and expenses

of the proceedings, which shall be specified in the order of commitment.

48. Plaintiff Reed-Pratt seeks this Court to exercise supplemental jurisdiction and invoke its inherent contempt power pursuant to Mich. Comp. Laws § 600.1715 and find the Defendants Winfrey, Department of Elections and City Election Commission to be in criminal contempt of the Wayne County Circuit Court's March 23, 2006 permanent injunction issued in the case *Taylor v Currie*, 05-524513-AW, and affirmed on appeal, 277 Mich. App. 85; 743 NW2d 571 (2007), *lv denied*, 483 Mich. 907; 762 NW 2d 169, (2009) ("*Taylor v Currie*").

49. Under Michigan law, criminal contempt is intended to punish the contemnor for past conduct that affronts the dignity of the court. *Jaikins v. Jaikins*, 12 Mich.App. 115, 120; 162 NW2d 325 (1968).

50. "Thus, when a court exercises its criminal contempt power it is not attempting to force the contemnor to comply with an order, but is simply punishing the contemnor for past misconduct that was an affront to the court's dignity." *Porter v Porter*, 285 Mich.App. 450, ___; 776 NW2d 377, 381 (2009), citing *In re*

Contempt of Auto Club Ins. Ass'n, 243 Mich. App. 697, 713, 624 N.W.2d 443 (2000).

51. Defendants Winfrey, City Election Commission and Department of Elections took actions that were deliberate and intentional in direct violation of the Wayne County Circuit Court's March 23, 2006 permanent injunction order enjoining the Defendants Winfrey, City Election Commission, and Department of Elections from mailing ***unsolicited*** absentee voter ballot applications to **all** registered voters in the City of Detroit.
52. The approved minutes from the Defendant City Election Commission's May 14, 2020 meeting provides further evidence that the contemptuous actions of the City of Detroit Defendants of mailing **unsolicited** absentee voter **applications** to Plaintiff Reed-Pratt and other registered voters in the City of Detroit were deliberate and intentional. **(See Approved Minutes from Defendant City Election Commission's May 14, 2020 Meeting attached as Exhibit B).**
53. It is undisputed that sometime in May/June 2020, Defendants Winfrey, City Election Commission and Department

of Elections mass mailed **unsolicited** absentee voter **applications** to **all** registered voters in the City of Detroit, including to Plaintiff Reed-Pratt.

54. Defendants City Winfrey, City Election Commission and Department of Elections were aware of the Wayne County Circuit Court's March 23, 2006 Permanent Injunction Order and the Michigan Court of Appeals' published decision in *Taylor v Currie*, which affirmed and upheld the Wayne County Circuit Court's March 23, 2006 permanent injunction. *Taylor v Currie*, 277 Mich. App. 85; 743 NW2d 571 (2007); *lv denied*, 483 Mich. 907, 762 NW 2d 169, (2009).

55. Moreover, Defendants Winfrey, City Election Commission and Department of Elections were parties to the *Taylor v Currie*, *supra*, case and are bound by the Wayne County Circuit Court's March 23, 2006 permanent injunction and the Michigan Court of Appeals' holding in *Taylor v Currie*, *supra*.

56. After defeating the former city clerk Jackie Currie in the November 2005 city general election, Defendant Winfrey assumed

the duties of the office of Detroit City Clerk **on January 1, 2006**, and has continuously served in that elected capacity ever since.

57. Pursuant to MCR 2.202(C), as the successor to the office of Detroit City Clerk, upon assuming the duties of the office of Detroit City Clerk on January 1, 2006, Defendant Winfrey was substituted in as the defendant in the *Taylor v Currie* case.

58. It is well-settled that “parties to litigation must follow rulings and orders of a trial court acting within its jurisdiction unless and until those rulings and orders are stayed or reversed.” *Davis v Detroit Financial Review Team*, 296 Mich. App. 568, 623; 821 NW2d 896 (2012).

59. Defendants Winfrey, City Election Commission and Department of Elections must be fined and/or imprisoned under Michigan law by this Court upon invoking its inherent contempt powers and finding the Defendants City Clerk, City Election Commission and Department of Elections in criminal contempt of the Wayne County Circuit Court’s March 23, 2006 permanent injunction issued in the case of *Taylor v Currie*.

60. Plaintiff Reed-Pratt has been injured as a result of Defendants Winfrey, City Election Commission and Department of Elections' contemptuous conduct.

61. Plaintiff Reed-Pratt had to incur legal expenses to bring forth this action to ensure that the Michigan Election Laws were being properly followed and complied with by the Defendants Winfrey, City Election Commission and Department of Elections and to ensure the Wayne County Circuit Court's March 23, 2006 permanent injunction issued in the case of *Taylor v Currie* was being properly adhered to by the City of Detroit Defendants.

WHEREFORE, Plaintiff Reed-Pratt requests this Court to enter judgment against Defendants Winfrey, Department of Elections and City Election Commission as follows:

- a. Enter an Order finding under Michigan law the Defendants Winfrey, City Election Commission and Department of Elections in criminal contempt of the Wayne County Circuit Court's March 23, 2006 permanent injunction order entered in the case of *Taylor v Currie*;
- b. Enter an Order fining and/or imprisoning the Defendants Winfrey, City Election Commission, Department of Elections upon the Court invoking its inherent contempt powers and finding the Defendants City Clerk, City Election Commission, Department of Elections in criminal contempt under Michigan law of the Wayne County Circuit Court's March 23, 2006

- permanent injunction order entered in the case of *Taylor v Currie*;
- c. Enter an order awarding Plaintiff Reed-Pratt court costs and attorney fees; and
 - d. Enter an order awarding whatever other relief appears appropriate to the Court at the time of final judgment.

Dated: August 9, 2020

Respectfully submitted,

/s/ ANDREW A. PATERSON
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JURY DEMAND

Plaintiff, through counsel, respectfully demands a jury trial on all issues triable to a jury.

Dated: August 9, 2020

Respectfully submitted,
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