JAN BREWER
SECRETARY OF STATE
STATE OF ARIZONA

June 20, 2006

Paul S. DeGregorio, Chairman
United States Election Assistance Commission
1225 New York Avenue N.W.
Washington, DC 20005

Dear Chairman DeGregorio:

Yesterday the United States District Court for the District of Arizona in *Gonzalez v. State of Arizona*, No. CV 06-1268-PHX-ROS, held that the National Voter Registration Act's (NVRA) language regarding the Federal Mail Voter Registration Form (Federal Form) does not preempt Arizona's requirement that individuals present proof of citizenship at the time they attempt to register using that form.

As you know, the correspondence dated March 6, 2006, from the Election Assistance Commission's Executive Director, Thomas Wilkey, precipitated this lawsuit and was used as an exhibit by the plaintiffs. In that letter Mr. Wilkey asserted that Arizona's proof of citizenship requirement when registering to vote with the federal form conflicted with the NVRA. Yesterday's 15 page court opinion and order clearly ruled to the contrary:

> Determining whether an individual is a United States citizen is of paramount importance when determining his or her eligibility to vote. In fact, the NVRA repeatedly mentions that its purpose and goal is to increase registration of "eligible citizens." 42 U.S.C. § 1973gg(b)(1)-(2). Providing proof of citizenship undoubtedly assists Arizona in assessing the eligibility of applicants. Arizona's proof of citizenship requirement *does not conflict* with the plain language of the NVRA.

Order at p. 9. (Emphasis added)

Given the court's sound rejection of Mr. Wilkey's analysis, I once again implore you to properly instruct Arizona voters using the Federal Form about our proof of citizenship requirement. To do otherwise would further disenfranchise Arizona voters using the federal form who unknowingly rely on your erroneous instructions. I am sure that the Commission agrees with me that we should do everything possible to properly

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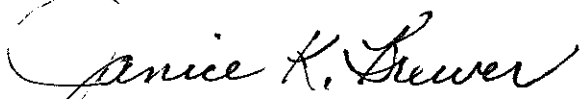
educate and inform voters about our new voter registration requirements, and I look forward to your cooperation in this matter.

For your convenience, I have attached the proposed Arizona instructions that were submitted by my staff to yours on December 12, 2005.

Sincerely,



Janice K. Brewer
Arizona Secretary of State

Enclosure

cc: The Honorable John McCain
The Honorable John Kyl
The Honorable Rick Renzi
The Honorable Trent Franks
The Honorable John Shadegg
The Honorable Ed Pastor
The Honorable J.D. Hayworth
The Honorable Jeff Flake
The Honorable Raul Grijalva
The Honorable Jim Kolbe
The Honorable Terry Goddard
The Honorable Sam Reed, President,
National Association of Secretaries of State
Kevin Kennedy, President,
National Association of State Elections Directors

4 Revised 10/29/2003 State Instructions

Arizona

Registration Deadline — 29 days before the election.

6. ID Number. Your completed voter registration form must contain the number of your Arizona driver license, or non-operating identification license issued pursuant to A.R.S. § 28-3165, if the license is current and valid. If you do not have a current and valid Arizona driver license or non-operating identification license, you must include the last four digits of your social security number if one has been issued to you. If you do not have a current and valid driver license or non-operating identification license or a social security number, please write "NONE" on the form. A unique identifying number will be assigned by the Secretary of State.
If this is your first time registering to vote in Arizona or you have moved to another county in Arizona, your voter registration form must also include proof of citizenship or the form will be rejected. If you have an Arizona driver license or non-operating identification license issued after October 1, 1996, this will serve as proof of citizenship and no additional documents are needed. If not, you must attach proof of citizenship to the form. Only one acceptable form of proof is needed to register to vote.
The following is a list of acceptable documents to establish your citizenship:

· A legible photocopy of a birth certificate that verifies citizenship and supporting legal documentation (i.e. marriage certificate) if the name on the birth certificate is not the same as your current legal name
· A legible photocopy of pertinent pages of a United States passport identifying the applicant
· Presentation to the County Recorder of United States naturalization documents or the number of the certificate of naturalization in box 6~~20 on the front~~ of this form
· The applicant's Bureau of Indian Affairs Card Number, Tribal Treaty Card Number, or Tribal Enrollment Number in box ~~16 on the front~~ of this ~~the~~ voter registration form
· A legible photocopy of a driver license or non-operating license~~identification~~ from another state within the United States if the license indicates that the applicant has provided satisfactory proof of citizenship
· A legible photocopy of a Tribal Certificate of Indian Blood or Tribal or Bureau of Indian Affairs Affidavit of Birth.
If you need to include a photocopy of proof of citizenship, please fold the proof along with the Voter Registration Application and place both items in an envelope and mail to the address provided below.

7. Choice of Party. If you are registered in a political party which has qualified for ballot recognition, you will be permitted to vote the primary election ballot for that party. If you are registered as an independent, no party preference or as a member of a party which is not qualified for ballot recognition, you may select and vote one primary election ballot for one of the recognized political parties.
8. Race or Ethnic Group. Leave blank.
9. Signature. To register in Arizona you must:
· Must be a Citizen of the United States of America
· Must be a resident of Arizona and the county listed on your registration
· Must be 18 years of age or more on or before the day of the next regular General Election
· Must not be a convicted felon~~y~~, unless your civil rights have been restored
· Must not have been adjudicated incompetent

~~**Attention: Proof of Voter Identification**~~

~~(Pursuant to the Help America Vote Act of 2002)~~

~~If this form is submitted by mail and it is the first time you have registered to vote in your jurisdiction, you MUST submit current, valid proof of identification with this application or the first time you vote in a federal election. To send it with this application you should enclose one of the following:~~

~~(1) A **COPY** of a current and valid photo identification **OR**~~
~~(2) A **COPY** of a current utility bill, bank statement, government check, paycheck, or other government document that shows your name and address in the jurisdiction.~~

~~Submitting your proof of identification now with the application will allow you to avoid the federal requirement to show this proof at the polling place or, if voting by mail, to avoid sending it with your mail-in-ballot. If you do not provide proof of identification, you may cast a provisional ballot.~~

~~Voters may also be required to show proof of identification under State law.~~

Mailing address:
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Wedsite: www.azsos.gov