

Extending Voter Registration Because of a Website Crash

*New Virginia Majority Education Fund
v. Virginia Department of Elections
(Claude M. Hilton, E.D. Va. 1:16-cv-1319)*

Heavy use of Virginia’s online voter registration site on Monday, October 17, 2016, the deadline for the November 8 general election, caused the system to crash temporarily.¹ On October 18, two organizations and two prospective voters who were unable to register because of the crash filed a federal complaint in the Eastern District of Virginia’s Alexandria courthouse against state election officials asking the court to order reopening of online voter registration in Virginia for three days.² With their complaint, the plaintiffs filed an emergency motion for a preliminary injunction.³

On October 19, Judge Claude M. Hilton set the case for hearing on Thursday morning, October 20.⁴ According to news media, “Gov. Terry McAuliffe said Wednesday he agreed with the lawsuit’s request to extend voter registration and had asked Attorney General Mark Herring to reach out to the federal court to ask for an expedited decision.”⁵ “Election officials and Gov. Terry McAuliffe’s office said Tuesday that they had no authority to extend the deadline, which is set by state law and passed at 11:59 p.m. Monday.”⁶

According to the 11:00 a.m. hearing minutes, “The court grants the motion, but with a reduced extension period than sought.”⁷ Judge Hilton reopened registration from Thursday following the hearing to the end of Friday.⁸

1. See Graham Moomaw, *Suit: Extend Va.’s Voter Registration*, Richmond Times-Dispatch, Oct. 19, 2016, at 1A.

2. Complaint, *New Va. Majority Educ. Fund v. Va. Dep’t of Elections*, No. 1:16-cv-1319 (E.D. Va. Oct. 18, 2016), D.E. 1; see Moomaw, *supra* note 1; Laura Vozzella, *Lawsuit Filed to Extend Va.’s Voter Registration*, Wash. Post, Oct. 19, 2016, at B1; Patrick Wilson, *Group Files Lawsuit Against Virginia Election Officials Over Voter Registration Crash*, Norfolk Virginian-Pilot, Oct. 20, 2016, at 4.

3. Preliminary Injunction Motion, *New Va. Majority Educ. Fund*, No. 1:16-cv-1319 (E.D. Va. Oct. 18, 2016), D.E. 3.

4. Docket Sheet, *id.* (Oct. 18, 2016).

5. Wilson, *supra* note 2; see also Travis Fain, *McAuliffe Backs Registration Extension*, Newport News Daily Press, Oct. 20, 2016, at A3; Laura Vozzella, *Judge to Consider More Time to Register*, Wash. Post, Oct. 20, 2016, at B5.

6. Moomaw, *supra* note 1; see also Vozzella, *supra* note 5.

7. Minutes, *New Va. Majority Educ. Fund*, No. 1:16-cv-1319 (E.D. Va. Oct. 20, 2016), D.E. 9; see Rachel Weiner, *Judge Extends Voter Registration Deadline to Midnight Friday*, Wash. Post, Oct. 21, 2016, at B2.

8. Order, *New Va. Majority Educ. Fund*, No. 1:16-cv-1319 (E.D. Va. Oct. 20, 2016), D.E. 10; see Patrick Wilson, *Judge Orders Virginia to Immediately Reopen Voter Registration After Website Crash*, Norfolk Virginian-Pilot, Oct. 21, 2016, at 10.

More than 27,000 Virginians registered to vote during the extension.⁹

9. See Katherine Hafner, *Nearly 28,000 Virginians Registered to Vote After the Deadline Was Extended*, *Norfolk Virginian-Pilot*, Oct. 23, 2016, at 11; *More Than 27,000 Virginians Register to Vote After Court-Mandated Extension*, *Newport News Daily Press*, Oct. 23, 2016, at A5.