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VOTING - CALIFORNIA

California Council of the Blind v. County of Alameda

United States District Court, N.D. California - October 16, 2013 - Not Reported in F.Supp.2d - 2013 WL 5645196

Blind voters alleged that in the last two elections, County failed to ensure that voting machines accessible to the blind and visually impaired could be activated and operated by poll workers, and therefore required these individuals to vote with the assistance of third parties in violation of Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213, § 504 of the Rehabilitation Act, 29 U.S.C. § 794, as well as California Election Code § 19227 and California Government Code § 11135.

County argued that plaintiffs failed to state a claim under Title II of the ADA or § 504 of the Rehabilitation Act and filed a motion to dismiss. Defendants contended that nothing in the ADA or the Rehabilitation Act creates a right to vote privately and independently, and because Plaintiffs allege that they were able to vote with the assistance of a third party, they fail to state a claim under the ADA or the Rehabilitation Act as a matter of law.

Defendants argued that, with the assistance of a third party, plaintiffs were provided an equal opportunity to vote. However, the court agreed with plaintiffs that requiring blind and visually impaired individuals to vote with the assistance of a third party, if they are to vote at all, at best provides these individuals with an inferior voting experience “not equal to that afforded others.”

Accordingly, the Court found that Plaintiffs had sufficiently stated a claim under the ADA and Rehabilitation Act and denied County’s motion to dismiss.

The court found no merit in plaintiffs’ state law claims, dismissing both.