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LDF Media
212-965-2200 / media@naacpldf.org

LDF Files Amicus Brief Supporting Michigan's Guidance Banning the Open Carrying of Firearms at Polling Places and Other Designated Sites on Election Day

Today, the NAACP Legal Defense and Educational Fund, Inc. (LDF), along with LDF cooperating attorney Alice Jennings, filed an amicus brief in the Michigan State Court of Appeals supporting Michigan Secretary of State Jocelyn Benson and Michigan Attorney General Dana Nessel's recently-issued guidance barring the open carrying of firearms at polling places and other election-related locations on Election Day. The ACLU of Michigan, Michigan Welfare Rights Organization, People's Platform of Detroit, Detroit Action, and the Detroit Justice Center are all signatories to the brief.

In the wake of recent widely-publicized incidents involving firearms in Michigan — including a gathering of heavily armed individuals occupying the state capitol building to protest the state's COVID-19-related stay-at-home order — Secretary Benson announced new guidance on Oct. 16 that bans the open carrying of firearms within 100 feet of polling places, clerk's offices, and absentee ballot counting sites on Election Day. The guidance is intended to prevent voter intimidation and disruption at the polls.

Following this announcement, gun rights advocates filed two lawsuits seeking to overturn the ban. On Oct. 27, a Michigan Court of Claims judge issued a preliminary injunction barring this guidance from going into effect. LDF's amicus brief highlights why the secretary's firearm guidance is critical to preventing voter intimidation on Election Day, and requests that the State Court of Appeals reverse the trial court's granting of the preliminary injunction request.

"Poll watchers have already confirmed their plan to aggressively monitor polling places across the state on Election Day. Given this context, and this country's harrowing history of violence against Black people attempting to exercise their fundamental right to vote, voters of color will unquestionably be intimidated by the presence of armed individuals and groups in or near polling places," said Monique Lin-Luse, Senior Counsel at LDF. "At its core, this is a voting rights matter. Michigan's polling place firearm guidance is necessary to ensure that voters can participate in this election free from intended or perceived threats of harm."

LDF's brief also demonstrates that any purported harms to the plaintiffs stemming from this guidance pale in comparison to the credible threat of intimidation voters will experience without it.

"Secretary Benson's guidance is narrow and essentially reaffirms prohibitions that are already in place. Sustaining the secretary's guidance for this election will only slightly inconvenience the plaintiffs, who may continue to lawfully carry concealed weapons and keep their weapons inside their vehicles," said Mahogane Reed, LDF's John Payton

Appellate and Supreme Court Advocacy Fellow. “But, without the guidance, many voters – especially voters of color – may feel justifiably intimidated by the prospect of encountering armed individuals at their polling locations. This is a burden that the courts cannot countenance.”

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Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation’s first civil and human rights law organization. LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF.