



A FEDERAL COURT SHIELDS WISCONSIN'S VOTER LIST FROM FEDERAL INSPECTION

SUMMARY

On May 21, 2026, a federal judge in Madison dismissed the U.S. Department of Justice's lawsuit seeking access to Wisconsin's statewide voter registration list. The DOJ invoked Title III of the Civil Rights Act of 1960 to obtain the list—including driver's license numbers or the last four digits of Social Security numbers—as part of a review of the states' list-maintenance practices and compliance with federal election law. The Wisconsin Elections Commission refused. Judge James Peterson held that a state voter registration list is not a “record” the federal government may demand under Title III of the Civil Rights Act of 1960 and dismissed the case *with prejudice*.

The upshot is that Wisconsin's voter file stays beyond federal reach—for now. But the order rests on a *contestable* reading of a 65-year-old statute, was decided by a single district court on the narrowest available ground and leaves the harder questions for the U.S. Court of Appeals for the Seventh Circuit, where an appeal is the likely next step. The decision is also contrary to a recent [memorandum](#) from the U.S. Department of Justice's Office of Legal Counsel, which is the executive branch's final authority on interpreting federal law.

OVERVIEW

Title III directs state election officials to “retain and preserve” for 22 months the records “which come into [their] possession” relating to voting, and to produce those records on the Attorney General's written demand. *52 U.S.C. §§ 20701, 20703*. The statute was enacted to enforce the Fifteenth Amendment—to give the federal government a tool to inspect state election records and expose discriminatory practices.

The court did not hold that the DOJ failed to justify its request, that the data was too sensitive to disclose, or that the demand was procedurally defective. It held something broader: that a voter registration list *categorically* falls outside Title III. It reached that conclusion on the first of four arguments the defendants raised, declined to decide the procedural posture or the privacy questions, and dismissed the complaint with prejudice and without leave to amend. The opinion and full docket are available [here](#).

WHAT YOU SHOULD KNOW

- » The court's core move—reading “come into [their] possession” to exclude records the state itself compiles—is contestable. Title III expressly covers records relating to “registration,” and a statewide list is a compilation of registrations. The government argued that modern, largely electronic registrations now live in that list and often nowhere else.
- » The ruling leans on two recent district court decisions from other circuits—*Benson* (W.D. Mich.) and *Fontes* (D. Ariz.). Neither has been tested on appeal, and no federal appeals court has decided the question. That “no court has granted” the demand may reflect district courts following one another as much as settled law.

- » The court half-conceded a key point. It called the government’s reading of Title III’s anti-“alteration” provision “a fair one,” then relied on that same provision—via the theory that a voter list is a constantly updated “living document”—to support its holding anyway.
- » Its factual premise was thin. The court acknowledged that neither side showed whether Wisconsin’s list contains anything beyond what voters submit yet justified exempting it by pointing to the mere possibility that some other states’ lists (such as Michigan’s voting histories) might.
- » Title III is a federal oversight tool. Reading it to exclude the central, federally mandated repository of registration data arguably narrows the statute precisely where federal review of election administration would matter most.

WHAT COULD HAPPEN

- » An appeal to the Seventh Circuit is the likely next step—and would produce the first appellate ruling on whether Title III reaches state voter lists, testing a theory that, so far, has only district court support.
- » With parallel suits pending in roughly 30 states, conflicting appellate decisions are plausible, and the question may ultimately reach the U.S. Supreme Court.
- » Whichever way the statutory question is resolved, the dispute squarely presents a genuine—and unsettled—federalism question about the reach of federal authority over state-run elections.

WHY IT MATTERS

This case sits at a real constitutional intersection. States administer elections, and federal law itself leaves the “methods” of building and maintaining a voter list to state discretion. *52 U.S.C. § 21085*. At the same time, the Elections Clause empowers Congress to regulate federal elections, and Title III is an exercise of federal civil-rights enforcement authority. This conflict of first principles between state and federal election laws is important, but the narrow question before the courts right now is simply how to define particular statutory terms.

The order resolves that tension against federal access. But a question of this consequence—federal oversight of state voter rolls, repeated across some 30 states—warrants the considered judgment of an appellate court, not a categorical answer from a single district judge on the narrowest of grounds.

Endnotes

1 Opinion & Order, *United States v. Wis. Elections Comm’n*, No. 3:25-cv-01036-jdp (W.D. Wis. May 21, 2026).

2 Docket and filings: Civil Rights Litigation Clearinghouse, clearinghouse.net.

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