

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

KRIS W. KOBACH, *et al.*,

Plaintiffs,

vs.

THE UNITED STATES ELECTION
ASSISTANCE COMMISSION, *et al.*,

Defendants.

Case No. 13-cv-4095-EFM-DJW

ORDER

The State of Arizona and the State of Kansas have asked the United States Election Assistance Commission (EAC) to include state-specific instructions requiring proof of citizenship on the federal voter registration form. The Election Assistance Commission has informed the States that it has deferred acting on the requests until the Commission has a quorum of commissioners. The EAC has been without a quorum of commissioners since around 2010, and indeed, has been without any commissioners at all since around 2011. Arizona and Kansas have moved for a preliminary injunction ordering the EAC to modify the specific instructions for their states to include the requested matters.

The Court finds that there has been no final agency action by the Election Assistance Commission. However, the United States Department of Justice contends that, even in the absence of any commissioners, the EAC can consider and act upon the States' requests.

Accordingly, the Court remands the matter to the EAC with instructions that it render a final agency action no later than January 17, 2014. If the EAC has not acted by January 17, 2014, the States' requests will be deemed denied. The Court retains jurisdiction in anticipation of further proceedings.

Plaintiffs' Motion for Preliminary Injunction (Doc. 16) is held in abeyance pending final agency action.

IT IS SO ORDERED this 13th day of December, 2013.



ERIC F. MELGREN
UNITED STATES DISTRICT JUDGE