

STATE OF OHIO )  
 )SS:  
CUYAHOGA COUNTY )

IN THE COURT OF COMMON PLEAS  
CASE NO. CV 04 546530

SHIRLEY THOMPSON, et al. )  
 )  
 ) Plaintiffs )  
 vs. )  
 )  
 J. KENNETH BLACKWELL, et al. )  
 )  
 ) Defendants )

**JOURNAL ENTRY**  
**AND ORDER RESTRAINING**  
**DEFENDANT BLACKWELL AND**  
**HIS REPRESENTATIVES, THE 88**  
**OHIO COUNTY BOARDS OF**  
**ELECTIONS**

**JOHN P. O'DONNELL, JUDGE:**

A hearing was held on October 30, 2004, on the plaintiffs' complaint for declaratory judgment and permanent injunctive relief. Upon the evidence, and reasonable inferences from that evidence, the Court finds that defendant J. Kenneth Blackwell, Ohio's Secretary of State, has acted arbitrarily, unreasonably and unconscionably, and has shown a clear disregard for the provisions of sections 3505.20 and 3505.21 of the Ohio Revised Code<sup>1</sup>. Because of that conduct, this Court, in considering the competing interpretations of those sections – specifically a clarified definition of "polling place" as that term is used in those sections – does not afford the defendant the deference normally given to the Secretary of State in interpreting Ohio's election law.

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<sup>1</sup> The evidence of which having been more fully presented and explained on the oral record in open court and which, due to time limitations, will not be restated here.

This Court finds<sup>2</sup> that "polling place" as used in Ohio Revised Code sections 3505.20 and 3505.21 (the "challenger statutes") means that public school, public building, other building or other part of any building that a county board of elections has designated as a location where voting may take place, regardless of the number of precincts served at that location. Therefore, so that the decision of this Court may take effect, the Court hereby orders as follows:

Defendant J. Kenneth Blackwell is hereby ordered to notify all 88 county boards of elections, by the most expeditious means possible, but in no event later than by 8:00 p.m. EDT on October 31, 2004, of the following: this order; that his Directive 2004-45 is vacated and of no force and effect as it pertains to the number of challengers per entity per polling place; and that, on Election Day, the boards are to allow only one challenger per challenging entity per polling place<sup>3</sup>, in accordance with the apparent<sup>4</sup> previous practice in this state.

Defendant the Cuyahoga County Board of Elections, and all other county boards of elections in Ohio, are hereby enjoined and restrained from allowing to enter, into any of their polling places<sup>5</sup>, any more than one challenger per challenging entity. "One challenger" is to mean a single, named, designated individual per polling place, as opposed to multiple individuals at different times during Election Day. (Of course, that challenger may come and go, within reason and within the bounds of his or her statutory duty of good conduct, but no challenger may be replaced or substituted for once he or she has appeared at a polling place and

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<sup>2</sup> Again, as more fully explained in open court.

<sup>3</sup> As the term "polling place" has been defined herein.

<sup>4</sup> "Apparent previous practice" because the evidence was scant about how many challengers per entity per building were allowed in the past.

<sup>5</sup> As defined herein.

presented his or her qualifications to a presiding judge.)

Service of this order on the parties shall be by means of the Court personally delivering a copy to all counsel of record. Service of this order to the 87 non-appearing boards of elections shall be the means chosen as provided for above.<sup>6</sup> (If defendant Blackwell refuses to exercise a choice of means of communication as allowed in this order, he is hereby required to communicate the order via messenger to the 88 board of elections chairpersons.)

Failure of any party or person hereby restrained to comply with this order may result in the imposition of all available sanctions, including the imposition of jail time, money fines, and/or orders for the payment of attorneys' fees or other expenses connected with a failure to comply.

Any issues raised by the pleadings, motions or otherwise and which were not disposed of on the oral record are hereby denied as moot.

**IT IS SO ORDERED.**

Date: October 30, 2004


  
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JOHN P. O'DONNELL, JUDGE

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<sup>6</sup> It is clear by the evidence that the Secretary of State has the means to communicate quickly and effectively with all 88 county boards of election. Additionally, it was the conduct of the Secretary of State that required this order. Therefore it is not unfair to impose this burden on that defendant.

**CERTIFICATE OF SERVICE**

A copy of the foregoing **Journal Entry, etc.** has been personally given to all counsel of record this 30th day of October, 2004.

  
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JOHN P. O'DONNELL, JUDGE