

IN THE SUPREME COURT OF OHIO

STATE OF OHIO *EX REL.* MATTHEW WOLF, et al.,

Relators,

v.

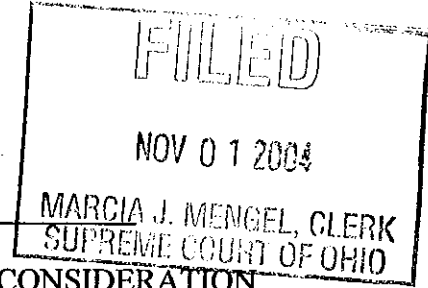
J. KENNETH BLACKWELL,
Secretary of State of Ohio, et al.

Respondents.

04-1834

Case No. _____

Original Action in
Mandamus



RELATORS' MOTION FOR EXPEDITED CONSIDERATION
AND MEMORANDUM IN SUPPORT THEREOF

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MOTION

Now come Relators, Matthew Wolf, Chris Lacy, and William Barksdale (“Relators”), and hereby move the Court for expedited consideration of their Complaint for Writ of Mandamus in the above-captioned cause. The Relators bring this motion pursuant to S.Ct. R. XIV, Section 4(C), and support it with the following Memorandum.

MEMORANDUM IN SUPPORT

Relators in this original action seek a writ of mandamus against the Respondents, Ohio Secretary of State J. Kenneth Blackwell (“Secretary of State”) and the Franklin County Board of Elections, requiring Respondents to permit the presence of one duly appointed challenger and witness for each Ohio election precinct. Relators bring the instant Motion under S.Ct. R. XIV, Section 4(C) and seek this Court’s expedited consideration of the Relators’ complaint for an emergency peremptory writ of mandamus.

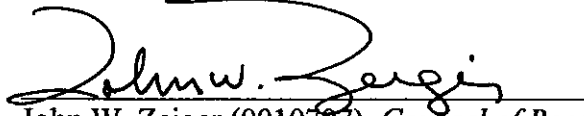
The circumstances in this case warrant this Court’s immediate consideration of the Relators’ original action in mandamus. Late on Saturday, October 30, 2004, in a case styled *Shirley Thompson, et al. v. J. Kenneth Blackwell, et al.*, Case No. CV 04 546530, the Cuyahoga County Court of Common Pleas issued what amounts to *permanent* injunctive relief that prevents the Relators from exercising their statutory rights and duties as challengers and witnesses at the polling places to which they have been duly assigned under R.C. 3505.21 and 3506.13. Contrary to a reasoned interpretation of statutory law, the common pleas court has enjoined Respondents herein—and *all* county boards of election throughout the state of Ohio—from allowing more than one challenger *per polling place* regardless of the number of *precincts* in that polling location. In other words, the common pleas court declared that R.C. 3505.21 means that no more than *one* challenger per political party can be present at a single polling location. The effect of

this decision is that fewer than all of the Relators herein, whom their county Republican Party has duly appointed to serve as challengers at a multi-precinct polling location, will be able to enter their assigned polling location to exercise the rights and perform the duties authorized by statute. This emergency action for a writ of mandamus seeks to compel Respondents to comply with the law as stated in the Ohio Revised Code. As the polls open throughout the state in less than 24 hours, emergency expedited consideration is necessary and warranted in this instance.

Whether Ohio law contemplates a political party's appointment of a challenger to every Ohio precinct—or only to every building in which a precinct is located—is a vital one that must be resolved *before* tomorrow's election begins. The resolution of the issue raised in this case directly concerns the manner in which the upcoming election is to be conducted and in which Ohio's election statutes will be enforced. Relators contend that the importance of this case warrants expedited consideration of this issue. Relators further request that this Court issue its decision as soon as possible so that the Respondents, all of Ohio's eighty-eight county boards of elections, and all of Ohio's election officials and poll workers are able to conduct an election that comports with Ohio law.

Relators therefore respectfully request that this Court expedite its consideration of the Relators' request for writ of mandamus so as to ensure that all designated challengers may do their duty in observing and participating in the election process in each and every Ohio precinct in which voters will be casting ballots.

Respectfully submitted,



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CERTIFICATE OF SERVICE

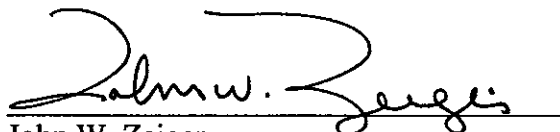
I hereby certify that a copy of the foregoing Relators' Motion for Expedited Consideration was served this 1st day of November, 2004, via hand delivery and electronic mail upon the following:

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