

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

C6835607

JAMES B CALLEN, et al ,

Plaintiffs,

vs

Case No 06CVH11-14411

OHIO SECRETARY OF STATE,  
J KENNETH BLACKWELL, et al ,

Judge Cain

Defendants

FILED  
COMMON PLEAS COURT  
FRANKLIN COUNTY, OHIO  
2007 JAN 26 PM 1 40  
CLERK OF COURTS

DECISION AND ENTRY GRANTING NON-RESIDENT COUNTIES' MOTIONS TO DISMISS

Rendered this 26<sup>th</sup> day of January 2007

CAIN, J

*This matter is presently before the Court on numerous Motions to Dismiss of counties from across Ohio. The present action was brought by Plaintiffs against numerous Ohio county boards of elections in order to prevent those particular counties from using certain computerized voting systems. Plaintiffs are Ohio residents that live in Mahoning, Carroll, Geauga, and Cuyahoga Counties (hereinafter the "Resident Counties"). In addition to suing these four counties, Plaintiffs have sued the boards of elections of fifty-eight other counties (hereinafter the "Non-Resident Counties"). The Non-Resident Counties have filed numerous Motions to Dismiss, making identical arguments in each. The Court will address these motions collectively.*

*This matter all comes down to standing. The essence of all the Non-Resident Counties' Motions to Dismiss is that Plaintiffs are not residents of those counties and as such, they do not have standing to sue the boards of elections.*

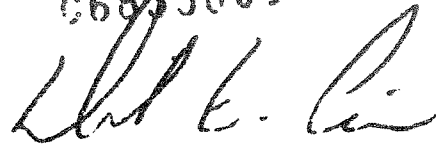
for those counties. In response to this argument, Plaintiffs argue that they have standing pursuant to a theory of aggregation. Basically, Plaintiffs are arguing that the Non-Resident Counties' choices to use certain voting machines can affect Plaintiffs' votes when all votes are aggregated together. Plaintiffs are arguing that if votes are not properly accounted for in other counties, Plaintiffs' votes for a certain candidate cannot be properly aggregated and hence, Plaintiffs' general right to vote is diminished. Plaintiffs therefore argue that they have standing to sue the Non-Resident Counties.

Plaintiffs' arguments are absurd and are in no way supported by any relevant law. As an initial matter, it must be noted that there is presently no dispute over the fact that Plaintiffs have standing to sue the Resident Counties' boards of elections. It is only the Non-Resident Counties' boards of elections that the Court is concerned with. To accept Plaintiffs' hypothetical aggregation theory or standing in regards to these counties would make all standing requirements null and void. It would not matter that a defendant did not directly injure a plaintiff. All a plaintiff would have to do is argue that through an aggregation of total injuries, he/she has standing. This is a result that the Court cannot support. Therefore, it is evident to the Court that Plaintiffs completely lack standing to sue the Non-Resident Counties and that all such counties should be dismissed from this action.

The Court hereby rules as follows: All County boards of elections named as Defendants in this case, except those of Mahoning, Carroll, Geauga, and Cuyahoga Counties, are hereby DISMISSED from this action.

IT IS SO ORDERED

06805609



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David E. Cain, Judge

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