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New lawsuit alleges ballot tampering in 2004 election

Group says ballots in Democratic precincts were pre-punched, negating Kerry votes

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JIM SIEGEL
THE COLUMBUS DISPATCH

A coalition of critics of the 2004 election is insisting it has uncovered new evidence of ballot tampering in Ohio that caused a number of John Kerry's votes to get tossed out.

The group filed a federal civilrights lawsuit yesterday, asking U.S. District Judge Algenon L. Marbley to declare that Ohioans' voting rights were violated in 2004 and to appoint a special master to ensure fairness in the 2006 election.

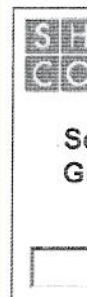
The lawsuit alleges that Secretary of State J. Kenneth Blackwell and others conspired to deprive Ohioans of their right to vote. Prior election-related lawsuits by those affiliated with the coalition have been dismissed by various judges.

Richard Hayes Phillips, a Canton, N.Y., resident working with groups such as the Ohio Honest Elections Campaign, said he has examined thousands of punch-card ballots cast in heavily Democratic inner-city precincts that were tossed out because of over- or under-voting in the presidential race.

Phillips said he found that on more than 1,900 ballots in six urban counties, there was a vote for President Bush or Sen. John Kerry and a second vote for one of the two independent candidates. In such cases, no presidential vote is counted.

The problem was so prevalent and seemingly concentrated in every fifth precinct that he concluded the ballots in the urban areas were pre-punched.

Someone, he said, punched the slot for an independent candidate beforehand, so a vote for Bush or Kerry was invalid. The problem, he said, impacted Kerry far more.



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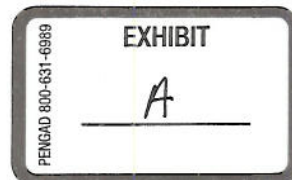
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"I find it difficult to believe that in every fifth precinct, voters are really stupid and are more prone to make this kind of error," he said.

John Williams, director of the board of elections in Hamilton County, one of the areas where Phillips said he suspects tampering, said such a conspiracy would have to involve both Democratic and Republican elections workers.

"It's virtually impossible for anything they're talking about to be true," he said. "There are over-votes in every precinct. If you limit it to certain precincts, you can adjust figures any way you want."

Overall, 93,000 presidential votes went uncounted in Ohio's 2004 election, fewer than in 2000 and less than President Bush's margin of victory.

John S. Marshall, attorney for the group of critics of the 2004 election, including the King-Lincoln Bronzeville Neighborhood Association in Columbus, said he also plans to ask the court to order county boards to preserve all ballots and data from the 2004 election so further analysis can be completed.

The group already has asked Blackwell and the attorney general's office to require counties to preserve the 2004 election data. Blackwell said he is willing to ask the boards not to destroy ballots, but the decision ultimately is a local one.

Blackwell acknowledged yesterday that there were problems in the 2004 election, but said no one has proven there was massive fraud that would have changed the outcome.

Blackwell said the allegations are being raised in part for partisan political reasons because he is the Republican candidate for governor this fall.

"I would suggest to you now that there are those who are using the court system for what the election arena should be used for, and that is to advance political agendas," he said.

Dispatch reporter Mark Niquette contributed to this story.

jsiegel@dispatch.com

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