

Nos.06-4412 and 06-4421

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

NORTHEAST OHIO COALITION)	
FOR THE HOMELESS, <i>et al.</i> ,)	
)	
Plaintiffs - Appellees,))
)	
v.)	AMENDED ORDER
)	
J. KENNETH BLACKWELL,)	
)	
Defendant - Appellant (06-4412))	
)	
STATE OF OHIO,)	
)	
Intervenor - Appellant (06-4421))	

Before: GIBBONS and MCKEAGUE, Circuit Judges; and TARNOW, District Judge.*

This matter is before the Court on the Ohio Secretary of State’s emergency Motion to Stay or Vacate the District Court’s Order of October 26, 2006, which temporarily restrained him from enforcing the absentee voter identification provisions of Ohio’s Voter Identification Statutes and the Plaintiffs - Appellees’ response in opposition; the State of Ohio’s emergency Motion to Intervene in case no. 06-4412; the Plaintiffs - Appellees’ Motion to Dismiss appeal no. 06-4412 for lack of jurisdiction and the Secretary of State’s response in opposition.

Having carefully considered the motions and responses filed by the parties, the Motion to Dismiss appeal no. 06-4412 is DENIED.

The State of Ohio’s Motion to Intervene is GRANTED, to the extent necessary for the Court’s immediate consideration of the matters currently pending before it. The Court will consider

*The Honorable Arthur J. Tarnow, United States District Judge for the Eastern District of Michigan, sitting by designation.

the motion more fully after consideration of any response in opposition filed by the Plaintiffs - Appellees.

The Ohio Secretary of State's Motion to Stay or Vacate the District Court's temporary restraining order is GRANTED, except to the extent that the TRO orders all County Boards of Election to preserve all absentee ballots in their present form. The District Court carefully considered the four factors for issuing a preliminary injunction and this Court has done the same. In balancing those factors, the Court has concluded that a stay of the TRO, as outlined herein, is appropriate.

The Court will issue an opinion shortly.

TARNOW, District Judge, dissenting. I would agree with the district court's analysis and conclusions as to the four factors for issuing a preliminary injunction, and I therefore dissent from that part of this court's order which grants the Motion of the Ohio Secretary of State to Stay or Vacate the District Court's temporary restraining order.

ENTERED BY ORDER OF THE COURT

_____/s/_____
Leonard Green, Clerk