

SOUTHERN DISTRICT OF OHIO

THE NORTHEAST OHIO)
COALITION FOR THE)
HOMELESS, ET AL.,)

Plaintiff(s),)

vs.)

) Case No. C2-06-896

JENNIFER BRUNNER, in her)
official capacity as)
Secretary of State of)
Ohio,)

Defendant(s).)

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DEPOSITION OF MARILYN JACOBCEK
Wednesday, October 22, 2008

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Deposition of MARILYN JACOBCEK, called by the
Plaintiffs for Examination under the Federal
Rules of Civil Procedure, taken before me, the
undersigned, Lorraine A. Litvin, a Notary Public in and for
the State of Ohio, at the offices of the Lorain
County Board of Elections, 1985 North Ridge Road East
Lorain, Ohio, commencing at 9:20 a.m. the day
and date above set forth.

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1 APPEARANCES:

2 On Behalf of the Plaintiffs:

3 Paul Hallinan, Esq.
4 Porter, Wright, Morris & Arthur LLP
5 1 South Main Street, Suite 1600
Dayton, Ohio 45402
937-449-6740

6 On Behalf of Defendant Secretary of
7 State of Ohio:

8 Steven McGann, Esq.
9 Assistant Attorney General.
30 East Broad Street, 16th Floor
Columbus, Ohio 43215
614-728-4735

10 On Behalf of Defendant State of Ohio:

11 Robert Eskridge, Esq.
12 Assistant Attorney General
30 East Broad Street, 16th Floor
13 Columbus, Ohio 43215
614-728-4735

14 On Behalf of the Cuyahoga County Board
15 of Elections:

16 Gerald Innes, Esq.
17 Assistant Prosecuting Attorney
Cuyahoga County Prosecutor's Office
18 The Justice Center, Courts Tower
1200 Ontario Street
Cleveland, OH 44113
19 216-443-7800

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1 forth.

2 They're instructed only to review them for
3 what appears to be completion, and then to ID any
4 questions that they have. Those are then
5 presented to the director and deputy.

6 In other words, they don't form any judgment
7 about this one should be counted or that one
8 should be counted. That's not their role. Their
9 role is only to review them to see the signature
10 is missing or so on.

11 Then it goes to the director and deputy. We
12 review them and then we make the presentation to
13 the Board.

14 Most are quite straight forward such as they
15 forgot to sign it or something. Then the Board
16 would reject or accept it.

17 Q I'm with you. What Mr. Candelario said about
18 segregating by the clerks, that's actually done
19 by the clerks, but in terms of whether the
20 segregation means acceptance or rejection, that's
21 done by you and Mr. Candelario, is that a fair
22 way of synopsisizing that?

23 A We review them, and we may say that one they
24 thought was questionable, might not be, but in
25 most cases, then we present them to the Board

1 with recommendations, and we consult the director
2 and the revised codes.

3 That information is given to the Board.
4 That's part of their criteria or the information
5 that's presented to them.

6 Q Got you. You said there might be something
7 that's questionable. Can you give me an example
8 of some kind of thing the clerks would do that
9 would be questionable that you would re-assess
10 and maybe even reverse the clerk's categorization
11 on?

12 A Just say your name is John Paul Halleinan and
13 you registered under John Paul Halleinan, but
14 then on the provisional ballot you put J. Paul,
15 something as simple as that, they might present
16 to us saying we're not sure if that was okay.

17 They don't need to know whether that was okay
18 or not. They need to know if they see something
19 that appears to be a problem or deviation.
20 Something like that would be unusual. Most of
21 them are more straight forward.

22 It's people who are never registered or
23 didn't sign it or something on the face of it is
24 quite apparent.

25 Q All right. Is there anything else

1 Mr. Candelario testified about regarding the way
2 in which the ballots are handled you would like
3 to clarify at this point?

4 A No. Only that when he said that the Board
5 never has a -- sees the individual person, we do
6 for a number of years in Lorain County have
7 presented to our board, and it's a public
8 meeting.

9 Any questionable provisionals or absentee
10 ballots, the Board is to determine whether they
11 will be accepted or rejected. When we do that,
12 we deliberately do not present them with any
13 information that would tell them the precinct or
14 the voter's name so as not to run the risk or
15 even having the appearance of tainting their
16 judgment, because we know it's from a particular
17 area, one area of the county, versus another.
18 That's, I think, courtesy to the Board as well as
19 to the voter.

20 The times that they would see a ballot is for
21 example if the signature does not match. It's
22 not that they couldn't see them. In those cases,
23 again, if we have 12 that the voter didn't sign
24 and the director and the deputy director both
25 agreed to that, they probably would feel a need

1 to inspect that particular ballot, but if the
2 signature didn't match, of course the Board would
3 want to examine the signature on the provisional
4 ID as well as the documents that we have on file
5 that didn't match.

6 MR. HALLEINAN: That's all I
7 have. Thank you very much. We
8 appreciate your time. Do you
9 waive signature?

10 MR. INNES: Indicate that you
11 will waive signature.

12 THE WITNESS: I will waive
13 signature.

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15 (Deposition concluded at 925 a.m.)

16 (Signature was waived)

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