

**In The United States District Court
For The Northern District Of Ohio
Eastern Division**

Carrie Harkless, *et al.*,

Plaintiffs,

vs.

Case No. 1:06-cv-2284

Jennifer Brunner, *et al.*,

Judge Gaughan

Defendants.

**Defendant Secretary of State's Memorandum Contra
Plaintiffs' Motion For Reconsideration**

I. Introduction

Secretary of State Jennifer Brunner is a strong proponent of assuring voting access for all. She believes that it is important to make voter registration easy and readily available to all citizens of the State of Ohio. Part of that important access to voter registration information includes the function of guaranteeing the rights of welfare recipients to register or change their registration information whenever they appear at a county Department of Jobs and Family Services office. Secretary Brunner will work closely with the county and State Department of Jobs and Family Services to make sure that each individual's rights under the National Voter Registration Act are protected whenever they enter a DJFS office. Secretary of State Brunner also hopes to work closely with both the individual and organizational plaintiffs in this case to make sure that their rights under the NVRA are protected.

The right to vote is fundamental. Both that right, and the right to register, must be protected. Although the Secretary strongly believes in the right to register to vote, she cannot agree with the Plaintiffs that this Court's decision on the motion to dismiss be set aside.

II. Law and Argument

A. Motions for reconsideration should rarely be granted.

Courts should rarely grant motions for reconsideration. *Penton Media, Inc. v. Affiliated FM Insurance Co.*, 2006 U.S. Dist. LEXIS 64387 at *6 (N.D. Ohio Aug. 29, 2006). These motions are ““extraordinary in nature, and because they run contrary to notions of finality and repose, should be discouraged.”” *Id. quoting In re August, 1993 Regular Grand Jury*, 854 F. Supp. 1403, 1406 (S.D. Ind. 1994). Where an unsuccessful party views the law differently than the Court, that party’s recourse is not a motion for reconsideration, but rather an appeal to the Sixth Circuit. *Id.* Thus, it should only be for the most unusual reason that this Court would grant the Plaintiffs’ motion for reconsideration in this case.

B. The Plaintiffs have not met their high burden in arguing their motion for reconsideration.

The Plaintiffs correctly recognize that motions for reconsideration may be granted for one of three reasons: (1) an intervening change in controlling law, (2) because evidence not previously available became available, or (3) to correct a clear error of law or prevent manifest injustice. (Motion to Reconsider at 1 *citing Boler Co. v. Watson & Chalin Mfg., Inc.*, 372 F. Supp. 2d 1013, 1025 (N.D. Ohio 2005)). Although the Plaintiffs have attempted to argue a clear error of law, that is not present in this case. The Plaintiffs’ motion for reconsideration does not point out a “clear error of law” but instead simply argues their legal position again. As a result, it does not meet the threshold for a reconsideration motion and should be rejected.

C. This Court should not grant Plaintiffs’ request to file an amended complaint.

This Court should not allow the organizational plaintiff the right to file an amended complaint to clarify whether it has standing to bring its claim. Although Fed. R. Civ. P. 15(a) mandates liberal amendments of pleadings, courts can reject a motion to amend a pleading if

such an amendment is futile. *Foman v. Davis*, 371 U.S. 178, 182 (1962). Since the Plaintiffs have failed to show that this Court should reconsider its decision on the legal merits of the Plaintiffs' claims, an amended complaint would be futile. The organizational Plaintiff, as a matter of law, would not be able to prevail on its claim. As a result, such an amendment is futile and should be rejected by this Court.

III. Conclusion

For the foregoing reasons, this Court should deny the Plaintiffs' motion for reconsideration.

Respectfully submitted,

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Certificate of Service

This is to certify a copy of the foregoing was served upon all counsel of record by means of the Court's electronic filing system on this 26th day of June, 2007.

/s Richard N. Coglianese
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