

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES BONINI
CLERK

2008 NOV 15 A 8:33

SOUTHERN DIST. OHIO
EAST DIV COLUMBUS

PATRICIA RAY,

Plaintiff,

-vs.

Civil Action Number

C2 08 1086

**THE FRANKLIN COUNTY BOARD
OF ELECTIONS**

JUDGE SMITH

and

MAGISTRATE JUDGE KING

OHIO SECRETARY OF STATE JENNIFER BRUNNER,

Defendants.

COMPLAINT AND REQUEST FOR TEMPORARY RESTRAINING ORDER

1. This Court has jurisdiction pursuant to 28 U.S.C. 1331 and 1343 and 42 U.S.C. 12133.
2. The plaintiff Patricia Ray has diabetes, suffers panic attacks, is bed-ridden, can not leave her home and cannot get to the Board of Elections.
3. The plaintiff has voted by absentee ballot in the general election that was held on November 4, 2008.
4. The plaintiff and other disabled persons were sent letters by defendant Franklin County Board of Elections that stated that they had to come to the Board of Elections by November 14, 2008 to cure problems in their absentee ballots. They were informed in their letters that their votes would not count if they did not come to the Board of Elections by November 14, 2008.

5. The plaintiff is disabled as defined in the American with Disabilities Act, is home-bound and is physically unable to come to the Board of Elections by November 14, 2008.

6. The Franklin County Board of Elections has stated that it will not send a representative to the houses of disabled persons to permit them, including the plaintiff, to cure their absentee ballots. Defendant Secretary of State Jennifer Brunner has refused to require defendant Franklin County Board of Education to have its representatives go to the houses of bed-ridden persons to cure absentee votes.

7. Plaintiff and others has been and will be denied the same opportunity to participate in the voting process as is afforded persons who are not disabled.

8. Plaintiff and other disabled persons are irreparably injured and will continue to be irreparably injured if the Court denies a temporary restraining order. Plaintiff has attached to this Complaint the Declaration of Barbara Corner, an attorney with Ohio Legal Rights Service, indicating that plaintiff's counsel has attempted to get the Ohio Secretary of State to require defendant Franklin County Board of Elections to have representatives go to plaintiff's house permitting her to cure her ballot.

9. Defendant's conduct violates the Help America Vote Act (HAVA), 42 U.S. C. 15491(a)(3), the Americans With Disabilities Act, 42 U.S.C. 12132, the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. 1983.

WHEREFORE, plaintiff requests that this Court issue a temporary restraining order and permanent injunction enjoining defendant from requiring plaintiff and all other disabled persons to cure the deficiencies in their absentee ballots by November 14, 2008 and requiring defendant

Franklin County Board of Elections to go the homes of plaintiffs and all other disabled persons who are prevented from curing their absentee ballots. Plaintiff also request attorneys' fees and costs.

Respectfully Submitted,

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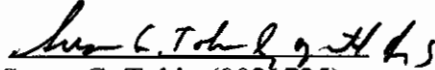
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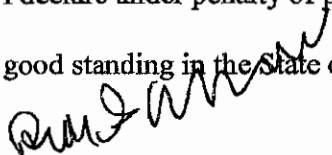
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Of counsel

Declaration of Barbara S. Corner

1. I am an attorney with Ohio Legal Rights Service.
2. On November 14, 2008 I phoned Brett Harbage at the Ohio Secretary of State's office and told him that we had received word that several people with disabilities were having difficulties having their absentee vote counted because they could not physically go down to the Board of Elections. Mr. Harbage told me he would consult counsel and get back to me.
3. I left Mr. Harbage another message informing him that we were working on obtaining the names of the people having difficulties and asking him what position the SOS office was taking on the matter of sending BOE employees out to the voters' homes.
4. I later phoned and spoke with Mr. Harbage and told him that we were considering filing a lawsuit on this issue. He told me to call Brian Shinn, an Assistant General Counsel.
5. I phoned Mr. Shinn and I asked him if SOS would direct Franklin County BOE to send people out to the absentee voters' homes. He said he needed to speak with his supervisor and that Ms. Bruner was out of the office. He stated he would get back to me probably on Monday.

I declare under penalty of perjury that the above declaration is correct and that I am an attorney in good standing in the State of Ohio.



Barbara S. Corner 0064780