

2006 NOV -7 PM 7:25

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

OHIO DEMOCRATIC PARTY,)	Case No. 1:06 CV 2692
)	
Plaintiff,)	Judge Dan Aaron Polster
)	
vs.)	<u>ORDER RE: GRANTING IN PART</u>
)	<u>PLAINTIFF'S MOTION FOR</u>
CUYAHOGA COUNTY BOARD OF,)	<u>TEMPORARY RESTRAINING</u>
)	<u>ORDER</u>
Defendant.)	

Before the Court is Plaintiff's Motion for Temporary Restraining order and Preliminary Injunction ("Motion") (ECF No. 2). Plaintiff Ohio Democratic Party alleges that Defendant Cuyahoga County, Ohio Board of Elections (Board"), violated voters' First and Fourteenth Amendment rights by failing to open certain polling stations at the designated time of 6:30 a.m. based on malfunctioning and nonfunctioning equipment, as well as failing to sufficiently provide an opportunity for voters to exercise their constitutional right to vote based on wait times in excess of one hour. Problems with polling equipment, precinct judges absent from polling stations, etc. all prevented voters from exercising their constitutional voting rights as well. On November 7, 2006, the Court held a conference with counsel for both parties. Counsel for Secretary of State Blackwell was present as well. During that discussion, the Court informed the parties that having the votes cast according to voters' constitutional rights is a more

compelling need than an immediate determination of the election winners. The Board conceded that four of the polling places were problematic, while Plaintiff cited evidence of serious problems at 12 other polling locations. The Court **GRANTS** the Motion in part, concluding that the public interest will be served by keeping the following polling locations open until 9 p.m., and irreparable harm will result from a decision not to keep the following polling places open to 9 p.m., and there is no harm to anyone by keeping the following polling locations open.

Performance Unlimited v. Questar Publishers, Inc., 52 F.3d 1373, 1381 (6th Cir. 1995).

CLEVELAND

Dunbar Elementary School–Cleveland Ward 14
Beechland Presbyterian–Cleveland Ward 4
Korean Presbyterian Church–Cleveland
Braceland Church–Cleveland Ward 1

SHAKER HEIGHTS

Woodbury Elementary School–Shaker Heights
Boulevard Elementary–Shaker Heights

UNIVERSITY HEIGHTS

Fuchs-Mizrachi School–University Heights

WARRENSVILLE HEIGHTS

Clarksville Library–Warrensville Heights
Westwood School–Warrensville Heights

CLEVELAND HEIGHTS

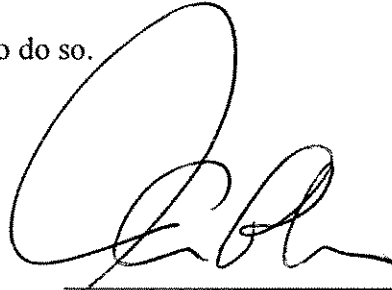
St. Albans School–Cleveland Heights
Alcazar Hotel–Cleveland Heights
Canterbury Elementary School–Cleveland Heights
Coventry School–Cleveland Heights
Noble Library–Cleveland Heights
Grace Lutheran–Cleveland Heights

EAST CLEVELAND

Mt. Nebo Church–East Cleveland

Given the recent history of elections in this county, the Court believes the Cuyahoga County Board of Elections did an excellent job in conducting today's election. The problems cited by Plaintiff were in a handful of polling locations – all in the east side of Cleveland and in east side suburbs. More than one hour in line is too long to wait, given the importance of the right to vote, and the action by the Court will ensure that all of the citizens in these precincts who wish to vote will have the opportunity to do so.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'D. Polster', written over a horizontal line.

Dan Aaron Polster
United States District Judge