

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

TRACIE HUNTER, et al. : **CASE NO. 1:10-cv-820**
Plaintiffs : **Judge Susan J. Dlott**
vs. :
HAMILTON COUNTY BOARD OF : **DEFENDANTS JOINT POST**
ELECTIONS, et al. : **HEARING FINDINGS OF FACT AND**
: **CONCLUSIONS OF LAW**
Defendants :

FACTUAL FINDINGS

A. PRE-ELECTION PERIOD -- NEOCH

1. On April 19, 2010, then Secretary of State Jennifer Brunner entered into a Consent Decree with the Northeast Coalition for the Homeless and the Ohio Democratic Party. The Consent Decree provides that voters who lack proper identification “will not be deprived of their fundamental right to vote because of failures of poll workers to follow Ohio law. For purposes of this Decree poll worker error will not be presumed, but must be demonstrated through evidence.” The Decree made no findings on the merits of the case and the defendants made no admissions of wrongdoing. See *Northeast Ohio Coalition for the Homeless v. Brunner*, Case No. 06-CV-896 (S.D. Ohio). See Doc. 8-1, p.8-13, PX2008 NEOCH Consent Decree.

2. The Ohio General Assembly did not authorize Secretary Brunner to enter into this Consent Decree by Resolution, Act, or otherwise. DX1038 Journals and Resolutions from the 127th and 128th Ohio General Assemblies.

3. Prior to the entry of the NEOCH Consent Decree on April 19, 2010, Ohio law did not permit provisional ballots cast in the wrong precinct to be opened or counted. DX 1034 R.C.

3505.183, Determination of Validity of Provisional Ballots, Counting Ballots, Rejecting Ballots; See also: Testimony of Timothy Burke, 1-177 ln 17-25; 1-179 ln 16-18; 2-41 ln 4-12; 2-43, ln 17-24; Testimony of Sally Krisel, 1-48, ln 7-9 (correct precinct voting), 11-201 ln 6-12, 11-202 ln 7-17, 11-205 ln 21 – 11-206 ln 3.

4. Prior to the entry of the NEOCH Consent Decree on April 19, 2010, Ohio law did not permit provisional ballots containing incomplete affirmations to be opened or counted. DX 1034 R.C. 3505.183, Determination of Provisional Ballots, Counting Ballots, Rejecting Ballots; Testimony of Caleb Faux, 9-233 ln 3-8 Testimony of Sally Krisel, 11-202 ln 18-23,

5. Prior to the entry of the NEOCH Consent Decree on April 19, 2010, there was no exception to the provisional ballot validity determination required in R.C 3505.183 for poll worker error. Testimony of Timothy Burke, 2-44 ln 4-8; Testimony of Alex Triantafilou; 12-139 ln 22; 12-140 ln 6; 12-141 ln 18-20.

6. The NEOCH Consent Decree makes exceptions to the legal requirements of Ohio law for some voters and not others. PX 2008 Consent Decree; Testimony of Sally Krisel, 11-202 ln 7-10.

B. PRE-ELECTION PERIOD -- POLL WORKER TRAINING

7. Precinct officials are appointed annually in September for a term of one year. DX 1029 R.C. 3501.22, Precinct Officials; see also, Testimony of Sally Krisel, 12-18 ln 12-14.

8. The Ohio Revised Code indicates that all regular poll workers are to be trained at least every three years, and all presiding judges are to be trained every two years. Testimony of Sally Krisel, 1-62 ln 10-11, 12-20 ln 9-12; See also R.C. 3501.27.

9. The Board of Elections of Hamilton County, Ohio trains its presiding judges and deputy presiding judges more frequently than required by state law. These officials are trained for each county-wide election. Testimony of Sally Krisel, 1-62 ln 14-18, 12-20 ln 9-16.

10. Every poll worker is trained to know every position. Testimony of Sally Krisel, 1-43 In 21-22.
11. Poll worker training is done predominately by retired school teachers. Testimony of Sally Krisel, 12-20 In 18-25.
12. The poll worker trainers go through a 7-10 day course depending on what the election is. Testimony of Sally Krisel, 12-20 In 18-25.
13. Between 20 and 25 trainers are trained to conduct the poll worker classes that the precinct officials are required to go through. Testimony of Sally Krisel, 12-21 In 9-12.
14. The Board conducts 190 classes at nine locations throughout Hamilton County. Testimony of Sally Krisel, 12-21 In 13-20.
15. Class size is generally 24 with one trainer and two assistants assigned to the class. Testimony of Sally Krisel, 12-21 In 13-20.
16. Classes for poll workers last 3 hours. While workers are only paid for one class, they may attend more than one and many do. Testimony of Sally Krisel, 12-21 In 21 – 12-22 In 3.
17. The Secretary of State has on-line training, which is in addition to the Board's training, that poll workers can take advantage of. For November 2010, approximately 100 Hamilton County precinct officials made use of the Secretary of State's online training. Testimony of Sally Krisel, 12-21 In 4-11.
18. The Board uses Powerpoint presentations in conjunction with training videos and the Quick Guide (JX 7) to train its workers. Testimony of Sally Krisel, 12-22 – 12-23; DX 1047 BOE Training Video.
19. Each poll worker is provided a copy of the Quick Guide (JX 7) and those not required to attend training are mailed a copy. Testimony of Sally Krisel, 1-39 In 21 – 1-40 In 2.

20. The Board uses “hands on” exercises regarding how provisional voters are be processed to train its poll workers during which trainers observe the trainees to make sure they are doing it right. Testimony of Sally Krisel, 1-71 ln 11-12, 12-24 ln 15-21, 12-31 ln 20 – 12-32 ln 2.; DX 1043 Poll Worker Training Protocol at 21.

21. Board training emphasizes that all voters must vote in the precinct in which they live for their ballot to count. Testimony of Sally Krisel, 1-71 ln 9-12, 1-72, 12-25 ln 10-11, 12-28 ln 5-6, 12-31 ln 14-15; DX 1043 Poll Worker Training Protocol at 23; DX 1047. BOE Powerpoint and Training Video.

22. All poll workers are trained on the uses of the street directories. Testimony of Sally Krisel, 1-69 ln 24-25.

23. The Board evaluates poll workers based upon information received from voters and judges on Election Day, Testimony of Sally Krisel, 12-33 ln 16-22; letters following Election Day, *id* at ln 22-23; known mistakes made by poll workers, *id.* at ln 24 -12-34 ln 3; information received from board troubleshooters in the field, *id.* at 12-35 ln 8 – 12-36, DX 1057 Precinct Observation Checklist; and information received from trainers following the training classes. 12-37 ln 20 – 12-38 ln 10, DX 1056 Poll Worker Recommendation and Evaluation Report.

24. Based upon the information it receives and the evaluations performed, the Board will discharge workers, Testimony of Sally Krisel, 12-34 ln 2-5; and may be told that they are not needed on Election Day, or that they are only permitted to do specific jobs on election day, *id* at 12-37 6-10.

25. Usually following each General Election, 30 – 50 poll workers are replaced due to firing and resignation. Testimony of Sally Krisel, 12-38 ln 12-20.

26. The Board's training resulted in significant reductions in errors from 2006 to 2010. Testimony of Alfred J. Tuchfarber, 10-73 ln 11 – 10-74 ln 5.

C. PRE-ELECTION VOTER CONTACT

27. The Board does formal programs of voter outreach within the Hamilton County community. The Board's registration data is available from both political parties. The League of women voters obtains the Board's poll location database every year. Poll location lists are sent to all sorts of groups and organizations every election. Testimony of Sally Krisel, 12-16-12-17.

28. The Board also sends various mailings during each election cycle to registered voters. The Board sends Election Day Notices to all registered voters in the Hamilton County at the address on file with the board. Testimony of Diane Goldsmith, 10-23 - 10-24.

29. The Board does not send general notices to apartment buildings announcing polling locations for the building. Testimony of Diane Goldsmith, 10-23 ln 24- 10-24 ln 3.

30. The Election Day Notice is "return service requested" and is not forwarded. Testimony of Diane Goldsmith, 10-24 ln 16-17.

31. When an Election Day Notice is returned undeliverable, the Board will send a Confirmation Notice to where the voter lives because they have received indication that the voter no longer lives at that address. The confirmation notice is forwardable. Testimony of Diane Goldsmith, 10 – 25 – 26.

32. Each time a voter's record is updated, an Acknowledgement Notice is mailed to the voter's address. The Acknowledgement Notice is also non-forwardable so that the Board can determine whether the voter lives at the updated address and that the information is correct. Testimony of Diane Goldsmith, 10 – 29 – 30.

33. The Board maintains a web page where a voter can check to see if he or she is registered to vote, and also the polling location and which precinct at which the voter is to vote. DX 1002 Screen Shot of Board Voter Precinct Identification Search; Testimony of Diane Goldsmith at 10-30 – 10-31.

D. ELECTION DAY AND POST ELECTION PERIOD

34. On November 2, 2010 voters in Hamilton County, Ohio cast ballots in the race for Juvenile Court Judge of Hamilton County between John Williams and Tracie Hunter. Exhibit DX1048 Official Election Results.

35. On election night, the Board counted substantially all of the ballots that had been cast by absentee voters and on Election Day. See Answer of the Board of Elections, Doc. 56, ¶ 8; see also: Testimony of Sally Krisel, 1-193 ln 21-23.

36. On election night, the Board reported unofficial results that showed Mr. Williams received 112,359 votes and Ms. Hunter received 109,512 votes, a difference of 2,847 votes. See Answer of the Board of Elections, Doc. 56, ¶ 7

37. For the November 2, 2010 Election, there were 680 precincts and 438 polling locations. Out of those 438 polling locations, 169 locations were multiple precinct voting locations. See DX1007 (Precincts per polling location General Election 2010), DX1008 (Polling locations with precincts at location 2010 General Election); Testimony of Sally Krisel at 1-32 ln 13.

38. Elections are “paper based” in Hamilton County. During an election the board must account for over one million pieces of paper that are touched by approximately 300,000 people, including poll workers, the board and its staff, and the voters. Testimony of Sally Krisel, 11-191 ln 7-13.

39. After Election Day in 2010, there remained over 10,500 provisional ballots to be reviewed and processed by the Board. See Answer of the Board of Elections, Doc. 56, ¶ 8

40. Provisional voters must complete an affirmation statement on the provisional ballot envelope which states: “I, _____, solemnly swear or affirm that I am a citizen of the United States, I will be at least 18 years of age at the time of the general election, I have lived in this state for 30 days immediately preceding this election, I am a registered voter in the precinct in which I am voting this provisional ballot and that I am eligible to vote in the election in which I am voting this provisional ballot.” R.C. 3505.182. See JX 1Sample Provisional Ballot Envelope.

41. Provisional voters must sign an affirmation statement on the provisional ballot envelope which states, in pertinent part,: “I understand that, if the above-provided information is not fully completed and correct, if the Board of Elections determines that I am not registered to vote, a resident of this precinct, or eligible to vote in this election, or if the Board of Elections determines that I have already voted in this election, my provisional ballot will not be counted. I further understand that knowingly providing false information is a violation of federal law and subjects me to possible criminal prosecution. I hereby declare, under penalty of election falsification, that the above statements are true and correct to the best of my knowledge and belief.” See JX 1Sample Provisional Ballot Envelope.

42. In addition to establishing the Board’s procedures for reviewing all provisional ballots, Secretary of State Brunner’s Directive 2010-74 specifically set forth the procedures for reviewing ballots subject to the Consent Decree. See Doc. 8-1, p. 23-35, JX 34 Secretary of State Directive 2010-74.

43. After Election Day, the Board determined the eligibility of all provisional ballots, including those ballots subject to the NEOCH Consent Decree, using the specific and uniform

standards set out in Directive 2010-74, issued by then-Secretary of State, Jennifer Brunner. JX 34, Secretary of State Directive 2010-34, Testimony of Sherry Poland 7-259 ln 5-14.

44. The Board conducted its review using bi-partisan teams. Testimony of Sherry Poland, 5-96 – 5-98, Testimony of Timothy Burke, 1-192 ln 9-11.

45. When the Board reviewed provisional ballots in the days following the election, the Board followed uniform specific standards and procedures set out by the Ohio Secretary of State in Directive 2010-74, Guidelines for Determining the Validity of Provisional Ballots. JX 34 Secretary of State Directive 2010-74; JX 5 Provisional Ballot Verification Form; Testimony of Sherry Poland 5-96-108; 7-214 ln 14-16; 7-265-298.

46. Pursuant to these standards, the Board determined that the provisional voter had provided proper and acceptable identification when voting if the poll worker processing the provisional ballot checked one of the two “ID provided” boxes on the provisional envelope. All provisional ballots were reviewed under this standard. Testimony of Sherry Poland, 6-221 ln 19 – 6-222 ln 7, 7-263 – 7-265 ln 12.

47. Review of provisional ballots subject to the NEOCH consent decree began following the initial verification by the bi-partisan teams. The teams separated the wrong precinct envelopes that used the last four digits of the voter’s Social Security Number as identification and determined which envelopes were cast in the correct location. Testimony of Sherry Poland, 5-108 ln 16- 5-109 ln 4.

48. The bi-partisan teams were instructed to review the notes pages from both signature poll books to determine whether there were any indications from the poll workers regarding ballots subject to the NEOCH consent decree. If there were indications, they were to make copies and

place the envelope in the “further review required” tray to present to the Board for decision.

Testimony of Sherry Poland 5-111 ln 7-21.

49. Staff was instructed to look for “any notation” regarding the provisional ballot in question. Testimony of Sherry Poland, 7-224 ln 6-8, 7-225 ln 14-25.

50. Prior to the Board vote on November 16, 2010, the bi-partisan teams had not identified any NEOCH provisional ballot that warranted further review. Testimony of Sherry Poland 5-111.

51. The Board staff applied the exact same standards and criteria to all provisional ballots, including those subject to the NEOCH consent decree. Testimony of Sherry Poland, 7-296 – 297.

52. The Board’s pre-November 16 review of wrong precinct provisional ballots was conducted in accordance with Ohio law. JX 34 Secretary of State Directive 2010-74; JX 5 Provisional Ballot Verification Form; Testimony of Sherry Poland 5-96-108; 7-214 ln 14-16; 7-265-298; Testimony of Alex Triantafilou 12-234-235; Testimony of Timothy Burke, 1-177 ln 17-20, 1-179 ln 7-18, 2-43 ln 17-24.

53. The 31 provisional ballots cast at the Board and approved for counting by the Board due to staff error were not cast in a precinct. Testimony of Alex Triantafilou 12-230 ln 16-21, 12-263 ln 14-22.

54. The voters who cast the 31 provisional ballots at the Board that were approved for counting by the Board due to staff error went to the correct location. Testimony of Alex Triantafilou, 12-263 ln 14-22.

55. For 27 of the 31 provisional ballots cast at the Board and approved for counting due to staff error, the fact that the voter had been provided the wrong ballot by the staff was readily

apparent from the face of the envelope. Testimony of Sherry Poland, 7-274 ln 25 – 7-276 ln 11, 2-280 ln 8 -- 2-283 ln 3.

56. The voting process for the 31 provisional ballots cast at the Board is not substantially similar to the 850 provisional ballots mis-cast at polling locations throughout Hamilton County. Testimony of Sherry Poland November 22, 2010, Doc. 18. at 96 ln 11.

57. Voters appearing at the Board of Elections do not sign a signature poll book, they are signing an application for an absentee or a provisional ballot. The voter is greeted at a counter by the staff of the Board and the voter's information is "looked up" in the Board's voter registration system. Testimony of Sherry Poland November 22, 2010 Doc. 18. at 96 ln 1-17; Testimony of Sally Krisel, 1-75 ln 18 – 1-79 – 6.

58. Voters may cast a provisional ballot at the Board of Elections for only one reason, that they have changed their address and failed to notify the Board of the change prior to the close of registration. Testimony of Sherry Poland, 7-276 ln 1-6; Testimony of Sally Krisel, 1-76 ln 1-8.

59. A voter may cast a provisional ballot in a precinct on Election Day for eight different reasons. Jt. Ex. 12; see also Testimony of Sherry Poland, 7-276 ln 6-9.

60. Provisional ballots cast at the Board are labeled "Board of Elections" in red ink. Testimony of Sherry Poland, 7-275 ln 6-8.

61. When a provisional ballot is cast at the Board, the "office use only" portion of the provisional envelope is completed by Board staff at the time the ballot is cast. Board staff looks up the voter's address and determines the voter's new precinct. Testimony of Sherry Poland, 7-275 ln 16-25, and records both the new and old precinct in the "office use only" box. Id. at 7-280 ln 13-19.

62. Voters casting provisional ballots at the Board are wholly dependent upon Board staff to retrieve the proper ballot. Testimony of Sherry Poland November 22, 2010 Doc. 18. at 96 ln 19-23.

63. The only reason that the 31 provisional ballots cast at the Board of Elections could have been cast using a wrong precinct ballot is because the Board employees made a mistake. Testimony of Sherry Poland November 22, 2010 Doc. 18. at 96 ln 24 – p97 ln 1; Poland Trial Testimony 7-282 – ln 8-13; Testimony of Sally Krisel 1-89 ln 5-11; Testimony of Timothy Burke, 1-177 ln 25 – 1-178 ln 10; Testimony of Alex Triantafilou, 12-148-12-149, 12-178 -12-181.

64. The Board staff did not do any investigation into poll worker error with respect to the 31 provisional ballots cast at the Board. The error became obvious during the verification process. Testimony of Sherry Poland, 7-282 ln 21 – 7-283 ln 3.

65. Each of the 31 provisional ballots cast at the Board of Elections listed the correct address of the voter on the envelope. Testimony of Sally Krisel, 12-120 ln 21-25.

66. There are numerous reasons why the 850 provisional ballots cast in polling places throughout the County were cast in the wrong precinct, including voter error since the voter is responsible for casting a ballot in the correct precinct. DX 1005a Supplemental Report of Alfred Tuchfarber, Testimony of Alfred Tuchfarber 10- 78 – 10-81.

67. On November 16, 2010 the Board voted on which provisional ballots were valid and eligible to be counted. JX28 Transcript of Meeting Board of Elections of Hamilton County, Ohio, November 16, 2010; See Testimony of Sally Krisel, 1-86 ln 20-25;

68. The Board voted unanimously not to count 850 provisional ballots that were invalid because they had been cast in the wrong precinct contrary to Ohio law. JX28 Transcript of

Meeting Board of Elections of Hamilton County, Ohio, November 16, 2010, at 40; Testimony of Timothy Burke, 2-70 In 20-23; Testimony of Alex Triantafilou, 12-147 In 10-13.

69. One provisional voter cast two provisional ballots. Therefore, there were 850 wrong precinct provisional ballots cast by 849 provisional voters. JX 32 Minutes of Meeting of Board of Elections of Hamilton County, Ohio, November 19, 2010 at 2.

70. The Board voted unanimously to count the 27 “wrong precinct” ballots cast at the Board of Elections, 824 Broadway, because it was obvious from the face of the provisional ballot envelope that the only error was that the Board employee gave the voter the wrong ballot and the voter was permitted to cast a provisional ballot at the Board of Elections. JX28 Transcript of Meeting Board of Elections of Hamilton County, Ohio, November 16, 2010 at 45; See Testimony of Sally Krisel, 1-87-89; Testimony of Caleb Faux, 11-10 In 14-19; Testimony of Timothy Burke, 1-177 In 25 – 178- In 10; 1-180 20-25; Testimony of Alex Triantafilou, 12-149 In 21-23.

71. Four of the 31 provisional ballots cast at the Board and approved for counting due to staff error, were approved for counting by the Board on November 16, 2010. When the ballot envelopes were opened, they were found to contain a ballot from a different precinct than the correct precinct that appeared on the face of the envelope. These ballots were re-made to the correct precinct and counted. JX 32 Minutes of Board Meeting of November 19, 2010, at 00003; Testimony of Sally Krisel, 1-90 In 21-23.

72. There were 28 NEOCH ballots that were rejected by the Board on November 16 that were not wrong precinct NEOCH ballots. Twenty-four of those ballots were cast by persons not registered to vote, and therefore, not eligible to be counted. Three ballots had insufficient

information to be counted. One provisional envelope contained an absentee ballot. JX 3 Spreadsheet of Not Counted NEOCH ballots.

73. On November 16, 2010, the Board voted to count 686 provisional ballots after the Board staff determined that the voter did not need to provide any additional information in order for the ballot to be counted despite the fact that the poll worker checked the box on the back of the provisional envelope that requires the voter to provide additional information. JX28 Transcript of Meeting Board of Elections of Hamilton County, Ohio, November 16, 2010 at 27. See also Testimony of Sherry Poland, 7-263 -7-264; JX 34, pg. 000003.

74. On November 16, 2010, the Board voted to count 10 ballots even though the voter did not sign the provisional envelope only after it was determined that the voter should not have been made to vote provisionally in the first instance. JX28 Transcript of Meeting Board of Elections of Hamilton County, Ohio, November 16, 2010 at 71. The fact that the voter should not have had to vote provisionally was apparent from the face of the envelope. Testimony of Sherry, 7-296.

75. November 17, 2010 was the deadline for the Board to have begun the official canvass of ballots. The Board had to complete the official canvass twenty-one days after the election, or by November 23, 2010. R..C. 3505.32. DX 1000 Ohio Election Calendar, Testimony of Sally Krisel, 11-186 ln 16-19, 11-193 ln 1-11.

76. On November 19, 2010, the Board met to approve ballot remakes, including the 27 and the 4 ballots cast at the Board of Elections. JX32 Minutes of Meeting of Board of Elections of Hamilton County, Ohio, November 19, 2010.

77. On November 19, 2010, the Board also conducted the official count which included all ballots approved for counting to date. See JX32 Minutes of Meeting of Board of Elections of

Hamilton County, Ohio, November 19, 2010 at 4; JX 21, Page 9 of 21 Official Election Results, Hamilton County, Ohio; Testimony of Sally Krisel, 1-99 ln 1-7.

78. The official count results reported Mr. Williams with 114,989 votes defeated Ms. Hunter with 114,966 votes – a difference of 23 votes. JX 21, Page 9 of 21 Official Election Results, Hamilton County, Ohio; DX1048 2010 Official Election Results; Testimony of Sally Krisel, 1-99, ln 8-14.

79. On Sunday, November 21, Ms. Hunter filed this lawsuit alleging that the Board violated the Equal Protection and Due Process clauses of the Fourteenth Amendment. Complaint Doc. 1.

80. On November 22, this Court issued an order granting plaintiff's request for relief to the extent that it sought an order "commanding Defendants to investigate whether provisional ballots cast in the correct polling location but in the wrong precinct were improperly cast because of poll worker error," and further that the Board "begin an investigation into whether poll worker error contributed to the rejection of the 849 provisional ballots now in issue and include in the recount of the race for Hamilton County Juvenile Court Judge any provisional ballots improperly cast for reasons attributable to poll worker error". Doc. 13 Order Granting In Part Plaintiff's Request For A Preliminary Injunction.

81. On November 24, the 6th Circuit Court of Appeals issued a temporary stay of the November 22 Order. Doc. 17 Order of USCA Granting Stay Until Motion Can be Heard by Panel. Testimony of Sally Krisel, 1-101ln 4-5.

82. On November 30, SOS Brunner issued Directive 2010-79, Supplemental Procedures Regarding Provisional Ballots, which directed the Board to investigate provisional ballots in which voter provided only last four digits of his or her social security number as identification

and suggested questioning poll workers in those precincts in which multiple wrong precinct ballots were cast. JX 35 Secretary of State Directive 2010-79.

83. On December 1, the 6th Circuit Court of Appeals denied Mr. William's request for stay of the November 22 Order. Doc. 17 Order of USCA Denying Motion for Stay.

84. On December 3, 2010, the Board should have begun all automatic recounts, but was unable to do so because of this litigation. DX 1000 (2010 Election Calendar); R.C. 3515.03

85. On December 9, the Board met to determine how the investigation ordered by this Court should proceed and the discussion ended in tie votes. The Board also directed staff to review the 849 wrong precinct provisional ballots for other errors. The Board voted and tied two to two on whether to count 286 provisional ballots cast in the correct polling location, but wrong precinct. JX 30 Transcript of Meetings of the Board of Election for Hamilton County, Ohio at 36-40, See Testimony of Sally Krisel, 1-104.

86. On December 9, SOS Brunner issued Directive 2010-80, Supplemental Procedures Regarding the 849 Provisional Ballots Subject to the Court Order in Hunter, which directed the Board: to investigate all ballots subject to the NEOCH Consent Decree and all 849 wrong precinct provisional ballots; to question each poll worker in the precincts involved; and to examine poll books and provisional envelopes for indication of poll worker error. JX 36 Secretary of State Directive 2010-80, See Testimony of Sally Krisel, 1-106-107.

87. On December 11, the Board voted unanimously to subpoena all poll workers, employees and observers who worked at the polling locations where a wrong precinct ballot was cast (2,204 individuals). The Board Members tied on whether to send written questionnaires to poll workers and provisional voters. JX 30 (Transcript of meetings of the Board of Elections of Hamilton

County, Ohio), at 00053-00055. Testimony of Tim Burke, 1-186 ln 1-7; Testimony of Alex Triantafilou, 12-158-160; Testimony of Sally Krisel 1- 115 ln 1-10.

88. On December 13, the first set of subpoenas issued to poll workers and the Director of the Board requested assistance from SOS Brunner as to how to proceed to question the poll workers. Testimony of Sally Krisel, 1-117 ln 18-25, JX 44 Secretary of State Advisory 2010-08.

89. On December 14, Board Members Faux and Triantafilou met to review the Board staff's findings from its review of the 849 provisional ballot envelopes and other Election Day documents, including signature poll books, poll books notes pages, and help desk log forms. DX 1001 Timeline of Events at 4; Testimony of Alex Triantafilou, 12-251, ln 8-20.

90. On December 14, SOS Brunner issued Advisory 2010-08, Supplemental Poll Worker (Voter) Investigation Procedures, which provides specific guidance for conducting the investigation, including but not limited to permission to send a questionnaire in lieu of a subpoena to poll workers. JX 44 Secretary of State Advisory 2010-08.

91. On December 16 and 17, the Board commenced five sessions of questioning poll workers during public meetings of the Board. The Board questioned a total of 71 poll workers. JX22, 23, 24, 25, 26 Transcripts of Meetings of the Hamilton County Board of Elections December 16 and 17, 2010.

92. On December 17, SOS Brunner issued Directive 2010-87, Steps that the Hamilton County Board of Elections Must Take as Part of the Investigation of 849 Provisional Ballots as Ordered by Judge Dlott, which provided among other things that the Board: a) issue all remaining subpoenas by December 20; b) issue questionnaires to all poll workers who had not yet been questioned at the Board and ordered that the questionnaires must be postmarked within two calendar days; c) complete all interviews by December 23; d) review all documents by

December 27; and e) meet no later than December 28 to review the results. JX 37 Secretary of State Directive 2010-87.

93. On December 21, the Board met and with permission of SOS Brunner stated that it will no longer interview poll workers, but would send questionnaires to all poll workers (not employees) who worked at the precincts where the 850 wrong precinct provisional ballots were cast. JX 47 Waiver Request, JX 30 Transcript of Meeting December 21, 2010 at 000079, See also Testimony of Sally Krisel, 1-121 In 17-21, 1-122.

94. The Board, guided by Directives issued by SOS Brunner, conducted an extensive investigation into poll worker error which included reviewing the interviews of 71 poll workers and 830 questionnaires postmarked by the December 23 deadline and poll books, help desk notes, call logs and poll book notes for poll worker error. JX 22-26 Transcripts of Meetings December 16th and 17th, 2010, Testimony of Sally Krisel, 1-125-126, Testimony of Alex Triantafilou 12-157-165, 12-239-249.

95. On December 28, the Board met to vote on the results of the investigation for poll worker error. The Board unanimously determined that there was no evidence of poll worker error with respect to all the ballots cast in the wrong location and wrong precinct and voted not to approve for counting those 565 wrong location and wrong precinct provisional ballots. The Board voted unanimously to approve for counting 9 ballots that were found to have been voted in the correct precinct. The Board voted unanimously to approve for counting 7 wrong precinct ballots for which the Board found evidence of poll worker error. The Board tied on whether to count 269 provisional ballots cast in the correct polling location, but wrong precinct. The Board tied for two reasons on one of the 269 ballots cast: a) the street name listed on the envelope was invalid; and b) even though the street name was misspelled, and if the voter intended to list a valid street

name, then the voter still cast a ballot in the correct location, but wrong precinct. JX 27 Transcript of Meeting December 29, 2010; DX 1018 Wrong Precinct Provisionals Rejected sorted by 12/28 Board Vote; Testimony of Alex Triantafilou 12-165-167; Testimony of Sally Krisel, 1-128-129 JX 48 Burke Affidavit.

96. On December 30, all Board members submitted position statements to SOS Brunner. The statement of Board Members Faux and Burke contained an argument that the Board should count all of the 269 correct location, wrong precinct ballots based upon a statistical analysis performed by Board Member Faux that alleges that 31% of correct location/wrong precinct votes fell on boundary streets of the precinct in which the voter voted but were on the wrong side of the street; 15% fell on boundary streets in the wrong address range; and 10% fell on streets that pass through the precinct in which the voter voted. JX 48 Burke Affidavit, at 00008-00009 (Faux analysis).

97. On January 7, the Ohio Supreme Court issued a writ of mandamus in the case of *State ex. rel. Painter v. Brunner*, 128 Ohio St.3d 17, 941 N.E.2d 782 ordering the Board to review the disputed provisional ballots using the same procedures it used prior to November 16 and ordered the Secretary of State to rescind Directives 2010-80 and 2010-87. Testimony of Alex Triantafilou 12-168 ln 11-15.

98. On January 7, SOS Brunner issued Directive 2011-02 pursuant to *Painter* which rescinded Directives 2010-80 and 2010-87. JX 39 Directive 2011-02.

99. On January 7, SOS Brunner sent a Tie Vote Letter to the Board Director which contained a vote against counting the 1 ballot (out of the 269) in which the voter listed an invalid address; and a vote against counting the 268 provisional ballots cast in the correct location, but wrong

precinct. JX 46 Secretary of State Letter of January 7, 2011 to Sally Krisel; Testimony of Alex Triantafilou, 12-167 In 6-13.

100. On January 7, SOS Brunner also issued Directive 2011-03. Despite the fact that the Board never voted to count any subset of the 269 correct location, wrong precinct votes, the SOS directed the Board to count 56% of the 268 remaining provisional ballots at issue.

101. JX 40 Secretary of State Directive 2011-03; Testimony of Alex Triantafilou 12-167 In 14-20; Testimony of Caleb Faux, 11-45 In 10-18.

102. Upon taking office on January 10, SOS John Husted issued Directive 2011-04 which superseded Directive 2011-03 and directed the Board to comply with the Ohio Supreme Court's decision in *Painter* that the Board must conduct its investigation using the same procedures as it did before November 16 and determine that the "850 ballots cast in the wrong precinct are, according to Ohio statutes, invalid and should not be counted." JX 41 Husted Directive 2011-04.

103. On January 12, 2011, SOS Husted issued Directive 2011-05 further explaining that the Board should conduct its investigation using only the poll books, help-line records, and provisional ballot envelopes and that it should review ballots subject to the NEOCH Consent Decree using the requirements set forth in Directives 2010-74 and 2010-79. JX42 Husted Directive 2010-05.

104. On January 12, this Court issued the Order Granting in Part and Denying in Part Plaintiff's Motion to Enforce Preliminary Injunction. The Order enjoined the Board from complying with Directive 2011-04; ordered that the Board count 149 ballots under Directive 2011-03, the 7 ballots and the 9 ballots on which the Board was in agreement; and ordered the Board to investigate all ballots subject to the NEOCH Consent Decree for poll worker error and count those ballots as required by the Consent Decree. Doc. 39 Order.

105. On January 28, the 6th Circuit Court of Appeals issued a decision vacating the portion of the District Court's January 12 Order directing the Board to count the 149, the 7 and the 9 ballots; vacating as moot the portion of the District Court's January 12 Order enjoining the Board from complying with Directive 2011-04; and affirming the District Court's January 12 Order that the Board investigate all ballots subject to the NEOCH Consent Decree for poll worker error and count those ballots as required by the Consent Decree. Doc. 50, Order USCA on Appeal No.s Nos. 10-4481; 11-3059/3060.

106. The race for Hamilton County Juvenile Court Judge is subject to a mandatory recount. R.C. 3515.011; JX29 Transcript of Board Meeting November 23, 2010 at 45-48.

107. In the November 2, 2010 Election, there were two local liquor options on the ballot that fell within the mandatory recount guideline. R.C. 3515.011; JX 30 Transcript of Board Meetings December 3, 9, and 11, 2010 at 2-3.

108. In the November 2, 2010 Election, a candidate for the 28th House District requested a recount. R.C. 3515.01; R.C. 3515.27; JX 30 Transcript of Board Meetings December 3, 9, and 11, 2010 at 2-3; See also Testimony of Sally Krisel 1-103 ln 7-12.

109.

110. The Board's Court ordered investigation into whether there was poll worker error with regard to the 850 wrong precinct ballots was conducted in accordance with the Directives and Advisory of Secretary Brunner. Testimony of Alex Triantifilou 12-157-159, 12-239-249; JX 22-26 Transcripts of Meetings December 16th and 17th, 2010, Testimony of Sally Krisel, 1-125-126.

111. The Board's completed its investigation of the wrong precinct provisional ballots on December 28th as ordered by the Secretary of State. The Board need only conduct the recount in

order to fully comply with this Court's November 22 Order. Testimony of Alex Triantafilou, 12-274 ln 19 – 12-275 ln 12.

112. The recount for the race of Hamilton County Juvenile Court Judge will affect the outcome of all races and issues in the November 2, 2010 Election. See Testimony of Sally Krisel 12-224-225.

113. Any order to count votes only for the Juvenile Court Judge race, and not for any of the other races or issues on the ballot, will result inaccurate voting results for the entire County. If the Board is required to remake any wrong precinct ballots into the correct precinct for counting, the Board will have to falsely report undervotes for all other races for which the voter was permitted to cast a ballot. R.C. 3515.04; R.C. 3515.05. See Testimony of Sally Krisel 12-224-225.

114. Any order to count votes only for the Juvenile Court Judge race, and not for any of the other races or issues on the ballot, would cause inaccurate results for the other three recounts that must be conducted by the Board, including recounts for two local liquor options and one recount for the 28th House District. R.C. 3515.04; R.C. 3515.05.

115. An accurate count of the total number of votes cast for Governor in the November 2, 2010 Election is necessary because it affects various election procedures. R.C. 3501.22 (determining who is a precinct judge for a four year term); R.C. 3513.27 (signature requirements for independent candidates); R.C. 504.14, 505.75, 731.28, 731.29 (signature requirements for initiative and referendum petitions); R.C. 303.12(H), 519.12(H) (signature requirements for zoning petitions); R.C. 4301.33 (signature requirements for local option petitions); R.C. 707.30 (signature requirements for application for incorporation of a city). See Testimony of Sally Krisel 11-224-225.

116. In Ohio, precinct boundaries must conform to census tracts which are bounded by streets and natural barriers. Testimony of Sally Krisel, 11-223-224.

117. Multiple precinct locations are more prevalent outside of the City of Cincinnati because of state and federal guidelines which must be followed. Population demographics are never used as a consideration. See Testimony of Sally Krisel. 11-219-223.

118. There is no statistically or substantively important relationship between wrong precinct voting and single vs multiple precinct polling locations. Multiple precincts at a single polling location do not cause wrong precinct votes. DX 1005a, Supplemental Report of Alfred Tuchfarber at 3; Testimony of Alfred Tuchfarber, 10-87-91.

119. Counting wrong precinct provisional votes without direct evidence of error will cause false positive results (counting ballots that should not be counted), false negative results (not counting ballots that should be counted), or both. DX 1005 Report of Alfred Tuchfarber; at 31, Testimony of Alfred Tuchfarber, 10-91 In 19 – 10-94.

120. There are no scientifically valid and reliable methods that are available at this time to resolve the question of which of the 849 wrong precinct ballots to count or not count other than the records of the Board contemporaneous with the election. DX 1005 Report of Alfred Tuchfarber; at 31; Testimony of Alfred Tuchfarber 10-81-84.

121. There is no valid and reliable method to determine which of the 849 ballots were cast in the wrong precinct due to poll worker error absent specific evidence of such. Testimony of Alfred Tuchfarber 10-92-94.

122. There is no evidence of poll worker error as to the 149 ballots and analytical or statistical evidence of poll worker error presented by Board Members Burke and Faux, but not voted on by

the Board, is not competent evidence. *Painter* at ¶ 51; see also Testimony of Alfred Tuchfarber, 10-158 ln 13 – 10-161.

123. No election is error free. Testimony of Alfred Tuchfarber, 10-162 – 163; Testimony of Timothy Burke, 2-56 ln 2-18.

124. The November 2010 Election in Hamilton County, was not unusual in any major procedural way and produced only garden variety errors common to elections in Ohio and other states. DX 1005 Report of Alfred Tuchfarber;at 31; Testimony of Alfred Tuchfarber , 10-71-73.

E. VOTERS

125. Seventeen voters testified during the trial of this action. See, generally, transcript of proceedings.

126. Voter Donna Kermos testified that she received a card from the Board of Elections and took the card to the polling location listed thereon on November 2. The card was entered as an exhibit (PX 2010). Testimony of Donna Kermos, 8-153 ln 23 – 8-154.

127. The records of the Board demonstrate that the card presented as PX 2010 was not created until February of 2011. Until that time Donna Kermos was registered as voter in Lockland, Ohio and not in Cincinnati Ward 26 where she appeared and voted on Election Day. *DX 1041 Donna Kermos Documents; Record of Proceedings*, 10-31-1034.

128. Of the 16 remaining voters who testified in this action, 7 knew that they were voting in a precinct in which they did not reside. See Table 2, attached hereto and incorporated herein by reference.

129. Five of the remaining nine voters received documentation from the Board or others telling them where to vote. See Table 3, attached hereto and incorporated herein by reference.

130. Voter Shirley Howard, 7-8 – 7-16, went with her mother to vote. Mother was in the signature poll book and appears to have voted a regular ballot. Shirley Howard's testimony that

her Mother cast a regular ballot in the right precinct is inconsistent with Shirley Howard casting a wrong precinct ballot in the same precinct.

131. All of the voters listed in Plaintiff's Table E, (Doc. 182-1 at 45-47) knew they were voting in a precinct in which they did not reside.

F. PRECINCT OFFICIALS

132. The failure of a poll worker to sign a provisional envelope as noted in Plaintiff's table G (Doc. 182-1 at 52) is not a fatal error and does not prevent a provisional ballot from being counted. Testimony of Sherry Poland, 7-227 ln 1-7, 7-252 ln 5-8; see also DX 1034 R.C. 3505.183 Testing and Counting Provisional Ballot.

133. A poll worker is only required to warn a voter that his or her vote may not count when: 1) the voter declares that he or she is eligible to vote at another location; and 2) when the poll worker has determined based upon the address provided by the voter that the voter is not at the proper precinct. DX 1036 R.C. 3505.181 Eligibility to Cast Provisional Ballot at 3505.181(C)(1).

134. A poll worker is only required to direct a voter to the correct polling location precinct when: 1) the voter declares that he or she is eligible to vote at another location; and 2) when the poll worker has determined based upon the address provided by the voter that the voter is not at the proper precinct. DX 1036 R.C. 3505.181 Eligibility to Cast Provisional Ballot at 3505.181(C)(1).

135. Poll workers are trained to perform all tasks necessary to process voters. Testimony of Sally Krisel, 1-43 ln 21-22.

136. When processing provisional voters, poll workers often share responsibilities or perform only part of a given task. Of the poll workers who testified at trial, 34 of the 50 indicated that at times the other poll workers in the precinct performed one or more tasks associated with processing provisional voters whose envelopes they signed. See e.g. Testimony of Mary Horton,

2-107 -2-142; Carolyn Hill, 31- - 3-33; James Crabtree, 3-177 -3-197, Lawrence Rouse, 4-3 -4-47; Cecillia Johns – Hall Muhammod, 4-48 - 4-83, Ronda Jackson, 4-84 - 4-106; and many others.

137. One reason for splitting responsibilities is to alleviate crowds and lines at precinct tables. See Testimony of Donald Gehring, 6-6 - 6-29 (not reasonable or practical for one person to handle entire process when there was a crowd), Pamela Crooms 9 - 94 (we had hundreds and hundreds of people coming through).

138. Of the poll workers who testified, few had any memory of processing specific envelopes and having contact with specific voters. See Table 1 at Column “PW Did Not Remember Voter or Circumstances”, attached hereto and incorporated herein by reference.

139. Of the poll workers who testified, most believed that the voters that they processed were voting in the correct precinct. See Table 1 at Column “PW Believed Voter Was in the Correct Precinct”, attached hereto and incorporated herein by reference.

140. One poll worker who testified did not process any provisional ballots at all. See Testimony of Bill Singer, 2-210 -2-228.

141. One poll worker, Derek Moore, testified that he was confronted with “flustrated” voters, a hectic situation, people being sent from other precincts, and arriving in wheelchairs, let all of these voters vote provisionally knowing that it violated board policies, was not in accordance with his training, and knowing that voters must vote in the correct precinct. Testimony of Derek Moore, 2-229 – 248.

142. Poll worker Rene Kennedy’s testimony with respect to ballot P9519 is inconsistent with the information on the provisional ballot envelope. Mr. Kennedy testified that this voter presented an out of state or otherwise unacceptable ID. The provisional envelope shows that he

presented an Ohio driver's license. Mr. Kennedy was asked to look this voter's address up in the green book, and he correctly determined the precinct. Testimony of Rene Kennedy, 9-35-44.

143. Of the poll workers who testified, the following were located at a single precinct location on November 2, 2010: Mary Horton, Derek Moore, Rosemary Gentry, Tiffany Evans, Jacqueline Humphries, Dayle Chandler, Maeora Thomas, Renee Williams, Oceania Bradley, and Paulette Thompson. See Testimony of listed poll workers and DX 1016 Multiple Precinct Polling Locations.

CONCLUSIONS OF LAW

A. Standing

1. Plaintiff Hunter alleges unjust practices towards Hamilton County provisional voters who voted in the wrong precinct. The alleged injury is not traceable to the candidate, but to the Hamilton County voters. Plaintiff Hunter lacks standing. *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 80-81 (2000).

2. Plaintiff, Northeast Ohio Coalition for the Homeless (“NEOCH”), lacks standing to assert its Equal Protection and Due Process claims. It is an organization representing certain homeless individuals in or around Cleveland, Ohio. Having a mere interest in a problem is not sufficient standing to bring suit. *Sierra Club v. Morton*, 405 U.S. 727, 39 (1972).

3. When a court lacks inherent power to enter a particular judgment, such a judgment can be attacked at any time, in any court, either directly or collaterally. E.g., *Long v. Shorebank Development Corp.*, 182 F.3d 548, 561 (7th Cir. 1999); *Blanchard v. Terry & Wright, Inc.*, 218 F. Supp. 910, 912 (W.D. Ky. 1963) (“If jurisdiction is absent, the judgment is void.”).

4. It is not the province of a Court to rewrite a statute simply because they might believe it to be susceptible of improvement. *Badaracco v. Commissioner*, 464 U.S. 386, 398 (1984); see also: *In re Adams*, 302 B.R. 535, 545-46 (B.A.P. 6th Cir. 2003); *Vainisi v. Commissioner.*, 599 F.3d 567, 572 (7th Cir. 2010); *Doe v. Dep’t of Veterans Affairs*, 519 F.3d 456, 461 (8th Cir. 2008); *Albritton v. Cagle’s, Inc.*, 508 F.3d 1012, 1027 (11th Cir. 2007); *In re Sunterra Corp.*, 361 F.3d 257, 269 (4th Cir. 2004); *Artuz v. Bennett* 531 U.S. 4, 10, 121 S.Ct. 361, 365 (2000).

5. The NEOCH consent decree was issued without proper jurisdiction or authority because the decree changed and suspended Ohio law based upon the consent of Ohio General Assembly. The NEOCH court had no authority or power to accept the “consent decree” as its judgment. Jurisdiction cannot be conferred on a trial court by “consent of the parties.” E.g., *California v.*

LaRue, 409 U.S. 109, 112 n.3 (1972). Nor can a jurisdictional defect be waived by the parties. E.g., *Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 702 (1982). Therefore, the fact that a judgment is entered by consent or stipulation does not insulate it from being void.

6. The Board also was not a party to the NEOCH case and did not have the opportunity to litigate the legality of the consent decree. *Hansberry v. Lee*, 311 U.S. 32, 40 (1940). See also *762 Parklane Hosiery Co., v. Shore*, 439 U.S. 322, n.7 (1979); *Blonder-Tongue Laboratories, Inc. v. University Foundation*, 402 U.S. 313, 328-29 (1971); *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 395 U.S. 100, 110 (1969).

7. Plaintiff, Ohio Democrat Party (“ODP”), lacks standing to assert its Equal Protection and Due Process claims. It is a political party in the State of Ohio. Having a mere interest in a problem is not sufficient standing to bring suit. *Sierra Club v. Morton*, 405 U.S. 727, 39 (1972).

8. The State is not a party to these proceedings. Rule 5.1 of the Federal Rules of Civil Procedure outlines the proper steps a party must take to present a constitutional challenge to a state statute, including filing a notice of constitutional question and serving notice on the state attorney general. See Fed. R. Civ. P. 5.1(a). Because Plaintiffs have not followed Rule 5.1, this Court “may not enter a final judgment holding a statute unconstitutional before the attorney general has responded or the intervention period has expired without response.” Comments to Fed. R. Civ. P. 5.1.

B. Ohio Election Law

9. When voters cast a ballot at a polling location on Election Day, they are required by Ohio law to present themselves at the correct precinct. R.C. 3599.12(A) provides that “[n]o voter shall do any of the following: (1) Vote or attempt to vote in any primary, special, or general election in a precinct in which that person is not a legally qualified elector.”

10. When voters cast a ballot at the Board of Elections, they are not required to present themselves in the correct precinct. R.C. 3503.16(B)(2)(a) (requiring the voter to only appear at “office of the Board of Elections”).

11. In Ohio, a voter must cast a ballot in the precinct in which they reside for the ballot to be valid. R.C. 3505.181(A).

12. Ohio law provides that a provisional ballot must be cast in the correct precinct in order to be counted. *State ex rel. Painter v. Brunner*, 128 Ohio St. 3d 17, 941 N.E. 2d 782, ¶34.

13. There is no exception under Ohio law for counting wrong precinct ballots. *Id.* at 35. See *State ex rel. Stoll v. Logan Cty. Bd. of Elections*, 2008-Ohio-333, 117 Ohio St. 3d 76, 82 (the statute contains no exception, and the court cannot add one to its express language).

14. A provisional voter must complete an affirmation swearing that she or he is a registered voter in the jurisdiction in which she or he is voting and that she or he is eligible to vote in the election. R.C. 3505.182.

15. A provisional ballot is presumed to be invalid until shown otherwise. R.C. 3505.183.

16. Ohio law provides that the vote of two Board members to count ballots is insufficient. R.C. 3505.27 (If three of the members do not agree as to how any part of the ballot shall be counted, only that part of the ballot on which three of the members do agree shall be counted.)

17. The Ohio Secretary of State does not have authority to direct the Board to count the 149 ballots that were never specifically voted on by the Board. R.C. 3501.11(X).

18. The only subsection of the Help America Vote Act of 2002, 42 U.S.C.A. § 15482, that addresses the issue of whether a provisional ballot will be counted as a valid ballot conspicuously leaves that determination to the States. That subsection provides: “If the appropriate State or local election official to whom the ballot or voter information is transmitted

under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law.” 42 U.S.C. § 15482(a)(4).

C. The Board’s Court Ordered Investigation of Wrong Precinct Provisional and NEOCH Ballots

19. The Board’s review of the wrong-precinct provisional ballots was guided by objective criteria provided by Secretary Brunner to effectuate the district court’s order.

20. As the chief election officer in Ohio, the Secretary of State has many duties, including to “[i]ssue instructions by directives and advisories in accordance with section 3501.053 of the Revised Code to members of the boards as to the proper methods of conducting elections.” R.C. 3501.05(B).

21. Where the secretary of state's construction is reasonably supported by the pertinent provisions, and in accordance with well-settled precedent, the court must defer to that reasonable interpretation. *State ex rel. Skaggs v. Brunner*, 588 F. Supp. 2d 828, 834 (S.D. Ohio 2008) citing *State ex rel. Colvin v. Brunner*, 120 Ohio St.3d 110, 896 N.E.2d 979, 990 (2008).

22. The Board’s review of the wrong precinct provisional ballots met the requirements of *Bush v. Gore*, 531 U.S. 98 (2000).

23. No further review of the wrong precinct provisional ballots is needed to fully comply with the Court’s November 22, 2010 Order.

24. No further review of the NEOCH ballots is needed to fully comply with the Court’s November 22, 2010 Order.

D. Poll Worker Error

25. Public officials are presumed to perform their duties in a regular and lawful manner. *State ex rel. Skaggs v. Brunner* 120 Ohio St.3d 506, 515, 900 N.E.2d 982, 990 (Ohio,2008); *U.S. v. Aviles* 623 F.2d 1192, 1198 (7th Cir. 1980).

26. The presumption of regularity supports the official acts of public officers and, in the absence of clear evidence to the contrary, courts presume that they have properly discharged their official duties. *National Archives and Records Admin. v. Favish* 541 U.S. 157, 174-175, 124 S.Ct. 1570, 1582 (2004).

27. It has long been established that poll worker error will not be presumed and must be demonstrated through evidence. *See State ex. rel Skaggs v. Brunner*, 120 Ohio St.3d 506, 2008-Ohio-6333, and Directives 2010-73, 2010-74, 2010-79.

28. The NEOCH Consent Decree provides that “[f]or purposes of this Decree poll worker error will not be presumed, but must be demonstrated through evidence.” Doc. 8-1, p.9.

29. In Ohio, the standard of proof with respect to evidence of election irregularities is “clear and convincing.” *McMillan v. Astabula County Board of Elections* (1993), 68 Ohio St.3d 31; *In re Election of November 6, 1990 for the Office of Attorney General of Ohio* (1991), 58 Ohio St.3d 103.

30. Clear and convincing evidence is defined as “[t]hat measure or degree of proof which is more than a mere ‘preponderance of the evidence,’ but not to the extent of such certainty as is required ‘beyond a reasonable doubt’ in criminal cases, and which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.” *In re Election of November 6* at 106.

31. An unintentional mistake by a poll worker in providing information about a voter's precinct is not a violation of Ohio law. Poll workers did not violate Ohio Election law when they gave incorrect information about the precincts where the voters were to cast the 7 ballots.

32. Whether facts are sufficient to support a finding of poll worker error is a matter of Ohio law. The Ohio Supreme Court in *Painter* held that the evidence of poll worker error with regard to the 149 ballots was insufficient under Ohio law to find evidence of poll worker error. *Painter* at ¶¶ 35, 36, 51. Therefore, these ballots may not be counted.

33. Because poll worker may not be presumed, the absence of direct evidence of error is a failure of proof.

34. Because poll worker error may not be presumed, evidence that is conflicting with respect to such error is a failure of proof.

35. Because poll worker error may not be presumed, inferring such error through circumstantial evidence is not permitted.

36. A poll worker mis-reading an address resulting in a wrong precinct ballot being cast is the type of mistake that can occur in every election.

37. A poll worker missing an incomplete affirmation statement on a provisional envelope is the type of mistake that can occur in every election.

E. Eleventh Amendment Immunity

38. The Hamilton County Board of Elections is strictly a board and an arm of the state government. See *State ex rel. Semik v. Cuyahoga County Bd. of Elections*, 67 Ohio St. 3d 334, 336, 617 N.E.2d 1120, 1122 (1993); R.C. 3501.06 (There shall be in each county of the state a board of elections consisting of four qualified electors of the county, who shall be appointed by the secretary of state, as the secretary's representatives, to serve for the term of four years).

39. In *Ex parte Young*, 209 U.S. 123, 159-60, 28 S.Ct. 441 (1908), the Supreme Court carved out an exception to the States' constitutional immunity from suit, one that permits federal courts to enjoin state officials from the future enforcement of state legislation that violates federal law. Under the exception, "a federal court's remedial power ... is necessarily limited to prospective injunctive relief and may not include a retroactive award which requires the payment of funds from the state treasury." *Ernst v. Rising*, 427 F.3d 351, 367-68 (6th Cir. 2005) (quoting *Edelman v. Jordan*, 415 U.S. 651, 677, 94 S. Ct. 1347, 1362 (1974)). Plaintiffs are seeking redress for a past election, but they are only entitled to prospective injunctive relief.

40. Retrospective declaratory relief is not an exception to the Eleventh Amendment immunity afforded the states.

Where there is no claimed continuing violation of federal law or any threat of future violation, a declaratory judgment is inappropriate because its purpose could only be to provide a federal judgment on the issue of liability with the hope that it would be res judicata in state-court proceedings, leaving to the state courts only a form of accounting proceeding whereby damages or restitution would be computed. This would be an inappropriate exercise of federal judicial power because it would have much the same effect as an award of damages or restitution, which kinds of relief against States are prohibited by the Eleventh Amendment.

Green v. Mansour, 474 U.S. 64, 64-65, 106 S. Ct. 423, 424 (1985).

41. Because Plaintiffs want the Court to declare that the Board's actions in processing ballots from the November election only are unconstitutional, Plaintiffs are not entitled to the declaratory relief requested in the Complaints.

42. There is no exception to Eleventh Amendment immunity for the allegation that the Board violated state law. Federal supremacy is not implicated because the state official is acting contrary to state law only. *Papasan v. Allain*, 478 U.S. 265, 277, 106 S. Ct. 2932, 2940 (1986).

F. 42 U.S.C. §1983 Liability

43. “A claim under 42 U.S.C. §1983 has two elements: (1) the defendant must be acting under color of state law, and (2) the offending conduct must deprive the plaintiff of rights secured by the federal law.” *League of Women Voters of Ohio vs. Brunner*, 548 F.3d 463, 475 (6th Cir. 2008).

44. When litigating under Section 1983, the “Plaintiff must prove the culpable mental state applicable to the underlying constitutional right.” *Id.* at 476.

45. The actions of poll workers cannot support a § 1983 claim against the Board Members since the poll workers are not named defendants. There is no respondeat superior liability in actions under § 1983, and there is no evidence that a government custom or policy led to any adverse action against Plaintiffs. See *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 691, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978); *Scarborough v. Morgan County Bd. of Educ.*, 470 F.3d 250, 261 (6th Cir.2006).

46. The Board is not liable for the actions of poll workers on Election Day.

G. Equal Protection

47. The unlawful administration by state officers of a state statute fair on its face, resulting in its unequal application to those who are entitled to be treated alike, is not a denial of equal protection unless there is shown to be present in it an element of intentional or purposeful discrimination. *Snowden v. Hughes*, 321 U.S. 1, 8, 64 S. Ct. 397 (1944).

48. Intentional discrimination has not been alleged in this case, nor can it be proven.

49. “When a state promulgates a regulation which imposes a ‘severe’ burden on individuals’ rights, that regulation will only be upheld if it is ‘narrowly drawn to advance a state interest of compelling importance.’ *Burdick*, 504 U.S. at 434, 112 S.Ct. 2059; *Norman v. Reed*, 502 U.S. 279, 289, 112 S.Ct. 698, 116 L.Ed.2d 711 (1992). However, ‘the state’s important regulatory

interests are generally sufficient to justify reasonable, nondiscriminatory restrictions.’ Anderson, 460 U.S. at 788, 103 S.Ct. 1564. Therefore, the court must first examine whether the challenged Ohio statute imposes a severe burden or is a reasonable and nondiscriminatory restriction. Next the court must examine Ohio's asserted state interests and determine if they are sufficiently weighty to justify the restriction imposed.” *Lawrence v. Blackwell*, 430 F.3d 368, 373 (6th Cir. 2005).

50. The argument that the Equal Protection clause prohibits “invidious” or “arbitrary” discrimination does not apply in this context since the Plaintiffs have not alleged that the Ohio election laws, on their face, disproportionately burden a particular group. See *Williams v. Rhodes*, 393 U.S. 23, 30, 89 S. Ct. 5, 10 (1968). “[T]he Equal Protection Clause does not make every minor difference in the application of laws to different groups a violation of our Constitution.” *Id.*

51. “The Supreme Court has clearly stated that states may, and inevitably must, enact reasonable regulations of parties, elections, and ballots to reduce election- and campaign-related disorder.” *Libertarian Party of Ohio v. Blackwell*, 462 F.3d 579, 585 (6th Cir. 2006), citing *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358, 117 S.Ct. 1364 (1997).

52. The requirements that provisional voters complete a provisional envelope and sign an affirmation statement as set forth in R.C. 3505.182 are reasonable and necessary for boards of elections to determine whether a voter is registered and eligible to vote and to prevent fraud. See R.C. 3505.183(B).

53. The Board, like the Secretary of State, has a substantial interest in conducting elections in a timely, consistent and efficient manner. See *Hunter* at 36.

54. The Equal Protection clause does not require that states treat groups uniformly, but bans invidious discrimination. *Williams v. Rhodes*, 393 U.S. 23, 89 S. Ct. 5 (1968).

55. Invidious discrimination is defined as “discrimination that is offensive or objectionable esp. because it involves prejudice or stereotyping.” Black’s Law Dictionary, 500 (8th ed. 2004).

56. The decision by the Board to count the 31 wrong precinct ballots cast at the Board was merely a mistaken application of state law. *Painter*, 128 Ohio St. 3d at ¶49.

57. The Board’s decision to count the 31 wrong precinct ballots cast at the Board, but not the 850 ballots cast throughout the County does not constitute a violation of Equal Protection.

58. There is no constitutional right to vote in any manner that a person chooses. *Burdick v. Takushi*, 504 U.S. 428, 433, 112 S. Ct. 2059 (1992). The Constitution provides that the state may proscribe the time, place and manner in which a person may vote. *Id.* State laws that touch on voting are not automatically subject to strict scrutiny. *Id.*

59. The Supreme Court adopted a special balancing test, under which the level of scrutiny varies on sliding scale based on the asserted injury. See *Anderson v. Celebrezsee*, 460 U.S. 780, 789 (1983).

60. “When a state election law imposes only ‘reasonable, nondiscriminatory restrictions’ upon the First and Fourteenth Amendment rights of voters, ‘the state’s regulatory interests are generally sufficient to justify’ the restrictions.” *Burdick v. Takushi*, 540 U.S. 428, 434, 112 S.Ct. 2059 (1992) (citing *Celebrezsee*, 460 U.S. at 788).

61. Ohio’s requirement that a person vote in the precinct in which they reside is a reasonable, nondiscriminatory restriction such that Ohio’s regulatory interests are sufficient to justify the restriction.

62. The Board's pre-November 16 investigation did not violate Equal Protection. The Board afforded the same level of review to all provisional ballots cast, with the exception of NEOCH ballots pursuant to Directive 2010-74. Therefore, "any equal-protection claim did not require an investigation – it merely required the same inquiry that the board had engaged in for its initial determination of the validity of provisional ballots." *Painter* at ¶40.

63. The 31 approved ballots cast at the Board and the rejected wrong precinct provisional ballots are not the same for equal protection purposes under the principles of *Bush v. Gore*, 531 U.S. 98 (2000) as the 850 ballots cast in the wrong precinct on Election Day. The voters of the 31 ballots did everything right and presented themselves at the correct place to vote; and the sole error was made by the Board employee who gave them the wrong ballot. The voters of the 850 ballots made an error for which they have some culpability regardless of any poll worker error. For this reason, the Board did not violate the Equal Protection rights of the 849 voters by counting the 31 ballots.

64. The 6th Circuit held that any Equal Protection violation, if one exists, has been remedied by the *Board*. *Hunter* at 29.

H. Due Process

65. The Due Process clause is implicated, and § 1983 relief is implicated only in the exceptional case where a state's voting system is fundamentally unfair." *Warf v. Bd. of Elections of Green County, Ky.*, 619 F.3d 553, 559 (6th Cir. 2010) (quoting *League of Women Voters v. Brunner*, 548 F.3d 463, 478 (6th Cir. 2008)). In making this determination, courts draw a distinction between "garden variety" election irregularities and "pervasive errors that undermine the integrity of the system." *Bennett v. Yoshina*, 140 F.3d 1218, 1226, (9th Cir. 1998).

66. The wrong precinct provisional ballots rejected pursuant to state law in the November 2010 election resulted from "garden variety election irregularities" that arise in each election.

67. The Due Process Clause is simply not implicated by a *negligent* act of an official causing unintended loss of or injury to life, liberty, or property." *Daniels v. Williams*, 474 U.S. 327, 328, 106 S.Ct. 662 (1986).

68. It has not been proven that poll workers intentionally deprived voters of their right to vote. See *Snowden* at 8 (mere negligence is insufficient for §1983 liability).

69. The voters of the 31 ballots did everything right and presented themselves at the correct place to vote; and the sole error was made by the Board employee who gave them the wrong ballot. The voters of the 850 ballots made an error for which they have some culpability regardless of any poll worker error. For this reason, the Board did not violate the Due Process rights of the 849 voters when it counted the 31 ballots.

70. The right to vote is fundamental, but it is not without limits. See *Burdick v. Takushi*, 504 U.S. 428, 433, 112 S. Ct. 2059 (1992).

71. Not every deprivation of a liberty or property right requires a pre-deprivation hearing or a federal remedy. See *Ramsey v. Bd. of Educ.*, 844 F.2d 1268, 1273 (6th Cir. 1988). Instead, "due

process is flexible and calls for procedural protections as the particular situation demands.”
Mathews v. Eldridge, 424 U.S. 319, 334, 96 S.Ct. 893 (1976).

72. To determine what process is due, the Court must consider three factors: (1) the private interest that will be affected by state action; (2) risk of erroneous deprivation of such interest and the probable value if any on the additional safeguards or substitute procedural safeguards; and (3) the government’s interest including the administrative burdens that the additional requirement would entail. *Id.* at 335.

73. In this case, voters are not entitled to any post-deprivation procedure.

74. The Board’s actions did not violate procedural Due Process.

75. The poll workers are not defendants. There is no respondeat superior liability in actions under § 1983, and there is no evidence that a government custom or policy led to any adverse action against Plaintiffs. *See Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 691, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978); *Scarborough v. Morgan County Bd. of Educ.*, 470 F.3d 250, 261 (6th Cir.2006).

76. Plaintiffs failed to allege that the poll workers were acting under an unconstitutional policy of the Board.

77. The Board Members are not vicariously liable for the actions of its poll workers.

I. Remedy

78. *Painter* held that the investigation undertaken by the Board is contrary to Ohio law and the results of that investigation should not be considered. *Painter* at ¶ 51.

79. The election of any person to any public office, submitted to the voters, may be contested by qualified electors of the state or a political subdivision pursuant to an election contest. The election contest procedure described in R.C. 3515.08 et seq. is the statutory process for determining the outcome of an election.

80. *Painter* held that the votes cast in the wrong precinct are illegal votes under Ohio law and that poll worker error is not an exception allowing such votes to be counted.

81. Because the wrong precinct votes are illegal under Ohio law, it is inappropriate for the Court to order a remedy to count those illegal ballots.

Respectfully submitted,

JOSEPH T. DETERS
PROSECUTING ATTORNEY
HAMILTON COUNTY, OHIO
BY:

/s/ David T. Stevenson
James W. Harper
David T. Stevenson
Thomas Grossmann
Colleen McCafferty
Assistant Prosecuting Attorneys
Hamilton County, Ohio
230 E. Ninth Street, Suite 4000
Cincinnati, OH 45202

/s/ R. Joseph Parker
R. Joseph Parker
Beth A. Bryan
Taft Stettinius & Hollister LLP
425 Walnut Street, Suite 1800
Cincinnati, OH 45202-3957

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed on August 26, 2011 using the Court's CM/ECF system, which will transmit notice of the filing to all counsel of record in this case.

/s/ David T. Stevenson
David T. Stevenson

Table 1

	JX 12 Page No	Prov ID	Particularized Witness Testimony	PW Did Not Look Up Address	PW Did Not Remember Voter or Circumstan ces	PW Believed Voter Was in the Correct Precinct	Voter May Have Insisted Upon Voting in that Precinct	PW Did Warn Voter per R.C. 3505.183	PW Did Not Process Any Provisional Voters	Ballot Contained Other Fatal Flaw	NEOCH Ballot - only last 4 of SS Provided	Not NEOCH Ballot - ID Provided Checked	BOE Notes	BOE Testimony 12/16/2010 or 12/17/2010
1	000001	1921	TR (Horton) 2-107-138	Yes			Yes							
2	000003	2204												
3	000005	9382												
4	000007	9383	TR (Kennedy) 9-31-60	Yes										JX 26 p. 134
5	000009	9384	JX 23 p. 41-58											JX 23 p. 48, 53
6	000011	9385												
7	000013	9386												
8	000015	9387												
9	000017	9388	TR (Nichols) 8-53-67	Yes	Yes	Yes								
10	000019	9389	TR (Nichols) 8-53-67	Yes	Yes	Yes						Yes	Not NEOCH -ID provided	JX 95 p 0003
11	000021	9390												
12	000023	9391												
13	000031	9394									Yes			
14	000033	9395												
15	000037	9396									Yes			
16	000039	9397										Yes	Not NEOCH - ID provided box is checked	JX 23 p. 68
17	000041	9398	JX 24 p. 44-50									Yes	Not NEOCH - ID provided box is checked	JX 24 p. 44, JX 26 p. 176
18	000043	9399	JX 24 p. 52-67											JX 24 p. 56
19	000045	9400	TR (Stoops) 6-65-86	Yes		Yes	Yes							JX 24 p. 15
20	000047	9401	TR (Stoops) 6-65-86	Yes		Yes	Yes							JX 24 p. 15
21	000049	9402	TR (Crooms) 9-64-95	Yes	Yes	Yes								
22	000053	9404									Yes			
23	000055	9405												
24	000057	9406												
25	000059	9407							Yes (Singer)				Singer testified about ballot- TR 2.210-.228	
26	000061	9408	TR (Singer) 2-211-228						Yes					
27	000065	9409											Provisional Judge signed verification statement	
28	000067	9410	TR (Warren) 7-175-194	Yes	Yes	Yes	Yes							
29	000075	9414	TR (M. Jackson) 8-137- 152	Yes	Yes	Yes								
30	000079	9416	TR (Yarbrough) 9-140- 165		Yes	Yes								
31	000081	9417									Yes			
32	000085	9419	TR (Humphries) 6-128- 164		Yes									

Table 1

33	000087	9420											Provisional Judge signed verification statement
34	000089	9421											Provisional Judge signed verification statement
35	000091	9422	TR (Warren) 7-175-194	Yes	Yes	Yes		Yes					
36	000093	9423											Provisional Judge signed verification statement
37	000095	9424	TR (Brenner) 7-27-47	Yes	Yes	Yes		Yes			Yes		Provisional Judge signed verification statement
38	000097	9425											
39	000099	9426	TR (Warren) 7-175-194	Yes	Yes			Yes					
40	000103	9428	TR (Chandler) 7-124-148	Yes	Yes	Yes							
41	000111	9432	TR (Moore) 2-229-247										Provisional Judge signed verification statement
42	000115	9434	TR (Thrash) 6-169-202	Yes		Yes							
43	000117	9435	TR (Thrash) 6-169-202	Yes		Yes							Provisional Judge signed verification statement
44	000119	9436											Provisional Judge signed verification statement
45	000121	9437	TR (Moore) 2-229-247										DX1013 No Voter Printed Name Voter did not provide printed name. Provisional Judge signed verification statement
46	000123	9438	TR (Humphries) 6-128-164 & TR (Chapman) 3-198-205		Yes								
47	000125	9439	TR (Moore) 2-229-247										Provisional Judge signed verification statement
48	000127	9440											
49	000131	9441									Yes		
50	000133	9442											
51	000137	9443											Provisional Judge signed verification statement
52	000139	9444											
53	000141	9445	TR (J. Williams) 6-79-126	Yes	Yes	Yes		Yes					
54	000143	9446											
55	000145	9447	TR (Hampton) 2-189-207	Yes		Yes							
56	000147	9448											
57	000149	9449	TR (Thomas) 7-149-174	Yes	Yes	Yes							

Table 1

58	000151	9450													
59	000155	9451	TR (Claborn) 2-151-188	Yes	Yes	Yes	Yes								
60	000159	9453												Provisional Judge signed verification statement	
61	000161	9454													
62	000163	9455													
63	000165	9456	TR (Claborn) 2-151-188	Yes	Yes	Yes	Yes					Yes			
64	000167	9457													
65	000169	9458	TR (Re.Jackson) 5-3-20	Yes		Yes									JX 26 p. 24
66	000171	9459													
67	000173	9460												Provisional Judge signed verification statement	
68	000177	9461												Provisional Judge signed verification statement	
69	000179	9462													
70	000181	9463	TR (Tubbs) 8-3-43	Yes	Yes										
71	000183	9464	TR (Tubbs) 8-3-43	Yes	Yes									Not an even-odd situation. Both sides of voter's street address range falls within the same precinct. (400-899 Dayton Street = Cinti 18-C	
72	000185	9465	TR (Tubbs) 8-3-43	Yes	Yes										
73	000187	9466													
74	000189	9467													
75	000191	9468													
76	000193	9469													
77	000195	9470													
78	000197	9471										Yes		Not NEOCH - ID provided box is checked	
79	000199	9472										Yes		Not NEOCH - ID provided box is checked	
80	000201	9473													
81	000203	9474	TR (Flannery) 7-100-120	Yes	Yes	Yes									
82	000205	9475	TR (Flannery) 7-100-120	Yes	Yes	Yes									
83	000207	9476										Yes		Not NEOCH ID provided	
84	000209	9477													
85	000211	9478													
86	000213	9479	TR (Singer) 2-211-228						Yes			Yes			
87	000215	9480	TR (Claborn) 2-151-188	Yes	Yes	Yes	Yes								
88	000217	9481	TR (Claborn) 2-151-188	Yes	Yes	Yes	Yes								

Table 1

89	000219	9482	TR (Claborn) 2-151-188	Yes	Yes	Yes	Yes												
90	000221	9483	TR (Claborn) 2-151-188	Yes	Yes	Yes	Yes												
91	000223	9484	TR (Claborn) 2-151-188	Yes	Yes	Yes	Yes												
92	000225	9485																	
93	000227	9486	TR (Claborn) 2-151-188	Yes	Yes	Yes	Yes												
94	000229	9487	TR (Rouse) 4-3-47	Yes									Yes						
95	000231	9488	TR (Rouse) 4-3-47	Yes									Yes						
96	000233	9489	TR (Hampton) 2-189-207	Yes			Yes												
97	000237	9490																	
98	000239	9491																	
99	000241	9492																	
100	000243	9493																	
101	000245	9494	TR (M. Jackson) 8-137-152	Yes	Yes	Yes													
102	000247	9495																	
103	000251	9497																	
104	000253	9498																	
105	000259	9501																	
106	000261	9502																	
107	000263	9503																	
108	000265	9504	JX 25 p 127-153 & TR (Burke) 1-215-219																JX 25 p. 127
109	000269	9506	TR (Warren) 7-175-194	Yes	Yes	Yes						Yes							
110	000271	9507																	
111	000273	9508	TR (Moore) 2-229-247																Provisional Judge signed verification statement
112	000277	9509	TR (Warren) 7-175-194	Yes	Yes	Yes						Yes							
113	000279	9510											Yes						
114	000281	9511	TR (Moore) 2-229-247																
115	000285	9512																	Provisional Judge signed verification statement
116	000287	9513	TR (Yarbrough) 9-140-165			Yes	Yes							Yes					
117	000289	9514																	
118	000291	9515																	JX 22 p. 79
119	000293	9516																	
120	000295	9517																	
121	000297	9518																	
122	000299	9519	TR (Kennedy) 9-31-60; JX 26 p. 144-48																JX 26 p. 134
123	000303	9521																	
124	000305	9522																	
125	000307	9523																	
126	000309	9524																	
127	000311	9525																	
128	000313	9526																	
129	000315	9527																	
130	000317	9528	TR (Tubbs) 8-3-43	Yes	Yes														
131	000321	9530	TR (C. Hill) 3-4-33	Yes			Yes												
132	000325	9531																	

Table 1

133	000329	9533															Provisional Judge signed verification statement	
134	000331	9534																
135	000335	9536																
136	000341	9539	TR (Warren) 7-175-194	Yes	Yes	Yes		Yes										
137	000343	9540	TR (M. Jackson) 8-137-152	Yes	Yes	Yes												
138	000347	9542																
139	000349	9543											Yes					
140	000351	9544																JX 26 p. 69
141	000353	9545																JX 26 p. 154
142	000359	9548																
143	000361	9549																
144	000363	9550												DX 1013 No Voter signature			Voter did not sign envelope	JX 25 p. 64
145	000367	9551																
146	000371	9553																
147	000373	9554																
148	000375	9555																
149	000377	9556																
150	000383	9559	TR (P. Thompson) 9-114-135		Yes	Yes	Yes											
151	000385	9560																
152	000389	9562																
153	000391	9563																
154	000393	9564																Provisional Judge signed verification statement
155	000399	9566																
156	000401	9567	TR (Brown) 9-96-113			Yes												
157	000405	9569																
158	000421	9577	TR (Hartmann) 8-183-196	Yes	Yes	Yes												
159	000423	9578	TR (J. Williams) 6-79-126	Yes	Yes	Yes		Yes						DX 1013 No Voter Printed Name			Voter did not provide printed name	
160	000427	9579												DX 1013 No Voter Signature			Voter did not sign envelope	
161	000431	9580	JX 24 p. 59-86										Yes			Not NEOCH - ID provided box is checked	JX 23 p. 68	
162	000435	9581	TR (Haynes) 8-162-182		Yes	Yes												JX 25 p. 114
163	000437	9582	TR (Hartmann) 8-183-196	Yes	Yes	Yes												
164	000439	9583	TR (P. Thompson) 9-114-135		Yes	Yes	Yes											
165	000445	9586																
166	000447	9587																

Table 1

167	000449	9588																Provisional Judge signed verification statement	
168	000453	9590																	
169	000457	9592																	
170	000459	9593	TR (Re. Jackson) 5-3-20	Yes			Yes												JX 26 p. 24
171	000463	9594	TR (Crooms) 9-64-95	Yes	Yes		Yes												
172	000469	9597																	
173	000471	9598	JX 26 p. 118-121; TR (Haynes) 8-162-182				Yes	Yes										Not Caretta Haynes that was interviewed at the BOE	JX 26 p. 118
174	000475	9600	TR (Kennedy) 9-31-60	Yes															JX 26 p. 134
175	000477	9601																	
176	000481	9603																	
177	000487	9606																	
178	000493	9609																	
179	000497	9611																	
180	000499	9612																	
181	000503	9614																	
182	000507	9616																	
183	000513	9619																	
184	000515	9620	TR (Horton) 2-107-138	Yes						Yes									
185	000519	9622																	
186	000521	9623	TR (Horton) 2-107-138	Yes						Yes									
187	000523	9624	TR (Horton) 2-107-138	Yes						Yes									
188	000525	9625	TR (Moore) 2-229-247															Provisional Judge signed verification statement	
189	000533	9628																	
190	000535	9629	TR (Moore) 2-229-247															Provisional Judge signed verification statement	
191	000537	9630																	
192	000545	9634	TR (P. Thompson) 9-114-135			Yes	Yes	Yes											
193	000547	9635	TR (Humphries) 6-128-164			Yes													
194	000551	9637																	
195	000553	9638	TR (Gentry) 4-158-176			Yes												Provisional Judge signed verification statement	
196	000555	9639	TR (Nichols) 8-53-67	Yes	Yes		Yes												
197	000561	9642																	
198	000565	9644																	
199	000567	9645																	
200	000569	9646																	
201	000573	9648																	
202	000575	9649	TR (Cook) 7-70-100			Yes	Yes			Yes									
203	000577	9650																Provisional Judge signed verification statement	

Table 1

204	000579	9651												
205	000581	9652												
206	000583	9653												
207	000585	9654												
208	000587	9655												
209	000589	9656	TR (Crabtree) 3-177-197		Yes		Yes							
210	000591	9657	TR (Crabtree) 3-177-197		Yes		Yes							
211	000593	9658												
212	000595	9659												
213	000597	9660	TR (Jacobs) 8-116-129		Yes		Yes							
214	000599	9661	TR (Jacobs) 8-116-129		Yes		Yes							
215	000601	9662	TR (Jacobs) 8-116-129		Yes		Yes							
216	000603	9663												
217	000605	9664									Yes	Not NEOCH - ID provided box is checked		
218	000607	9665												
219	000609	9666												
220	000611	9667												
221	000613	9668												
222	000615	9669												
223	000617	9670	TR (Carter) 8-242-258		Yes	Yes								
224	000619	9671								Yes				
225	000621	9672	TR (Cook) 7-70-100		Yes	Yes		Yes				Voter listed Cook's address as current residence		
226	000623	9673												
227	000625	9674												
228	000627	9675												
229	000629	9676												
230	000631	9677	TR (Byrd) 9-166-189	Yes	Yes									
231	000635	9678	TR (Gehring) 6-6-28	Yes	Yes		Yes							
232	000637	9679	TR (Lynem) 3-104-136	Yes	Yes									
233	000639	9680	TR (Lynem) 3-104-136	Yes	Yes									JX 25 p. 71
234	000643	9682	TR (A. Johnson) 6-50-75	Yes	Yes									
235	000649	9685												
236	000653	9687	TR (Hartmann) 8-183-196	Yes	Yes	Yes								
237	000655	9688	TR (Hartmann) 8-183-196	Yes	Yes	Yes								
238	000657	9689												
239	000663	9692												
240	000665	9693												
241	000667	9694	TR (V. Williams) 4-107-135	Yes	Yes		Yes							
242	000671	9695												
243	000673	9696	TR (Ro. Jackson) 4-84-106	Yes	Yes	Yes								

Table 1

244	000677	9697	TR (V. Williams) 4-107-135	Yes	Yes			Yes									
245	000681	9698	TR (V. Williams) 4-107-135	Yes	Yes			Yes									
246	000685	9699															
247	000687	9700															
248	000639	9703															Provisional Judge signed verification statement
249	000695	9704															
250	000697	9705	TR (A. Johnson) 6-50-75	Yes	Yes												
251	000699	9706	TR (Horton) 2-107-138	Yes				Yes									
252	000703	9707	TR (Horton) 2-107-138	Yes				Yes									
253	000705	9708	TR (Horton) 2-107-138	Yes				Yes									
254	000707	9709															Not an even-odd situation. Both sides of voter's street address range falls within the same precinct. (600-799 Main St = Cinti 6-F)
255	000709	9710															
256	000711	9711															
257	000713	9712															
258	000715	9713															
259	000717	9714															
260	000721	9715	TR (Chandler) 7-124-148	Yes	Yes	Yes											
261	000723	9716															
262	000725	9717	TR (Evans) 5-21-47	Yes	Yes			Yes									
263	000727	9718															
264	000729	9719	TR (Brenner) 7-27-47	Yes	Yes	Yes		Yes									Provisional Judge signed verification statement
265	000731	9720															
266	000733	9721															
267	000737	9724															
268	000739	9725	TR (D. Williams) 3-34-72		Yes	Yes		Yes									
269	000741	9726	TR (Crabtree) 3-177-197		Yes		Yes										
270	000745	9727	TR (Moon) 3-137-172		Yes	Yes	Yes	Yes									JX 25 p.4
271	000747	9728															Provisional Judge signed verification statement
272	000749	9729															Provisional Judge signed verification statement
273	000753	9730															
274	000755	9731															

Table 1

275	000759	9733																	
276	000761	9734	TR (D. Williams) 3-34-72		Yes	Yes		Yes											
277	000763	9735																	
278	000765	9736											DX 1013 No I.D.						Voter failed to provide ID. Provisional Judge signed verification statement
279	000769	9737																	
280	000771	9738	JX 24 p. 52-67																JX 24 p. 56
281	000773	9739	TR (Yates) 8-90-115	Yes	Yes	Yes													
282	000775	9740	TR (Yates) 8-90-115	Yes	Yes	Yes													
283	000777	9741	TR (Kermos) 8-153-161 & 10-9-18						Yes(Singer)										Singer also testified TR 2.210-.228
284	000779	9742																	
285	000781	9743	TR (Hall-Muhammad) 4-48-83	Yes		Yes	Yes												
286	000785	9744	TR (Hall-Muhammad) 4-48-83	Yes		Yes	Yes												
287	000789	9745																	JX 24 p. 16
288	000791	9746																	
289	000795	9748	TR (Crooms) 9-64-95	Yes	Yes	Yes													
290	000799	9750																	
291	000801	9751	TR (Moon) 3-137-172		Yes		Yes	Yes											JX 25 p. 11, JX 26 p. 32
292	000803	9752	TR (Moon) 3-137-172		Yes	Yes	Yes	Yes											JX 25 p. 24
293	000805	9753	TR (Moon) 3-137-172		Yes	Yes	Yes	Yes											JX 25 p. 24
294	000807	9754	TR (Carter) 8-242-258		Yes	Yes													
295	000809	9755	TR (Moon) 3-137-172		Yes	Yes	Yes	Yes											JX 25 p. 11; JX 26 p. 32
296	000811	9756	TR (Moon) 3-137-172		Yes	Yes	Yes	Yes											JX 25 p. 24
297	000813	9757																	
298	000815	9758	TR (Brown) 9-96-113			Yes													
299	000817	9759																	
300	000819	9760																	
301	000821	9761																	Provisional Judge signed verification statement
302	000827	9764	JX 23 p. 20-41																JX 23 p. 14, 33
303	000829	9765	TR (Ornelas) 5-141-149																
304	000831	9766																	
305	000839	9769	JX 26 p. 2-19																JX 25 p. 87
306	000841	9770																	
307	000843	9771																	
308	000845	9772	TR (T. Hill) 7-17-26																
309	000847	9773																	
310	000849	9774	TR (Schlueter) 10-178-187																

Table 1

343	000947	9815													
344	000949	9816													
345	000951	9817											Provisional Judge signed verification statement		
346	000953	9818													
347	000955	9819													
348	000957	9820	TR (Webb) 5-52-62	Yes			Yes								
349	000965	9823													
350	000969	9824													
351	000979	9829	TR (Tubbs) 8-3-43	Yes	Yes										
352	000981	9830	TR (Tubbs) 8-3-43	Yes	Yes										
353	000983	9831													
354	000985	9832													
355	000987	9833													
356	000989	9834	TR (Claborn) 2-151-188	Yes	Yes	Yes	Yes								
357	000991	9835													
358	000997	9838													
359	000999	9839	TR (Claborn) 2-151-188	Yes	Yes	Yes	Yes								
360	001003	9840	TR (Rouse) 4-3-47	Yes					Yes						
361	001005	9841													
362	001009	9842	TR (Moore) 2-229-247											Provisional Judge signed verification statement	
363	001015	9844	TR (Moore) 2-229-247											Provisional Judge signed verification statement	
364	001021	9846										Yes			
365	001023	9847	TR (Humphries) 6-128-164		Yes										
366	001025	9848												Provisional Judge signed verification statement	
367	001027	9849												Provisional Judge signed verification statement	
368	001029	9850	TR (Moore) 2-229-247											Provisional Judge signed verification statement	
369	001033	9851	TR (Gentry) 4-158-176		Yes										
370	001035	9852	TR (Warren) 7-175-194	Yes	Yes	Yes			Yes						
371	001037	9853	TR (J. Williams) 6-79-126	Yes	Yes	Yes			Yes						
372	001039	9854													
373	001045	9857	TR (Walker) 6-40-49									Yes			JX 22 p. 84
374	001047	9858	TR (Thomas) 7-149-174	Yes	Yes	Yes									
375	001051	9860													
376	001053	9861	TR (Thomas) 7-149-174	Yes	Yes	Yes									
377	001057	9863	TR (Nichols) 8-53-67	Yes	Yes	Yes									
378	001059	9864													
379	001061	9865													
380	001065	9867													

Table 1

381	001067	9868													Provisional Judge signed verification statement	
382	001071	9869														
383	001073	9870														
384	001075	9871														
385	001077	9872													Provisional Judge signed verification statement	
386	001079	9873														
387	001081	9874														
388	001083	9875														
389	001085	9876														
390	001087	9877	TR (Burton) 3-212-222													
391	001089	9878														
392	001095	9881														
393	001097	9882	TR (Lynem) 3-104-136	Yes	Yes											
394	001099	9883	TR (Lynem) 3-104-136	Yes	Yes											
395	001101	9884														
396	001103	9885														
397	001105	9886														
398	001107	9887														
399	001109	9888														
400	00115	9890	JX 26 p. 44-54												Not an even-odd situation. Both sides of voter's street address range falls within the same precinct. (1200-1250 West Rookwood = Cinti 5-l)	JX 26 p. 44
401	001117	9891														
402	001119	9892														
403	001121	9893	TR (Lynem) 3-104-136	Yes	Yes										Provisional Judge signed verification statement	
404	001129	9896	TR (Ro. Jackson) 4-84-106	Yes	Yes	Yes										
405	001131	9897														
406	001133	9898	TR (Hartmann) 8-183-196	Yes	Yes	Yes										
407	001135	9899	TR (Flannery) 7-100-120	Yes	Yes	Yes										
408	001137	9900	TR (Flannery) 7-100-120	Yes	Yes	Yes										
409	001139	9901														
410	001141	9902	TR (John) 3-206-211													
411	001145	9904														

Table 1

412	001147	9905	TR (Hall-Muhammad) 4-48-83	Yes		Yes	Yes										
413	001149	9906	TR (Hall-Muhammad) 4-48-83	Yes		Yes	Yes										
414	001151	9907	TR (Hall-Muhammad) 4-48-83	Yes		Yes	Yes										
415	001153	9908	TR (Hall-Muhammad) 4-48-83	Yes		Yes	Yes										
416	001157	9910	TR (Hartmann) 8-183-196	Yes	Yes	Yes											
417	001159	9911	TR (A. Johnson) 6-50-75	Yes	Yes												
418	001161	9912	TR (A. Johnson) 6-50-75	Yes	Yes												
419	001163	9913															
420	001167	9915															
421	001177	9919															
422	001179	9920	TR (V. Williams) 4-107-135	Yes	Yes			Yes									
423	001181	9921	TR (D. Williams) 3-34-72		Yes	Yes		Yes									Not an even-odd situation. No part of the voter's street is in the precinct the voter voted in (Silverton C).
424	001183	9922															
425	001185	9923	TR (Thrash) 6-169-202	Yes		Yes				Yes							
426	001187	9924	TR (Thrash) 6-169-202	Yes		Yes											
427	001189	9925	TR (Thrash) 6-169-202	Yes		Yes											
428	001191	9926															
429	001193	9927															
430	001195	9928	TR (Strauss) 3-73-97	Yes	Yes	Yes											Provisional Judge signed verification statement
431	001199	9929								Yes							
432	001201	9930															
433	001203	9931															
434	001205	9932															
435	001211	9935															
436	001215	9936	TR (Brown) 9-96-113		Yes	Yes											
437	001217	9937															
438	001219	9938	TR (Evans) 5-21-47	Yes	Yes			Yes									
439	001221	9939															
440	001223	9940															
441	001225	9941															
442	001227	9942															JX 22 p. 71
443	001229	9943															
444	001231	9944															JX 22 . 40
445	001233	9945															Provisional Judge signed verification statement
446	001241	9949															

Table 1

447	001245	9951	TR (Gehring) 6-6-28	Yes	Yes			Yes											
448	001247	9952	TR (Horton) 2-107-138	Yes				Yes											
449	001249	9953	TR (A. Johnson) 6-50-75	Yes	Yes														
450	001251	9954	TR (A. Johnson) 6-50-75	Yes	Yes														
451	001253	9955																	
452	001255	9956																	
453	001257	9957																	
454	001259	9958																	
455	001261	9959																	
456	001263	9960																	
457	001265	9961																	
458	001269	9963																	Provisional Judge signed verification statement
459	001271	9964																	
460	001273	9965																	
461	001275	9966	TR (Carter) 8-242-258		Yes	Yes													
462	001279	9968																	
463	001281	9969	TR (V. Williams) 4-107-135	Yes	Yes			Yes											
464	001283	9970	TR (Evans) 5-21-47	Yes	Yes			Yes											
465	001285	9971	TR (P. Thompson) 9-114-135		Yes	Yes	Yes												
466	001287	9972																	
467	001291	9974																	
468	001293	9975																	
469	001295	9976																	JX 22 p. 84
470	001297	9977																	
471	001299	9978																	
472	001301	9979																	
473	001303	9980																	
474	001305	9981																	Provisional Judge signed verification statement
475	001309	9983	TR (C. Hill) 3-4-33	Yes		Yes													
476	001311	9984																	
477	001313	9985																	
478	001315	9986																	
479	001319	9988																	
480	001321	9989																	
481	001323	9990																	
482	001325	9991																	
483	001327	9992																	
484	001329	9993	TR (Lovette) 9-240-256	Yes	Yes	Yes													
485	001331	9994	TR (Lovette) 9-240-256	Yes	Yes	Yes													
486	001333	9995	TR (M. Jackson) 8-137-152 & TR (Turk) 11-99-109	Yes	Yes	Yes													
487	001335	9996																	
488	001339	9998																	
489	001341	9999																	

Table 1

490	001345	10001	JX 23 p. 108-123											JX 23 p. 109, JX 25 p. 159
491	001347	10002	JX 23 p. 108-123											JX 23 p. 112, JX 25 p. 157
492	001351	10004												
493	001353	10005	TR (Horton) 2-107-138	Yes				Yes						
494	001355	10006	TR (Hampton) 2-189-207	Yes			Yes							
495	001357	10007	TR (Thomas) 7-149-174	Yes	Yes		Yes							
496	001359	10008												
497	013610	10009												
498	001363	10010												
499	001365	10011												
500	001367	10012												
501	001369	10013												
502	001371	10014												
503	001373	10015	TR (Chandler) 7-124-148	Yes	Yes		Yes							
504	001375	10016												
505	001377	10017												
506	001379	10018	TR (Hampton) 2-189-207	Yes			Yes							
507	001381	10019	TR (Hampton) 2-189-207	Yes			Yes							
508	001383	10020	TR (Hampton) 2-189-207	Yes			Yes							
509	001385	10021												
510	001389	10023												
511	001391	10024												Provisional Judge signed verification statement
512	001395	10026												Provisional Judge signed verification statement
513	001397	10027												
514	001399	10028												
515	001401	10029	TR (R. Johnson) 8-68-89											Provisional judge signed verification statement. J. Williams signed back
516	001407	10032	TR (Lynem) 3-104-136	Yes	Yes									
517	001409	10033												Provisional Envelope is marked "Challenged Voter"
518	001413	10034		Yes	Yes		Yes		Yes					Provisional Judge signed verification statement.J. Brenner signed back only TR 7.27-.47

Table 1

519	001415	10035											
520	001417	10036											
521	001419	10037	TR (Carter) 8-242-258		Yes	Yes							
522	001421	10038											
523	001425	10040	TR (Lovette) 9-240-256	Yes	Yes	Yes							
524	001427	10041	TR (Thrash) 6-169-202	Yes		Yes						Provisional Judge signed verification statement	
525	001431	10042											
526	001433	10044											
527	001437	10045											
528	001439	10046											JX 22 p. 59
529	001443	10047	TR (Nesteide) 9-257-265										JX 25 p. 130
530	001445	10048											JX 25 p. 130
531	001447	10049	TR (Chandler) 7-124-148	Yes	Yes	Yes							
532	001449	10050	TR (Chandler) 7-124-148	Yes	Yes	Yes							
533	001451	10051	TR (Re. Jackson) 5-3-20										JX 26 p. 24
534	001453	10052	TR (Yarbrough) 9-140-165		Yes	Yes				DX 1013 No I.D.		Voter failed to provide ID	
535	001455	10053	TR (Yarbrough) 9-140-165		Yes	Yes				DX 1013 No I.D.		Voter failed to provide ID	
536	001457	10054	TR (Cook) 7-70-100		Yes	Yes		Yes		DX 1013 No I.D.		Voter failed to provide ID	
537	001461	10055											
538	001463	10056											
539	001465	10057											
540	001467	10059											
541	001471	10061											
542	001473	10062											
543	001475	10063	TR (Hampton) 2-189-207	Yes		Yes							
544	001477	10064	TR (Hampton) 2-189-207	Yes		Yes							
545	001479	10065											
546	001481	10066	TR (Re. Jackson) 5-3-20										JX 26 p. 24
547	001485	10068											
548	001491	10071											
549	001495	10073											
550	001497	10074											
551	001499	10075											
552	001501	10076											
553	001505	10078											
554	001507	10079											
555	001509	10080											
556	001511	10081	TR (Howard) 7-8-16										
557	001513	10082	TR (J. Williams) 6-79-126	Yes	Yes	Yes		Yes					
558	001515	10083											

Table 1

559	001517	10084	TR (Strauss) 3-73-97	Yes	Yes	Yes								Provisional Judge signed verification statement	
560	001519	10085													
561	001521	10086													
562	001523	10087	TR (Strauss) 3-73-97	Yes	Yes	Yes									
563	001525	10088													JX 25 p. 74
564	001529	10090													
565	001531	10091													
566	001533	10092													
567	001535	10093	TR (Rouse) 4-3-47	Yes				Yes							
568	001537	10094													
569	001539	10095													
570	001541	10096													
571	001547	10099													
572	001549	10100	TR (Kissling) 8-44-52												
573	001551	10101													
574	001553	10102	TR (Moon) 3-137-172											Not Processed by Moon	JX 25 p. 4
575	001555	10103	TR (Patterson) 4-139-157												JX 22 p.110
576	001557	10104													
577	001559	10105	TR (C. Hill) 3-4-33	Yes		Yes									
578	001561	10106	TR (C. Hill) 3-4-33	Yes		Yes									
579	001563	10107	TR (C. Hill) 3-4-33	Yes		Yes									
580	001565	10108	JX 25 p. 44-60												JX 25 p.44
581	001567	10109													
582	001569	10110												Provisional Judge signed verification statement	
583	001573	10112													JX 26 p. 81
584	001575	10113	TR (C. Hill) 3-4-33	Yes		Yes									
585	001577	10114	TR (C. Hill) 3-4-33	Yes		Yes									
586	001579	10115													
587	001583	10117													
588	001585	10118													
589	001587	10119													
590	001589	10120			Yes	Yes	Yes	Yes						Signed by Moon TR 3.137-.154, 3.157-.174	JX 25 p. 24
591	001591	10121													
592	001593	10122	TR (Hampton) 2-189-207	Yes		Yes									
593	001595	10123	TR (Hampton) 2-189-207	Yes		Yes									
594	001597	10124	TR (Chandler) 7-124-148	Yes	Yes	Yes									
595	001601	10126	TR (Brenner) 7-27-47	Yes	Yes	Yes		Yes						Provisional Judge signed verification statement	
596	001603	10127	TR (M. Jackson) 8-137-152	Yes	Yes	Yes									
597	001605	10128	TR (Yates) 8-90-115	Yes	Yes	Yes									

Table 1

598	001607	10129	TR (Brenner) 7-27-47	Yes	Yes	Yes		Yes						Provisional Judge signed verification statement	
599	001611	10131													
600	001613	10132	TR (Joiner) 6-29-39												
601	001617	10134													
602	001619	10135													
603	001621	10136													
604	001627	10139													
605	001631	10141													
606	001633	10142													
607	001635	10143												Provisional Judge signed verification statement	
608	001637	10144													
609	001641	10146													JX 22 p. 69
610	001643	10147													JX 22 p. 70
611	001645	10148													
612	001647	10149													
613	001651	10151	TR (C. Hill) 3-4-33	Yes		Yes									
614	001653	10152													
615	001657	10154	JX 24 p. 52-67												JX 24 p. 56
616	001659	10155	TR (M. Jackson) 8-137-152	Yes	Yes	Yes									
617	001661	10156													
618	001665	10158													
619	001667	10159	JX 25 p. 109-115												JX 25 p. 109
620	001671	10161												Provisional Judge signed verification statement	
621	001673	10162													
622	001675	10163													
623	001677	10164													
624	001679	10165	TR (Tubbs) 8-3-43	Yes	Yes										
625	001683	10167													
626	001685	10168													
627	001689	10170													
628	001691	10171													
629	001693	10172													
630	001695	10173													
631	001697	10174	TR (Horton) 2-107-138	Yes				Yes							
632	001699	10175													
633	001701	10176	TR (Hartmann) 8-183-196	Yes	Yes	Yes									
634	001709	10180													
635	001711	10181													
636	001713	10182													
637	001715	10183													
638	001717	10184													
639	001719	10185													
640	001721	10186													
641	001723	10187													
642	001725	10188													

Table 1

643	001727	10189												
644	001729	10190												
645	001731	10191											Provisional Judge signed verification statement	
646	001735	10193												
647	001739	10195												
648	001741	10196												
649	001743	10197												
650	001745	10198	TR (Steward) 7-48-65	Yes	Yes	Yes		Yes						
651	001747	10199	TR (Steward) 7-48-65 & TR (J. Jones) 11-120-128	Yes	Yes	Yes		Yes						
652	001751	10200									Yes			
653	001755	10201	TR (Steward) 7-48-65 & TR (M. Jones) 11-110-119	Yes	Yes	Yes		Yes						
654	001757	10202												
655	001759	10203												
656	001765	10206	TR (Shivers) 8-200-248		Yes	Yes								
657	001767	10207												
658	001769	10208	TR (Shivers) 8-200-248		Yes	Yes								
659	001771	10209	TR (Bradley) 9-5-30	Yes	Yes		Yes	Yes						
660	001773	10210	TR (Bradley) 9-5-30	Yes	Yes		Yes	Yes						
661	001775	10211	TR (Shivers) 8-200-248		Yes	Yes								
662	001777	10212	TR (Bradley) 9-5-30	Yes	Yes		Yes	Yes						
663	001779	10213	TR (Bradley) 9-5-30	Yes	Yes		Yes	Yes						
664	001781	10214	TR (Bradley) 9-5-30	Yes	Yes		Yes	Yes						
665	001783	10215												
666	001785	10216	TR (Shivers) 8-200-248		Yes	Yes								
667	001787	10217	TR (Shivers) 8-200-248		Yes	Yes								
668	001793	10219												
669	001795	10220												
670	001797	10221												
671	PX2006 p.17	10261									Yes		No demonstrated evidence of pw error. ID provided box is checked. Voter has valid driver license on file	
672	PX2006 p.1	10262									Yes		No demonstrated evidence of pw error. Other valid phot identification box is checked in step 7 of envelope. Valid driver license on file.	

Table 1

673	PX2006 p.5	10267										Yes	No demonstrated evidence of pw error. ID provided box is checked. Voter has valid driver license on file
674	PX 2002 p.1	10308										Yes	Voted at BOE. Staff who processed voter completed questionnaire which board reviewed and found no evidence of pw error on 7/12. Valid driver license on file.
675	PX2006 p.3	10311										Yes	No demonstrated evidence of pw error. ID provided box is checked. Voter has valid driver license on file
676	PX2006 p.13	10352							Yes				No demonstrated evidence of pw error. SS # invalid per BMV/SSA
677	PX2006 p.11	10375								Yes			No demonstrated evidence of pw error.
678	PX2006 p.15	10377								Yes			No demonstrated evidence of pw error. ID provided box is checked.
679	PX2006 p.7	10378										Yes	No demonstrated evidence of pw error. ID provided box is checked. Voter had valid drivers license on file.

Table 1

680	PX2006 p.9	10379										Yes	Voter failed to sign AND voted in wrong precinct. No demonstrated evidence of pw error. ID provided box is checked. Voter has valid driver license on file.
681	001799	10495											Provisional Judge signed verification statement.
682	001801	10497	TR (Burke) 1-212-215							Yes			Invalid address - BOE cannot determine voter's correct precinct based on address provided. Cannot determine if ballot is NEOCH b/c correct location cannot be determined
683	001805	10502								Yes			Invalid address - Street name provided by voter does not exist in Hamilton County. BOE cannot determine voter's correct precinct based on address provided. Board vote on 12/28 resulted in tie vote. Former SOS Brunner broke tie vote in favor of not counting.
684	001819	10504	TR (Thomas) 7-149-174	Yes	Yes	Yes							
685	001809	10508	TR (Brenner) 7-27-47	Yes	Yes	Yes		Yes		Yes	Yes		Invalid address provided by voter (no street number). BOE cannot determine voter's correct precinct. Provisional Judge signed verification statement.

Table 1

686	001811	10510	TR (Yates) 8-90-115	Yes	Yes	Yes								
687	001815	10512												
688	001817	10516							Yes				Invalid Address - address listed by voter does not exist in Hamilton Co - BOE cannot determin voter's correct precinct	JX 25 p. 96
689	none	10548												
690	none	10549												

Table 1

BOE Agrees to Count 12/28/10 and 7/12/11 Votes
Yes
Yes

Table 1

Table 1

Table 1

Yes
Yes
12

Table 2

Voters Who Knew They Were Voting in Wrong Precinct

Regina Chapman	3-198 – 3-205	(Old precinct) not told by PW that it was correct location
Lakisha Burton	3-212 – 3-220	Knew location was wrong and vote wouldn't count 3-216
Eric Joiner	6-29 – 6-39	(Old Precinct) moved did not inform BOE. Read Step 1 and signed at 8
Andrea Ornelas	5-141 - 5-150	(Old Precinct) moved in 2009 and did not inform BOE. Read affirmation and instructions and knew that she was voting in wrong precinct.
Wendell Walker	6-40 – 6-48	(Old Precinct) moved before 2008 election and did not inform BOE. Went to old precinct because he has voted there for 20 years.
Wanda Turk	11-99 – 11-108	(Old Precinct) Moved 4 years ago and did not inform BOE. Has voted provisionally at old precinct before.
Caretta Haynes	8-162 -8-183	Poll Worker voted where she was working and knew her vote would not be counted

Table 3

Voters Who Had Some Document Telling Them Where To Vote

Tenika Hill	7-16 – 7-26	Received a letter telling her where to vote. Did not pay attention to the precinct listed on the card from the board of elections
Andrea Kissling	8-44 – 8-51	Received card and took it to poll. Knew it had precinct number on it but she didn't pay attention to it.
Miller Jones	11-110 -11-120	Received card and took it to poll. Saw precinct designation on table and did not match it to the precinct on the card.
Jewell Jones	11 – 120 – 11-128	Went with husband (Miller) who had card
Maggie Nesterheide	9-257 – 9-265	Moved prior to election. Received mailer addressed to "current resident" and voted at precinct listed on mailer.