

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

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

Plaintiff(s),)

vs.)

Case No. 2:06-CV-896

J. KENNETH BLACKWELL, in)
his official capacity as)
Secretary of State of Ohio,)

Defendant(s).)

- - - - -

DEPOSITION OF KELLY S. PALLANTE
Monday, October 30, 2006

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Deposition of KELLY S. PALLANTE, called by the Plaintiffs
for examination under the Federal Rules of Civil Procedure,
taken before me, the undersigned, Rebecca L. Brown,
Registered Professional Reporter, a Notary Public in and for
the State of Ohio, at the Trumbull County Board of
Elections, 2947 Youngstown Road, SE, Warren, OH 44484,
commencing at 4:20 p.m. the day and date above set forth.

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APPEARANCES:

On Behalf of the Plaintiffs:

Caroline H. Gentry, Esq.
Porter, Wright, Morris & Arthur LLP
One South Main Street
Suite 1600
Dayton, OH 45402

On Behalf of Kelly Pallante and Trumbull County Board of Elections:

James T. Saker, Esq.
Trumbull County Assistant Prosecutor
160 High Street
Warren, OH 44483

On Behalf of Defendant J. Kenneth Blackwell, Secretary of State of Ohio:

Richard N. Coglianesse, Esq.
Assistant Attorney General
30 East Broad Street, 17th Floor
Columbus, OH 43215

On Behalf of the Proposed Intervener the State of Ohio:

Holly Hunt, Esq.
Assistant Attorney General
30 East Broad Street, 17th Floor
Columbus, OH 43215

Special Counsel for the Secretary of State J. Kenneth Blackwell:

Christina L. Corl, Esq.
Crabbe, Brown & James
500 South Front Street, 12th Floor
Columbus, OH 43215

ALSO PRESENT:

Rokey Suleman, II

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1 KELLY S. PALLANTE

2 called by the Plaintiffs for examination under the
3 Federal Rules of Civil Procedure, after having been
4 first duly sworn, as hereinafter certified, was
5 examined and testified as follows:

6 - - - - -

7 MS. GENTRY: Before we begin,
8 for the record, I'd like to state that
9 the Plaintiff intends to use this
10 deposition testimony at the
11 preliminary injunction hearing on
12 Wednesday in lieu of live witness
13 testimony.

14 THE WITNESS: I understand.

15 MR. COGLIANESE: Just for
16 purposes of the record -- this is Rich
17 Coglianesse.

18 Just for purposes of the record,
19 we have no problem with the Plaintiffs
20 doing that. We reserve the right,
21 however, in case something comes up
22 either at this deposition or in
23 anything else that we're doing to
24 supplement the record in one way or
25 another, either through additional

1 contact with the Board or potentially
2 asking the deponent today to testify,
3 it is not our present intention to do
4 so, we don't believe such thing is
5 necessary as sitting here right now,
6 but we just don't want to waive that
7 right.

8 MR. SAKER: Understood.

9 MS. GENTRY: Could the witness
10 please state and spell her name for
11 the record.

12 THE WITNESS: Kelly, K-E-L-L-Y,
13 S., like in Sue, Pallante, P, like in
14 Paul, A-L-L-A-N-T-E.

15 - - - - -

16 EXAMINATION

17 BY MS. GENTRY:

18 Q And, Miss Pallante, have you been deposed before?

19 A Yes. On non-board matters.

20 Q You'll probably remember the ground rules, but
21 just to go over some of them briefly. If you don't
22 hear any of my questions, please let me know and I'll
23 repeat it. Okay?

24 A Okay.

25 Q If you don't understand any of my questions,

1 please let me know and I'll rephrase it.

2 A Okay.

3 Q And at any time if you want to go back and clarify
4 a previous answer, please just let me know and tell
5 your attorney and go ahead and state your
6 clarification.

7 A Okay.

8 Q Miss Pallante, could you please tell me your title
9 and your job responsibilities?

10 A I'm the Director at the Trumbull County Board of
11 Elections. I administer the daily duties here at the
12 office.

13 Q Are you administering the procedures for the
14 upcoming election in November?

15 A Yes, I am.

16 Q How long have you been director of the BOE?

17 A Since February of 2005.

18 Q And did you work for the Board of Elections before
19 that point?

20 A Yes. I started in January of 1984.

21 Q What was your position prior to becoming director?

22 A I was systems administrator for both the voter
23 registration system and the voting tabulation system.

24 Q Miss Pallante, there's several issues that I want
25 to cover with you today and I'll move through them kind

1 of quickly, hopefully.

2 The first one relates to the phrase "Current
3 utility bill, bank statement, government check,
4 paycheck or other government document" as that phrase
5 is used in the voter identification laws. Are you
6 familiar with that phrase?

7 A Yes, I am.

8 Q Okay. How is your Board of Elections interpreting
9 the word "current" as it is used in that phrase?

10 A Hold on, please.

11 Q Go off the record?

12 A Please, for one moment.

13 (Discussion had off the record.)

14 A Ma'am, in the instructions that we gave to our
15 poll workers, it's stated in the document that we gave
16 to them that the utility bill should be the current or
17 prior month.

18 Q And does that mean if they're voting in November,
19 that it should be either November or October?

20 A Yes.

21 Q And for absentee voters who vote in October, does
22 that mean it should be October or September?

23 A Yes.

24 Q How did you come up with that definition?

25 A That was what our office established as being

1 current.

2 Q Can you tell me anything about who made that
3 decision or why that decision was made?

4 A Hold on, please.

5 THE WITNESS: Off the record.

6 (Discussion had off the record.)

7 THE WITNESS: Back on the
8 record, please.

9 A The deputy director and myself, as we were making
10 the poll worker guidelines, that's what we put into
11 their instructions.

12 Q So that was a decision reached by yourself and the
13 deputy director?

14 A Yes.

15 Q Was there anybody else involved in that decision?

16 A No.

17 Q Did you say that you have written materials that
18 discuss the standards?

19 A Yes.

20 Q And was that the poll worker training manual, did
21 you say?

22 A It was actually a single document that's been part
23 of our poll worker training these last several weeks.

24 Q So poll workers have already been trained on that
25 standard?

1 A Yes.

2 Q How many poll workers does the Trumbull County
3 Board of Elections have?

4 A 1,096.

5 Q How many of those workers have already been
6 trained?

7 A Approximately -- hold on. I have to think about
8 this for one moment. Between 360 and 400. We've
9 averaged about 12 to 14 a meeting.

10 Q And then your plan is to train the remaining 700
11 or so poll workers between now and the election?

12 A Right. The meetings that we've already held were
13 for our presiding judges and any brand new workers.
14 Starting tomorrow, we will be retraining all judges and
15 presiding judges between now and Saturday afternoon.
16 Not retraining, but we have an additional meeting and
17 every poll worker has to attend the next meeting that
18 we will start tomorrow.

19 Q And what is that meeting going to be about?

20 A Election procedures during the day, from the time
21 the polls open until the time the polls close.

22 Q Did you already have that meeting scheduled before
23 today?

24 A Yes.

25 MS. GENTRY: Madam Court

1 Reporter, could you please mark as an
2 exhibit Directive 2006-78.

3 - - - - -

4 (Pallante Exhibit 1 was
5 marked for identification.)

6 - - - - -

7 Q Is that a copy of Directive 2006-78?

8 A Yes, I have it.

9 Q Miss Pallante, have you read this before?

10 A Yes, I have.

11 Q When did you read it?

12 A I read it late Thursday afternoon when we received
13 it.

14 Q At any point in time has the Trumbull County Board
15 of Elections put Directive 2006-78 into practice? Have
16 you applied it?

17 A Well, we received it on Thursday and then we got
18 another directive on Friday, the 27th, that said that
19 Directive 78 was not to be used based on the 6th
20 District Court's order. So as of today, we have not
21 had notification from the Secretary of State referring
22 back to this particular directive, but --

23 Q Is it your understanding that you will not put
24 this into effect until you hear from the Secretary of
25 State?

1 A That is the normal course of practice with our
2 Board.

3 Q Miss Pallante, could you please look at page 3 of
4 the Directive and at the top there's a section called
5 "Current." Do you see that?

6 A Yes.

7 Q What do you understand the definition in this
8 directive to be of the word "Current"?

9 A It's supposed to be dated not more than six months
10 from the date that it's actually presented to an
11 election official for the ID documents.

12 Q And that's different from the standard that you've
13 been applying previously?

14 A Yes, ma'am.

15 Q Is it your understanding that this definition of
16 current also relates to the current and valid photo ID?

17 A Yes.

18 MR. COGLIANESE: Objection.

19 (Record read.)

20 Q Miss Pallante, I'd like to move on to the issue of
21 the phrase "Other government documents." Are you
22 familiar with that as being another form of acceptable
23 identification?

24 A Yes.

25 Q How was your Board of Elections interpreting the

1 phrase "Other government documents"?

2 A In the same document that I referred to earlier,
3 we had provided a list during our poll worker training
4 sessions over the last several weeks.

5 Q Do you recall what that definition is?

6 A Yes. "Any other document that is issued by any
7 government entity is acceptable if it has the proper
8 information. These include, but not limited to car
9 registration, W-2, income tax papers (1040s and so on),
10 state university bills or grade reports, real estate
11 tax bills, notices from the Clerk of Courts. The only
12 exception is a notice and reminder of voter
13 registrations issued by the Board of Elections."

14 Q Is that the definition that your board has been
15 applying in early voting up until today?

16 A Yes.

17 Q Miss Pallante, looking at the same page of Exhibit
18 1, do you see where the Directive 78 states that,
19 quote, "As used in the statutes, government document
20 means any local, state or federal government document
21 that shows the voter's name and current address." Do
22 you see that?

23 A Yes, I do.

24 Q Under that definition, in your view, would state
25 university bills or grade records be acceptable?

1 A Universities that are state universities, yes.

2 Q Is that your complete answer?

3 A Yes.

4 Q Moving on to a different issue.

5 I have been provided some documents from Trumbull
6 County, one of them is instructions for absentee voting
7 and on this there's a picture of a driver's license
8 with an arrow pointing to the driver's license number.

9 Are you familiar with that?

10 A Yes.

11 Q Why is this on the instructions? Why did you put
12 actually a copy of the driver's license with an arrow
13 pointing to the driver's license number?

14 A Because we're very aware that some people may not
15 realize that the number above the photo is not the
16 accurate number that is required.

17 Q Have you received any applications or ballots with
18 the photograph number on it?

19 A We have.

20 Q And what is your practice when you receive the
21 photograph number -- first, let's just take the
22 application. What's your practice if you receive a
23 photograph number on the application?

24 A They are sent a letter from our office advising
25 them that they do not have a valid form of

1 identification and that they need to reapply.

2 Q What about the issue of ballots, if people put the
3 photograph number down on the ballot, what will you do
4 then?

5 A They're being held aside for our board to review
6 prior to the actual counting of that ballot.

7 Q Is it your procedure that they will be
8 automatically rejected or might you accept them after
9 you review them?

10 A No. They will be rejected.

11 Q In that case, why are you setting them aside to be
12 reviewed?

13 A Because we automatically do not reject a ballot
14 until our board has made a ruling.

15 Q But it's your understanding, under the standard
16 that will be applied, those ballots will be rejected?

17 A Yes.

18 Q Miss Pallante, what is your procedure with regard
19 to military ID cards?

20 A Military IDs that don't have addresses on them,
21 current addresses, would not be an acceptable ID.

22 Q Have you had anybody use a military ID card that
23 does have a current address on it, to your knowledge?

24 A Not to my knowledge.

25 Q Is your Board of Elections accepting drivers'