

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PROJECT VOTE, ASSOCIATION OF
COMMUNITY ORGANIZATIONS FOR
REFORM NOW, COMMON CAUSE OHIO,
PEOPLE FOR THE AMERICAN WAY
FOUNDATION, COMMUNITY OF FAITH
ASSEMBLIES CHURCH, AMERICAN
ASSOCIATION OF PEOPLE WITH
DISABILITIES, MARY KEITH, JOHN R. T.
MAY, and LINDA SCAMMICCA,

Plaintiffs,

v.

J. KENNETH BLACKWELL, individually and
in his official capacity as Secretary of State,
WILLIAM D. MASON, as Prosecuting
Attorney for **Cuyahoga** County, Ohio, and
SHERRI BEVAN WALSH, as Prosecuting
Attorney for **Summit** County, Ohio,

Defendants.

CIVIL ACTION NO. 1:06-cv-01628

Judge Kathleen M. O'Malley

Magistrate Judge Perelman

**MOTION OF PLAINTIFFS FOR PARTIAL
SUMMARY JUDGMENT**

Plaintiffs, through undersigned counsel, move this Court for partial summary judgment pursuant to Fed. R. Civ. Proc. 56 on Counts I, II, III, VI, VII, and VIII of the Complaint.

A Memorandum in Support is submitted herewith.

Respectfully submitted,

/s/ DONALD J. McTIGUE

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MEMORANDUM IN SUPPORT

Plaintiffs, including organizations engaged in voter registration activities, individuals employed by or volunteering with those organizations to assist Ohio citizens to register to vote, and individuals registering to vote with the assistance of those organizations, filed their Complaint on July 6, 2006, and Application for Preliminary Injunction on July 13, 2006, alleging that portions of Ohio Rev. Code §§ 3503.14, 3503.19, 3503.28, 3503.29, and 3599.11, enacted by Amended Substitute House Bill No. 3 of the 126th General Assembly of the Ohio legislature (“H.B. 3”), as well as the Secretary of State’s regulations and administrative practices enforcing those provisions, violated their rights under the First and Fourteenth Amendments to the United States Constitution and federal statutory law by restricting their ability to conduct voter registration drives in the state. All parties filed substantial evidentiary materials and a hearing was held on September 1, 2006, to consider Plaintiffs’ Application. The Court granted Plaintiffs’ Application from the bench and, on September 8, 2006, entered a written Memorandum and Order Granting Plaintiffs’ Application for a Preliminary Injunction, enjoining enforcement of all of the challenged portions of the new law, regulations, and administrative practices and finding that Plaintiffs were likely to succeed on the merits of their claims that those provisions violated the Constitution or the National Voter Registration Act of 1993.

Plaintiffs now seek summary judgment on their claims relative to (i) the Pre-Registration, Affirmation, and Training requirements of O.R.C. §§ 3503.28 and 3503.29, (ii) the Direct Return requirement of O.R.C. §§ 3503.19 and 3599.11, and (iii) the Compelled Disclosure requirement of O.R.C. § 3503.14, including the threat of criminal prosecutions for failing to undertake any of the acts required by these provisions, as articulated in Counts I, II, III, VI, VII, and VIII of the Complaint. Specifically, Plaintiffs respectfully request that the Court (1) declare that the challenged provisions of Ohio law, regulations, and administrative practice violate the U.S. Constitution and federal statutory law and (2) permanently enjoin

the Defendants and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, from enforcing those provisions of the Ohio Revised Code that require individuals assisting applicants to register to vote (i) to comply with the pre-registration, training and affirmation requirements of Ohio Rev. Code §§ 3503.28 and 3503.29; (ii) to return completed forms directly to any board of elections or the office of the Secretary of State, rather than entrusting those forms to a third party for delivery to the appropriate government offices, pursuant to Ohio Rev. Code §§ 3503.19(B)(2)(c) and 3599.11(B)(2)(b) & (C)(2); and (iii) to provide their name, signature, address, and employer on the voter registration form of each individual they assist, pursuant to Ohio Rev. Code § 3503.14(A) (from “The registration form shall . . . through “the applicant”) and § 3503.14 subsections (B), (D) & (E). Plaintiffs further request that all administrative regulations and practices enforcing or interpreting these provisions or otherwise imposing the requirements described above also be enjoined.

In support of their Motion, Plaintiffs hereby incorporate and adopt their Memorandum in Support of Application for Preliminary Injunction and their evidence filed in support thereof.

Respectfully submitted,

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Of Counsel

** Admitted Pro Hac Vice*

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was electronically filed this 13th day of July, 2007. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this through the Court's system.

/s/ Donald J. McTigue

Donald J. McTigue, Attorney at Law