

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

4 * * *

5 THE NORTHEAST OHIO
6 COALITION FOR THE
7 HOMELESS, et al.,

8 Plaintiffs,

9 vs. CASE NO. 2:06-CV-896

10 J. KENNETH BLACKWELL,
11 in his official capacity
12 as Secretary of State of
13 Ohio,

14 Defendant.

15 * * *

16 Deposition of JOHN WILLIAMS, Witness
17 herein called by the Plaintiffs for
18 cross-examination pursuant to the Rules of Civil
19 Procedure, taken before me, Mary Jo Stevens, a
20 Notary Public in and for the State of Ohio, at the
21 offices of the Hamilton County Board of Elections,
22 824 Broadway, Cincinnati, Ohio, on Tuesday, the
23 31st day of October, 2006, at 11:44 a.m.

24 * * *

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EXHIBITS MARKED

(Thereupon, Williams Exhibit 1 was
marked for purposes of
identification.)..... 3

1 APPEARANCES:

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Elections:

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* * *

(Thereupon, Williams Exhibit 1 was
marked for purposes of identification.)

1 JOHN WILLIAMS
2 of lawful age, Witness herein, having been first
3 duly cautioned and sworn, as hereinafter
4 certified, was examined and said as follows:

5 CROSS-EXAMINATION

6 BY MS. GENTRY:

7 Q. Mr. Williams, could you please
8 state your name for the record?

9 A. John Williams.

10 Q. Have you been deposed before,
11 Mr. Williams?

12 A. Please?

13 Q. Have you been deposed before?

14 A. No. I've been a witness.

15 Q. A few ground rules. If at any
16 time you need to take a break, just let me know
17 or let your attorney know. The only thing I
18 ask is that if there's a question pending you
19 answer it before we take a break. Do you
20 understand?

21 A. Yes.

22 Q. If you do not hear any of my
23 questions, please let me know and I'll repeat
24 it or if you do not understand any of my
25 questions, please let me know and I will

1 rephrase it. Do you understand?

2 A. Yes. What's your name?

3 Q. Caroline Gentry.

4 A. Thank you.

5 Q. You're welcome. And finally, if
6 at any point in time you wish to supplement or
7 clarify a prior answer, please let me know or
8 let your attorney know and we will make that
9 clarification.

10 A. Yes.

11 Q. Mr. Williams, could you please
12 state your title and job responsibilities?

13 A. I'm director of Hamilton County
14 Board of Elections, chief administrative
15 officer for elections in Hamilton County.

16 Q. Are you responsible for
17 administering the processes for the upcoming
18 election in November?

19 A. Yes.

20 Q. How long have you been director of
21 elections?

22 A. I believe January 29th of '04.

23 Q. What was your position prior to
24 that?

25 A. Assistant Hamilton County

1 Prosecutor.

2 Q. How long were you with the
3 Hamilton County Prosecutor's Office?

4 A. Not quite eleven years.

5 Q. Mr. Williams, several issues have
6 come up in this case and I'm going to go
7 through them, hopefully quickly.

8 A. Okay.

9 Q. The first issue relates to the
10 phrase current utility bills, bank statements,
11 government checks, paychecks or other
12 government documents which is in the voter
13 identification laws. Are you familiar with
14 that phrase?

15 A. Yes.

16 Q. How is your Board of Elections
17 interpreting the word current in that phrase?

18 A. We have just -- we have not at
19 this point attached a month deadline so we have
20 not -- we've just accepted it as on a common
21 sense basis.

22 Q. What does that mean?

23 A. Well, we have not -- there was
24 something that came out recently on the six
25 month on the directive for -- 78, 2006-78, and

1 we have -- you know, we look at the directive
2 in terms of -- excuse me, we look at current
3 as, you know, just -- on a common sense basis.
4 I mean, we have not looked and applied a date
5 to it. We've looked at obviously current
6 driver's license and all that stuff has a date
7 but we haven't really applied a deadline to the
8 current, you know -- the current -- word
9 current. We really haven't placed a deadline
10 because I don't know that we've received
11 anything on it until recently.

12 Q. When you say you have been
13 applying a common sense basis, what do you mean
14 by that?

15 A. We have not used any deadline in
16 which to differentiate. In other words, if
17 somebody came -- everything we see pretty much
18 is very recent. We haven't really seen
19 anything that's been old, so, you know, the
20 issue of something that's very old really
21 hasn't come to the Board of Elections.
22 Everybody that we're seeing is sending in, you
23 know, very recent documentation. So I don't
24 think we've had to deal with something that is
25 a three year old document or something like

1 that.

2 Q. Do you know if you have received
3 any documents older than six months?

4 A. You know, I would say no, I don't
5 believe we have.

6 Q. And when you say you haven't
7 received them, are you talking about --

8 A. I would have to certainly follow
9 up with our absentee, but I'm just not aware of
10 receiving three year old utility bills or
11 anything like that. It seems like everybody
12 here has been providing, I would say, you know,
13 good documentation as far as more recent.

14 Q. Let me ask you about the basis of
15 your understanding. Is your understanding
16 based on conversations with your staff or how
17 do you know that nothing older than six months
18 has been provided?

19 A. Some conversations with staff. I
20 also have -- from time-to-time I am out,
21 obviously around the building and I'm out when
22 absentee is returned and I have obviously
23 talked to people in the absentee department and
24 I have, first of all, not heard anything in
25 regard to an old document being sent to us that

1 they would ask me about, and also, the
2 documentation in many cases is -- in some cases
3 multiple. I mean, they give us -- we've
4 actually had people physically take pictures of
5 themselves, including with various forms of
6 documentation, and sometimes it's more than one
7 and that's not something that we've requested,
8 it's just something that the voters in Hamilton
9 County in some instances have sent us.

10 Q. Mr. Williams, I want to go back to
11 the question of the basis of your knowledge.
12 Have you asked the staff in your absentee
13 department whether any of those have received
14 identification older than six months?

15 A. I don't know that I've had a
16 specific question or anything about a document
17 older than six months. What I have talked to
18 them about is, you know -- and they are noting
19 things to me at various times, and like I said,
20 I have not seen anything or heard any comments
21 from our absentee department or other staff
22 that we've had absentee issues that would go
23 longer than six months, so I just -- I don't
24 know that I have a -- I don't know that we're
25 seeing documentation that is that old.

1 Q. And I understand your testimony to
2 be that you haven't -- you're not personally
3 aware of any documentation older than six
4 months?

5 A. That's correct.

6 Q. But can you be sure that none of
7 your staff has seen documentation older than
8 six months, and if you are sure, why?

9 A. I can't be sure about that. But I
10 would think if -- and I think our staff is very
11 good here and typically if there's an unusual
12 incident that comes to someone's attention, I
13 think we're pretty good around here about
14 trying to talk through things.

15 Q. And have you instructed your staff
16 to bring to your attention any documents that
17 are older than six months?

18 A. I have not.

19 Q. You don't know for sure that they
20 would do that?

21 A. No, I don't, but I would say our
22 course of activity here is to be fairly
23 communicative among administrators and staff.
24 We're trying to always talk out procedures and
25 things like that and this issue has not come up

1 as a problem.

2 Q. But you have not raised it either
3 with your staff; is that fair to say?

4 A. Sure. Yeah, I mean, I can't tell
5 you I said hey, we have documents older than
6 six months coming in, that's true.

7 Q. Mr. Williams, is it correct that
8 the absentee ballots that have been sent, not
9 the application, but the ballots, some of them
10 include copies of identification?

11 A. Yes.

12 Q. Have you opened those envelopes to
13 see what copies have been provided?

14 A. We have not opened any ID
15 envelopes yet.

16 Q. Is it fair to say you don't know
17 if people have sent in utility bills or bank
18 statements that are older than six months with
19 their ballots?

20 A. What we have here is typically
21 received IDs that have the identifying
22 information on the outside of that in many
23 cases and that's how I would know that they are
24 sending some of these kind of documents in so
25 it's not inside the ID, it's in that other

1 envelope, the return envelope.

2 Q. I'm trying to picture what you're
3 talking about. When you say something is on
4 the outside of the envelope, identifying
5 information is on the outside of the envelope,
6 what are you referring to?

7 A. Well, when you send an absentee
8 ballot out you have to send out an envelope
9 obviously containing quite of bit of stuff and
10 one of the things is an ID envelope itself and
11 then a return envelope so when the absentee
12 voter sends it back, they place it inside --
13 the ID envelope inside the outer envelope that
14 we provide and what I'm saying is that we have
15 identifying information inside the first
16 envelope, not the second envelope, which is the
17 ID envelope in many, many cases.

18 Q. You mean people just -- they
19 didn't put it in the ID envelope, they just
20 stuck it in the outer envelope?

21 A. Yes.

22 Q. And in that case have you been
23 reviewing that documentation to determine
24 whether it is sufficient?

25 A. Yes. We have a policy in Hamilton

1 County to -- in regard to the application and I
2 don't know if this is -- do you want to talk
3 about the application process or just the ID
4 process?

5 Q. No, right now just the balloting
6 process.

7 A. Yeah, the balloting process, we
8 would have staff members look at the ID
9 envelope and make sure that, you know, the ID
10 fits the requirements basically.

11 Q. When you say look at the ID
12 envelope, are they actually opening the ID
13 envelope?

14 A. No.

15 Q. So if somebody put their ID inside
16 the ID envelope, you haven't opened that yet?

17 A. Correct.

18 Q. And when will you open those ID
19 envelopes?

20 A. We are looking to engage in acts
21 of ballot preparation, this is very tentative
22 at this point, but I would say in the next
23 several days, and what I mean by that is
24 opening, you know, stacking all that stuff in
25 preparation for scanning and then on election

1 day counting.

2 Q. And going back to the issue of
3 current, do you currently have in effect
4 Directive 78 -- strike that. That was a bad
5 question. Have you put into effect Directive
6 78?

7 A. Well, we're certainly aware of 78.
8 In regards -- are you speaking in terms of the
9 absentee portion of it?

10 Q. Yes.

11 A. Okay. The -- one of the issues in
12 the no fault on the second page of three under
13 no fault absentee identification at polling
14 place or by mail.

15 Q. Yes.

16 A. You see that? I think it's the
17 third paragraph.

18 Q. Okay. I see it.

19 A. It talks about presenting director
20 current valid photo identification, military
21 ID, et cetera, et cetera, et cetera. Our
22 understanding is that that does not contain
23 Social Security number or full driver's license
24 number.

25 Q. You mean the last paragraph on the

1 page, early in-person voters cannot provide a
2 Social Security number or driver's license
3 number under Directive 78?

4 A. Yeah. That directive does not
5 contain Social Security number or full driver's
6 license number as a form of ID.

7 Q. And I want to get back to that
8 issue. My question was simply with regard to
9 Directive 78, are you making it all operative
10 as of today including the definition of
11 current, including the definition of other
12 government documents, all of the provisions of
13 Directive 78, are those in effect as of today?

14 A. Well, I guess in terms of absentee
15 voting, we believe it's appropriate legally to
16 have Social Security number and driver's
17 license number as a form of identification to
18 an in-person absentee voter.

19 Q. Does that mean that you're not
20 following the directive's guidance on that
21 issue currently?

22 A. It's not -- I don't know. I've
23 actually placed a call immediately upon
24 receiving this and asked -- I'm trying to think
25 of the gal's name I spoke with. They were

1 obviously tied up in meetings and I have not
2 received word in regard to whether this is a
3 change or is an omission in the directive.

4 Q. So you're waiting for guidance
5 before you apply this portion of the directive?

6 A. Correct.

7 Q. And it's your understanding that
8 early in-person voters should be permitted to
9 provide a Social Security number or driver's
10 license number in lieu of the required
11 identification?

12 A. Correct. So I would say as to
13 that portion, that would not be in effect.

14 Q. Is it correct that before
15 Directive 78 was issued, you were allowing
16 early in-person voters to show their Social
17 Security number or driver's license number
18 instead of the required identification?

19 A. The required identification in the
20 third paragraph in 78?

21 Q. Yes.

22 A. Yes.

23 Q. Mr. Williams, turning to a
24 different issue of the phrase other government
25 documents in the voter identification laws, are

1 you familiar with that phrase?

2 A. I am.

3 Q. How has the Board of Elections
4 been interpreting the phrase other government
5 document before Directive 78 was issued?

6 A. Very broadly.

7 Q. Can you describe what that means?

8 A. Yeah. If we receive a document
9 that has the name and address of a registered
10 voter, we would accept that.

11 Q. Regardless of what government it
12 was from?

13 A. Well, I mean, it had to be an Ohio
14 government or the federal government.

15 Q. Would you accept local government
16 documents?

17 A. Yes.

18 Q. Let me give you an example. Would
19 you accept documents from a state university?

20 A. No.

21 Q. Okay. Can you give me other types
22 of documents that you would or would not accept
23 under your definition prior to Directive 78?

24 A. Well, we had a county -- a
25 county -- I don't know if the individual was

1 engaged in a lawsuit, but there was some sort
2 of a notice from the courthouse and we accepted
3 that as identification because it had his name
4 and current address on it. It wasn't a
5 subpoena. It was like a notice for court or
6 something.

7 Q. Okay, so a court -- was that a
8 state court or federal court, do you remember?

9 A. State court.

10 Q. Are there any other kinds of
11 documents that come to mind?

12 A. I'm just trying to think of
13 others. You know, nothing is jumping out at me
14 right now. I'm sorry.

15 Q. Do you remember anything that you
16 rejected other than state university documents?

17 A. Well, and I think the reason we
18 rejected a state university is because we have
19 not seen documentation, like -- I'm speaking
20 specifically of a state ID type situation that
21 does not normally have an ID -- it doesn't have
22 the second prong like an address on it. At
23 least any one that I've seen.

24 Q. Are you referring to state
25 university ID's or state ID's?

1 A. State university ID's. College
2 ID's.

3 Q. Has anybody attempted to provide a
4 documentation such as a report card or bill
5 from a state university that does have a
6 current address?

7 A. I don't believe we've had anything
8 like that here.

9 Q. Under the standard you were
10 applying under Directive 78, would that have
11 fallen within the acceptable identification?

12 MR. COGLIANESE: Objection. Go
13 ahead.

14 THE WITNESS: I'm sorry, I lost my
15 train of thought here.

16 Q. I'll rephrase it. Under the
17 standards that you applied before receiving
18 Directive 78, if someone had presented a state
19 university bill, for example, that had their
20 name and current address, would that have been
21 acceptable?

22 MR. COGLIANESE: Objection. Go
23 ahead.

24 THE WITNESS: Yeah, I believe so.

25 Q. And after Directive 78,

1 Mr. Williams, does that change your
2 interpretation of other government documents at
3 all or not?

4 A. Hold on. I'm just looking at the
5 directive here.

6 Q. Sure.

7 MR. STEVENSON: Are you referring to
8 page three?

9 MS. GENTRY: Yes.

10 THE WITNESS: I don't know if it does
11 necessarily change.

12 Q. Okay. Turning to the next issue,
13 Mr. Williams, are you aware on the Ohio
14 driver's license there's a driver's license
15 number on the left side and then on the right
16 side above the picture there's a different
17 number which we've been calling the photograph
18 number? Are you aware of that?

19 A. I am now.

20 Q. When did you become aware of that?

21 A. I don't know. Last few weeks, I
22 guess.

23 Q. How did that come to your
24 attention?

25 A. I'm not sure if it's through our