

1 A. Okay.

2 Q. And before that person comes back
3 you look at their provisional ballot and you
4 determine yes, they are registered, yes, they
5 are eligible, signature matches perfectly, this
6 person is who they say they are, but that
7 person doesn't come back within the ten days.
8 Will you count their ballot?

9 A. I think I would put them in a
10 category in regard to ballots -- excuse me, a
11 category that needs ID and they would be put
12 into a separate grouping.

13 Q. Right. And I understand that you
14 will likely do that and my question is if you
15 determine yes, they are registered, they are
16 eligible, they are who they say they are but
17 they didn't come back to write down the last
18 four digits of their Social Security number,
19 will you count their ballots?

20 A. I think your question assumes they
21 are who they say they are.

22 Q. Then you make that determination
23 by looking at your records, the address,
24 signature and the date of birth, the other
25 information that's in your system and that they

1 write down?

2 A. And if they refused to sign an
3 affidavit or they refused to provide any ID,
4 that would be something that would concern me
5 in regard to their ID which is a factor that
6 may not exist in others.

7 Q. And this would be true even if
8 they didn't refuse, they just didn't have it
9 with them so they couldn't remember their
10 social and had to come back, would you still
11 have the same concern?

12 A. Yes.

13 Q. And I'm not really asking for your
14 opinion. Is it your understanding under the
15 law that ballot wouldn't be counted because
16 they didn't return within ten days?

17 A. Yes.

18 Q. What about if the person returned
19 within the ten days and wrote down four digits
20 of a Social Security number but wrote down a
21 wrong number or gave a false number?

22 MR. COGLIANESE: Objection.

23 Q. Would that ballot be counted
24 because they came back?

25 MR. COGLIANESE: Objection.

1 THE WITNESS: If the number was not
2 correct, didn't match up on our database, that
3 potentially could be a problem.

4 Q. What if you didn't have a Social
5 Security number for that person in your
6 database? Let me ask first, do you have Social
7 Security numbers for all your registered voters
8 in your database?

9 A. We do not.

10 Q. So let's assume this person is not
11 in your database.

12 A. Okay.

13 Q. They write down the wrong number.

14 A. Right.

15 MR. COGLIANESE: Objection. If
16 they're not in the database, they're not a
17 registered voter.

18 Q. Let me clarify. They are in the
19 database but their Social Security number is
20 not in the database.

21 A. Okay.

22 Q. They come back and write down the
23 wrong number, whether through malintent or
24 mistake or whatever. Doesn't matter. Are you
25 going to catch that?

1 A. Are we going to catch it? I would
2 hope, yeah, I hope we would catch that.

3 Q. I understand you hope you would,
4 but do you have any means of catching it?

5 A. Just reviewing provisional
6 ballots. I mean my Democratic colleague Pam
7 Swafford and I spent countless hours in 2004
8 with every provisional ballot ultimately that
9 was in question.

10 (Thereupon, the Notary Public
11 interrupted the proceedings.)

12 Q. Let me withdraw that question and
13 ask a different one. Mr. Williams, you have
14 already testified, haven't you, that you don't
15 have a means of verifying Social Security
16 numbers?

17 MR. COGLIANESE: Objection. That
18 wasn't his testimony.

19 MS. CORL: Objection.

20 Q. Let me withdraw it and ask this,
21 Mr. Williams, I want to make sure I have your
22 testimony right. What was your testimony with
23 regard to your ability to verify Social
24 Security numbers?

25 A. I am not sure in the statewide

1 database if they actually check with the BMV or
2 if they don't check with the BMV. I don't know
3 that. Technically I don't know what they do.
4 I'm not sure if they actually are doing that or
5 they actually are not.

6 Q. Who is they? I'm sorry. Who is
7 they?

8 A. Secretary of State, statewide
9 voter registration database.

10 Q. And are they -- is the Secretary
11 of State involved in your evaluation of
12 provisional ballots?

13 A. No, but if they have something out
14 there that crosschecks with the BMV or
15 something like that, I just don't know.

16 Q. So you think maybe they have
17 already done crosschecking and then you can
18 access the statewide database and take
19 advantage of the BMV records that way possibly?

20 A. I don't think directly. I think
21 the theory is they are supposed to have access
22 to these other identifying databases. I just
23 don't know that that's actually happening. I'm
24 somewhat skeptical that it is.

25 Q. But it's your understanding or

1 belief that that should be happening?

2 MR. COGLIANESE: Objection.

3 THE WITNESS: I think the theory on a
4 statewide database is to give some ability to
5 identify people and it would seem to me that a way
6 to do that would be able to have that verified
7 against some driver database or something that's
8 out there.

9 Q. Are you speculating that that's
10 possible or do you have a reason to believe
11 that it might be happening?

12 A. I'm not sure if it's happening or
13 not.

14 Q. Okay. Aside from whether or not
15 that might be happening, you said that you
16 might be able to look at the voter registration
17 database, maybe the person registered somewhere
18 else and gave their Social Security number to
19 some other county. Was that your testimony?

20 A. Yes.

21 Q. So one means of trying to identify
22 whether the Social Security number is correct
23 would be to run a search in the statewide voter
24 registration database to try to match it?

25 A. Yes.

1 Q. Are you intending to do that for
2 every voter?

3 A. I believe when necessary we will.

4 Q. When will you know if that is
5 necessary?

6 A. Well, if everything else is fine
7 and you run into a transposed number perhaps, I
8 would look at the statewide voter registration
9 database and see if there's, you know,
10 something that there may be a transposition or
11 something and ultimately it's up to the board.
12 I mean, I would lay the facts out to the board
13 on what we found.

14 Q. But that's only if you thought
15 there was a problem with the numbers or with
16 some other part of the applic -- of the ballot?

17 A. Yes. I mean, we just keep digging
18 until we can understand and try to get as much
19 information as possible.

20 Q. Mr. Williams, changing topics, you
21 had talked at length about your effort to
22 inform the public about the ID rules; is that
23 correct?

24 A. That's correct.

25 Q. Did you make any effort to inform

1 the public about the new six month ruling for
2 current utility bills and so forth?

3 A. I have not. We just received it.
4 We have not.

5 Q. Do you have any plans to?

6 A. At this point we do not. But like
7 I said, it's something that if this is out
8 there and it's in force, we will deal with it,
9 but as I indicated, I just -- I know we've been
10 over this, I just don't know that we're having
11 a six month old issue in Hamilton County and
12 I'll certainly check on that.

13 Q. You don't know that it's happened
14 yet, right, but you can't predict whether it's
15 going to happen between now and election day or
16 in any of the absentee ballots you haven't
17 opened?

18 A. You're correct.

19 Q. Thank you. When you were
20 testifying earlier, you said that one of the
21 things you will look at with provisional
22 ballots was whether people voted in the wrong
23 precinct. Do you recall that?

24 A. Yes.

25 Q. Did you do that in 2004 as well?

1 A. Yes.

2 Q. So you don't need voter
3 identification requirements in order to
4 determine whether somebody voted in the wrong
5 precinct; isn't that true?

6 A. That's a separate issue.

7 Q. In other words, you can determine
8 whether somebody is in the wrong precinct even
9 if they don't give you a Social Security number
10 or driver's license number?

11 A. Yes.

12 Q. You had mentioned that you had
13 some problems with ID in the August election;
14 is that correct?

15 A. Yes.

16 Q. What problems did you have?

17 A. We had some issues with -- there
18 was a gal that I remember came into a polling
19 place and she indicated she didn't have a thing
20 on her. She couldn't remember her social and
21 they -- I'm trying to think what the
22 pollworkers did in that specific instance. I
23 believe they voted her provisionally, I
24 believe, but did not inform her that she needed
25 to come back within the ten days.

1 Q. Do you know whether her ballot was
2 counted?

3 A. Yes, it was.

4 Q. Even though she didn't come back
5 within the ten days?

6 A. I'm just trying to think -- I know
7 we had -- we brought them to the board and I'm
8 just trying to think if there was something
9 else there and I think the board chose to count
10 that ballot and I'm not -- like I said, I'm not
11 looking at that specifically and I could see
12 what I could find on that, but I believe that
13 they counted that. I mean, we do always error
14 on the side of the voter. We have always done
15 that and I think everybody is -- you know,
16 we -- as crazy as it sounds, we actually do try
17 to help people.

18 Q. None of us question that.

19 A. I know you don't.

20 Q. Does that mean it's possible if
21 the girl came back in November and did the same
22 thing, didn't come back in ten days, that her
23 vote would be counted in November or I
24 understood your testimony before to be that you
25 had to come back to get your ballot counted?

1 A. Yeah, under the state law you have
2 to come back and show some form of ID, and I'm
3 just trying to think if there's something else
4 that occurred in that situation that allowed
5 that to help and I think there may be and at
6 this point I just can't remember specifically
7 what it was and it might have just been
8 somebody checked the wrong box or something and
9 there was a soch on it or I think what happened
10 they checked the box that said -- and it might
11 be a different case, but there was one that
12 they checked the box that they had shown an ID,
13 but I don't know that they recorded what they
14 were shown and this was on a provisional. Like
15 I said, I can go back and I can look into that
16 stuff, if I have to.

17 Q. Was there a case where the
18 election officials didn't mark the right
19 information down?

20 A. Yes.

21 Q. Is that another reason why
22 provisional ballots might be disqualified, if
23 election officials filled out the paperwork
24 improperly?

25 A. Yes.

1 Q. Has that happened in Hamilton
2 County?

3 A. I think I would -- I believe
4 that's true. It probably has happened and
5 that's why, again, after the 2004, you know, we
6 tried to ramp up the training, you know, beyond
7 any student to teacher ratio that exists in any
8 other educational body because we tried -- we
9 are really doing everything we can to educate
10 the pollworkers. We are only as good as our
11 pollworkers and procedures, as I said before,
12 so it's very important that we train, train,
13 train them with adult learning techniques,
14 breakout sessions, real world examples, so they
15 have an understanding of what they are doing
16 and we try very, very hard to do that.

17 MS. GENTRY: Mr. Williams, I
18 appreciate the time you have given us today. I
19 don't have further questions.

20 FURTHER CROSS-EXAMINATION

21 BY MR. COGLIANESE:

22 Q. Mr. Williams, I've got just a
23 couple on follow-up. I know you guys are busy
24 and I'll do this as quick as I can. Probably
25 going to be about five questions.

1 A. Okay.

2 Q. First of all, just to pick up on
3 the last point, provisional ballots that you
4 were just speaking about with Miss Gentry, and
5 you said that provisional ballots may not have
6 been counted in Hamilton County because of
7 election workers -- pollworkers' screwups?

8 A. Yes.

9 Q. Do you believe that to be the case
10 or do you know that to be the case?

11 A. Well, I believe in every course of
12 every human event there are errors made so I've
13 made errors and the pollworkers make errors so
14 I believe throughout the history of all this
15 I'm sure somebody has been disenfranchised due
16 to pollworker error, so, I mean, I'm not naive
17 enough to think that doesn't happen.

18 Q. But you don't have any specific
19 information about it happening; is that fair?

20 A. Not right now as I sit here.

21 Q. And you said that in that one
22 situation the provisional ballot was counted;
23 is that right?

24 A. Yes.

25 Q. I want to talk to you a little bit

1 more, and I apologize about this, but to go
2 back to the difference between Directive 78 and
3 a court order suspending state ID provisions,
4 is it true that in the poll book that folks are
5 going to use and sign on election day that
6 there are spaces for the last four digits of
7 the Social Security numbers?

8 A. Yes.

9 Q. So you would have to communicate
10 to these pollworkers not to fill those spaces
11 out; would that be correct?

12 A. Yeah, you would have to do that.
13 You would have -- I mean, you would have to
14 sort of retrain them on all the provisional
15 stuff about what we've taught them already
16 and -- I mean, I just had -- I'm not thinking
17 about all that stuff, but I guess I could think
18 for a while and come up with some more, but,
19 yeah, there's a lot of stuff involved.

20 Q. And the other thing is I know we
21 previously talked about --

22 (Thereupon, the Notary Public
23 interrupted the proceedings.)

24 Q. I want to talk to you just very,
25 very quickly about first time voters under the

1 Help America Vote Act registered by mail who
2 did not produce the appropriate identification
3 when they registered by mail and pursuant to
4 HAVA must present identification when they go
5 vote the first time.

6 A. Right.

7 Q. Let's say this is the first time
8 that person goes to vote. If the judge were to
9 suspend the State of Ohio's voter ID provisions
10 under House Bill 3, would that voter still have
11 to produce identification at the polling place?

12 A. Yes.

13 Q. How in the world are you going to
14 train your pollworkers to take HAVA ID for
15 purposes of first time HAVA voters but not ID
16 from everybody else at this point in time?

17 A. It would be very difficult.

18 Q. Do you have any faith that you
19 would be able to get the instructions out on
20 that properly?

21 A. No.

22 MR. COGLIANESE: I've got nothing
23 else.

24 MS. GENTRY: I don't have any further
25 questions.

1 MR. STEVENSON: Can I ask a question?

2 Are you going to need him up there tomorrow?

3 MR. COGLIANESE: No.

4 (Thereupon, the deposition was
5 concluded at 2:27 p.m.)

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1 STATE OF OHIO)

2 COUNTY OF MONTGOMERY) SS: CERTIFICATE

3 I, Mary Jo Stevens, a Notary Public within
4 and for the State of Ohio, duly commissioned and
5 qualified,

6 DO HEREBY CERTIFY that the above-named
7 JOHN WILLIAMS, was by me first duly sworn to
8 testify the truth, the whole truth and nothing but
9 the truth; that said testimony was reduced to
10 writing by me stenographically in the presence of
11 the witness and thereafter reduced to typewriting.

12 I FURTHER CERTIFY that I am not a relative
13 or Attorney of either party nor in any manner
14 interested in the event of this action.

15 IN WITNESS WHEREOF, I have hereunto set my
16 hand and seal of office at Dayton, Ohio, on
17 this 1st day of November , 2006.

18
19 Mary Jo Stevens [Signature]
20 MARY JO STEVENS
21 NOTARY PUBLIC, STATE OF OHIO
22 My commission expires 9-10-2011
23
24
25