



J. KENNETH BLACKWELL
Ohio Secretary of State

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DIRECTIVE 2006-87
November 6, 2006

To: County Boards of Elections

**ELECTIONS OBSERVERS UNDER R.C. 3505.21 COURT DECISION,
OHIO DEMOCRATIC PARTY V. BLACKWELL**

This Directive is to advise the Cuyahoga County Board of Elections that based upon the decision of the Cuyahoga County Common Pleas court decision in *ODP v. Blackwell*, Case No. CV 06606270, the Office of the Secretary of State is to permit the amendment of observers under R.C. 3505.21 provided that the amendment takes place by six p.m. the day before the election.

The court has directed us to state as follows:

“Under 3505.21, the deletion, substitution or addition of an observer is permitted in any precinct, provided that the amendment to the notification takes place by four p.m. of the day before the election. For example, R.C. 3505.21 permits the amendment of a prior-filed appointment of observer [sic] to identify any new individual as a substitute for a prior identified individual assigned to any or multiple precincts, or identified to serve as an observer in any other capacity under R.C. 3505.21. Additionally, the addition of a new observer to substitute for a prior-identified observer is permitted. The addition of a new observer to serve a precinct for which no observer was previously identified is permitted. Any amendments may be submitted to the Board of Elections by facsimile or email.”

The copy of the court's order is attached to this Directive. The court has provided verbal instructions to this office to extend the time frame for an amendment to six p.m. this evening. R. C. 3505.21 provides that amendments are to be filed by four p.m. the day before the election, it is the position of this office that this change to six p.m. is in violation of the law and that Judge McMonagle only has jurisdiction over this office in Cuyahoga County. Therefore, in reviewing the contents of this Directive and the court order, you should consult with your county prosecutor before taking any action.

Sincerely,

A handwritten signature in black ink, appearing to read "Monty Lobb".

Monty Lobb
Assistant Secretary of State

Attachment

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

OHIO DEMOCRATIC PARTY, on behalf of itself
and its members
271 E. State Street
Columbus, OH 43215

and

TERI HORNE
17418 Tarkington Avenue
Cleveland, OH 44128

Plaintiffs

v.

J. KENNETH BLACKWELL, in his capacity as
Ohio Secretary of State
180 East Broad Street, 16th Floor
Columbus, OH 43215

and

CUYAHOGA COUNTY BOARD OF ELECTIONS
2925 Euclid Avenue
Cleveland, OH 44115

Defendants

CASE NO. CV 06 606270

JUDGMENT

Timothy E. McMonagle, J.:

This matter came on before the Court on this 6th day of November, 2006, on the Plaintiff's Verified Complaint for Declaratory and Injunctive Relief. After review of the supporting memorandum and the law, the Court hereby finds that the Plaintiffs are entitled to declaratory judgment pursuant to O.R.C. §3505.21. Plaintiffs are hereby permitted to amend its notice of appointment of observers consistent with the following directive.

This Court hereby further declares that the following directive be issued by the Secretary of State to all Boards of Election throughout the State of Ohio:

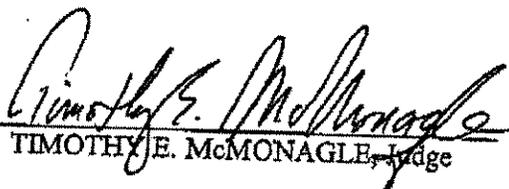
"Under 3505.21, the deletion, substitution or addition of an observer is permitted in any precinct, provided that the amendment to the notification takes place by four p.m. of the day before the election. For example, R.C. 3505.21 permits the amendment of a prior-filed appointment of observer to identify any new individual as a substitute for a prior identified individual assigned to any or multiple precincts, or identified to serve as an observer in any other capacity under R.C. 3505.21. Additionally, the addition of a new observer to substitute for a prior-identified observer is permitted. The addition of a new observer to serve in a precinct for which no observer was previously identified is permitted. Any amendments may be submitted to the Board of Elections by facsimile or email."

The Court suggests that the parties designate as observers only those individuals who will actually serve in that capacity in order to assist the local Boards of Election in implementing this Order.

The Secretary of State is hereby further ordered to immediately distribute this directive to all Boards of Elections to achieve consistency of application throughout the State of Ohio.

JUDGMENT IS HEREBY ISSUED ACCORDINGLY.

Date: November 6, 2006


TIMOTHY E. McMONAGLE, Judge