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

THE NORTHEAST OHIO COALITION FOR THE HOMELESS, *et al.*	:	
Plaintiffs,	:	**Case No. C2-06-896**
v.	:	**JUDGE ALGENON L. MARBLEY**
J. KENNETH BLACKWELL, in his official capacity as Secretary of State of Ohio	:	**CONSENT ORDER**
Defendant.	:	

This matter came before the Court on the Plaintiffs' Motion for a Temporary Restraining Order and Plaintiffs' Complaint and Motion for a Preliminary Injunction.

Under the requirements of House Bill 234, all voters who obtained an absentee ballot on October 3, 2006 or after, had to return a properly completed application to their local Boards of Elections. That statute required the voter to supply a driver's license number, the last four digits of the voter's social security number, or other statutorily recognized forms of identification.

After this Court issued a temporary restraining order on October 26, 2006 all voters who obtained absentee ballots did not have to provide specific identifying information as required by House Bill 234.

Once the U.S. Court of Appeals for the Sixth Circuit stayed this Court's temporary restraining order on October 29, then under House Bill 234, any voter who obtained an absentee ballot had to return a properly completed application to their local Board of Elections. That

statute required the voter to supply a driver's license number, the last four digits of the voter's social security number, or other statutorily recognized forms of identification.

The Parties to this action desire to avoid confusion, ensure that all voters are treated fairly, and ensure that all votes properly cast in the November 2006 General Election be counted. Therefore the parties enter into the following Consent Order, which shall apply only to the November 2006 General Election.

1. County Boards of Elections shall permit absentee voters who apply or applied for an absentee ballot in the November 2006 General Election to provide proof of their identities in the form of a Driver's License number, the last four digits of the voter's social security number, or a copy of a current and valid photo identification, a copy of a military identification that shows the elector's name and current address, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of an election mailed by a board of elections under section 3501.19 of the Revised Code or a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code, that shows the name and address of the elector.

2. County Boards of Elections shall accept and count any absentee or provisional ballot that an absentee voter cast and returned, whether by mail or in-person, to the local Board of Elections, if that ballot has the voter's name, address, date of birth, and signature as required by R.C. § 3509.04(B) and otherwise complies with Ohio law. County Boards of Elections shall count these ballots even if they do not contain the driver's license number, the last four digits of the voter's social security number, or other statutorily recognized forms of identification.

3. To cast a regular ballot on Election Day, electors shall provide proof of their identities in the form of a current and valid photo identification, a military identification that shows the voter's name and current address, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of an election mailed by a board of elections under section 3501.19 of the Revised Code or a notice of voter registration mailed by a board of elections under section 3503.19 of the Revised Code, that shows the name and current address of the elector.

4. A "photo identification" as used in this Order means a document that meets each of the following requirements:

(a) It shows the name of the individual to whom it was issued, which shall conform to the name in the poll list or signature pollbook.

(b) It shows the current address of the individual to whom it was issued, which shall conform to the address in the poll list or signature pollbook, except for a driver's license or a state identification card issued under section 4507.50 of the Revised Code, which may show *either the current or former address* of the individual to whom it was issued, regardless of whether that address conforms to the address in the poll list or signature pollbook.

(c) It shows a photograph of the individual to whom it was issued.

(d) It includes an expiration date that has not passed.

(e) It was issued by the government of the United States or this State.

5. A voter on Election Day, November 7, 2006, who does not have, or who has but is unable to provide, one of the forms of identification listed in paragraph 3 above, but who has a social

security number, may provide the last four digits of the voter's social security number. Upon providing the last four digits of a social security number, the voter may cast a provisional ballot under section 3505.181 of the Revised Code, the envelope of which shall include that social security number information. Such provisional ballots shall be counted if they meet the test provided in paragraph 8 below.

6. A voter on Election Day, November 7, 2006, who does not have any of the forms of identification listed in paragraph 3 above, and who also does not have a social security number, may execute an affirmation under penalty of election falsification that the elector cannot provide the identification required under that division or the last four digits of a social security number for those reasons. Upon signing the affirmation, the elector may cast a provisional ballot under section 3505.181 of the Revised Code. Such provisional ballots shall be counted if they meet the test provided in paragraph 8 below.

7. A voter on Election Day, November 7, 2006, who has a military identification that does not show the voter's current address, but that does show the voter's social security number, may provide the last four digits of the voter's social security number. Upon providing the social security number information, the voter may cast a provisional ballot under section 3505.181 of the Revised Code, the envelope of which shall include that social security number information. Such provisional ballots shall be counted if they meet the test provided in paragraph 8 below.

8. If, in examining a provisional ballot affirmation and additional information under divisions (B)(1) and (B)(2) of Ohio Revised Code Section 3505.183, the Board of Elections determines that all of the following conditions are met, the provisional ballot envelope shall be

opened, and the ballot shall be placed in a ballot box and counted. If any of the following conditions are not met, then the provisional ballot shall not be counted:

(a) The individual named on the affirmation is qualified (i.e. registered and eligible to vote under Ohio law).

(b) The individual named on the affirmation is properly registered to vote.

(c) The individual named on the affirmation is eligible to cast a ballot in the precinct.

(d) The individual named in the affirmation is eligible to cast a ballot for the election in which the individual cast the provisional ballot.

(e) The individual provided all of the information required under division (B)(1) of Section 3505.183 in the affirmation that the individual executed at the time the individual cast the provisional ballot.

(f) The individual has not already cast a ballot for the election in which the individual cast the provisional ballot.

(g) If applicable, the individual provided any additional information required under division (B)(8) of section 3505.181 of the Revised Code within ten days after the day of the election.

(h) If applicable, the hearing conducted under division (B) of section 3503.24 of the Revised Code after the day of the election resulted in the individual's inclusion in the official registration list.

(i) The individual provided a current and valid photo identification, a military identification that shows the voter's name and current address, a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of an election mailed by a board of elections under section 3503.19 of the Revised Code, with the voter's name and current address, or the last four digits of the individual's social security number or executed an affirmation under division (A) of section 3505.18 or division (B) of section 3505.181 of the Revised Code.

9. "Current" as used in the phrase "current utility bill, bank statement, government check, paycheck, or other government document" in this Order shall be defined as one year from the date on which it is presented to the Board of Elections. "Utility" includes, but is not limited to, water, sewer, electric, natural gas, cable, internet, telephone, and cellular-telephone service.

10. "Other government document" as used in this Order shall be defined as any document that has a current address and is issued by an appropriate governmental entity. "Other government document" includes, but is not limited to, those documents issued by all branches of local governments (including city, municipal, county, township, and village governments), all branches and political subdivisions of the State of Ohio (including public colleges or universities, public community colleges), and all branches of the United States government.

11. The remaining portion of this Court's Temporary Restraining Order of October 26, 2006 that was not previously stayed by the Sixth Circuit is dissolved, and Boards of Elections no longer have to preserve the absentee ballots as the October 26, 2006 Order required.

12. The Secretary of State and the Boards of Elections shall communicate this information to all of their employees and shall post it on the home page and voting-rule-related pages on their websites.

IT IS SO ORDERED that Defendant J. Kenneth Blackwell and County Boards of Elections are to act in accordance with the above, and that this Court shall retain jurisdiction to enforce this Consent Order. This Consent Order shall remain in effect until further order of this Court or until dismissal of this action.

November 1, 2006
Date

U.S. District Judge Algenon L. Marbley

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