

1 BEFORE THE FRANKLIN COUNTY BOARD OF ELECTIONS

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3 IN RE: :

4 Special Meeting :

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6 Proceedings before Chairman William A.

7 Anthony, Jr., Board Member Kimberly E.

8 Marinello, and Board Member Michael E.

9 Colley, taken at the Franklin County Board of
10 Elections, 280 East Broad Street, Columbus,
11 Ohio, on Wednesday, January 23, 2008, at 3:16
12 o'clock p.m.

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1 APPEARANCES:

2 Butler, Cincione & DiCurrio
3 2200 West Fifth Avenue
4 Columbus, Ohio 43215
5 By Mr. Matthew P. Cincione,
6 Assistant County Prosecutor,
7
8 On behalf of Karen A.
9 Cincione.

10 ALSO PRESENT:

11 Mr. Matthew Damschroder, Director
12 Mr. Dennis White, Deputy Director
13 Ms. Suzanne Brown
14 Mr. Ralph A. Applegate
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2 P R O C E E D I N G S

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4 CHAIRMAN ANTHONY: I call this
5 Board of Elections meeting to order.

6 DIRECTOR DAMSCHRODER: Mr. Colley.

7 BOARD MEMBER COLLEY: Here.

8 DIRECTOR DAMSCHRODER:

9 Ms. Marinello.

10 BOARD MEMBER MARINELLO: Here.

11 DIRECTOR DAMSCHRODER: Chairman
12 Anthony.

13 CHAIRMAN ANTHONY: Here.

14 DIRECTOR DAMSCHRODER: We do have a
15 quorum. Mrs. Petree is not able to join with
16 us today. She is out of the state.

17 The first item on the agenda is to
18 hear two appeals, one filed by Ralph A.
19 Applegate of 1544 Zettler, Z-e-t-t-l-e-r,
20 Road in Columbus. Mr. Applegate had filed
21 petitions seeking to be the Republican
22 candidate for nomination as a representative
23 of congress from the 15th Congressional
24 District. The Board did not certify his

1 candidacy at the meeting January 11th, citing
2 problems with the petition relative to the
3 number of signatures that appear on the
4 petition.

5 I do believe Mr. Applegate is here
6 to speak directly to his appeal. And all of
7 you have copies of his -- of his filing in
8 the packet.

9 CHAIRMAN ANTHONY: Okay.

10 Mr. Applegate, are you here?

11 Would you like to be sworn in and
12 give us --

13 (Thereupon, the witness was placed
14 under oath by the reporter.)

15 CHAIRMAN ANTHONY: Yes, sir. How
16 are you?

17 MR. APPLGATE: I'm fine.

18 CHAIRMAN ANTHONY: Good. Good.

19 MR. APPLGATE: Would you like to
20 hear me speak?

21 CHAIRMAN ANTHONY: Yes, sir. We'd
22 like to hear your side of the story.

23 MR. APPLGATE: I didn't hear you.

24 CHAIRMAN ANTHONY: Yes. We'd like

1 to hear why you feel your petitions are
2 valid, or your signatures are valid.

3 MR. APPELEGATE: Still can't hear
4 you.

5 CHAIRMAN ANTHONY: Do you have
6 anything to say about your petitions --

7 MR. APPELEGATE: Oh, yes.

8 CHAIRMAN ANTHONY: -- on your
9 behalf?

10 MR. APPELEGATE: Yes.

11 CHAIRMAN ANTHONY: All right.

12 MR. APPELEGATE: How many valid
13 signatures are on the petitions of Ralph A.
14 Applegate?

15 The law requires a minimum of 50.
16 My voting information reflect that I have 12
17 more than 50 required by law. My name should
18 therefore appear on the ballot.

19 That's all I have to say, unless
20 you'd like to hear some Shakespeare.

21 CHAIRMAN ANTHONY: Any questions of
22 Mr. Applegate?

23 DIRECTOR DAMSCHRODER: I don't have
24 any questions.

1 The issue that was problematic
2 having to deal with this petition is that on
3 each of the petitions, or on at least most of
4 them, the number of signatures that appeared
5 isn't --

6 THE REPORTER: Can you hold on one
7 second?

8 (Brief interruption by reporter.)

9 THE REPORTER: Okay.

10 DIRECTOR DAMSCHRODER: Great.

11 The two issues, number one, was the
12 use of Wite-Out, which is not permitted. But
13 to me, far more concerning is that the number
14 of signatures witnessed to on the circulator
15 statement does not match the number of
16 signatures that appear on the petition. For
17 instance, on the first petition, it says that
18 there were 12 signatures witnessed, but there
19 are far more than 12 signatures that appear
20 on the petition. Now, some of them have been
21 struck through, which is acceptable, but
22 still the number exceeds 12. And the rules
23 are that you can -- you can have a higher
24 number than signatures, but you can't have a

1 lower number than signatures, because we
2 don't know which 12 are to be counted, which
3 ones -- which of -- in this case, the
4 circulator said, Mr. Applegate says, that he
5 witnessed 12 signatures, but there's clearly
6 more signatures, so we don't know which 12
7 were actually witnessed.

8 MR. APPLGATE: Now, is there some
9 case law about using Wite-Out on petitions,
10 too?

11 DIRECTOR DAMSCHRODER: I think
12 there is. I don't know exactly what the --
13 what the case is, but if not I think it's in
14 one of the manuals.

15 Like I said, I'm less -- personally
16 less concerned about the Wite-Out than just
17 the huge discrepancy between the number of
18 signatures that appears and the number of
19 signatures that the circulator said that the
20 circulator witnessed.

21 CHAIRMAN ANTHONY: Even he had some
22 of them crossed out.

23 DIRECTOR DAMSCHRODER: Right.

24 CHAIRMAN ANTHONY: Yeah.

1 DIRECTOR DAMSCHRODER: And crossing
2 a signature out is fine, and amending it, but
3 if you -- let's say you -- a circulator got
4 his petition with 10 signatures, and strikes
5 1 out, they can have either 9 or 10, but if
6 there's 10 signatures, and the circulator
7 says that there should be 5 signatures,
8 that's problematic.

9 BOARD MEMBER MARINELLO: They
10 aren't -- a lot of them have the number
11 wrong, like, that's --

12 DIRECTOR DAMSCHRODER: Right.

13 BOARD MEMBER MARINELLO: I would
14 like to know that.

15 CHAIRMAN ANTHONY: Sir, can you --
16 you probably don't have a copy of the
17 petitions in front of you, do you?

18 MR. APPELATE: I have it.

19 CHAIRMAN ANTHONY: Okay. The one
20 we're looking at, a lot of the dates on it
21 are like 10 -- October 2nd, this one right
22 here (indicating), and then on the back of
23 it, where you have -- looks like you used
24 Wite-Out right down here, and then it looks

1 like you put 12. Then, you have 25 on there.

2 Why was 12 put on there instead of
3 25?

4 MR. APPELATE: Is this for him or
5 me?

6 CHAIRMAN ANTHONY: Yes, sir.

7 MR. APPELATE: I have been doing
8 this for 20 years.

9 CHAIRMAN ANTHONY: Yes, sir.

10 MR. APPELATE: Did you know that?

11 CHAIRMAN ANTHONY: No, sir. I had
12 no idea.

13 MR. APPELATE: And I know, as all
14 of you know, that I have to instruct every
15 one of my petitioners voters on the law. All
16 right?

17 CHAIRMAN ANTHONY: All right.

18 MR. APPELATE: So when I instruct
19 them, even though they're instructed, and in
20 many, many of the cases, they still don't
21 understand.

22 CHAIRMAN ANTHONY: Okay.

23 MR. APPELATE: So then I have to
24 take it on good faith that they are, in fact,

1 registered. And I do.

2 CHAIRMAN ANTHONY: Okay.

3 MR. APPELATE: And there's a lot
4 of problems here, which we don't really want
5 to get into.

6 CHAIRMAN ANTHONY: You need some
7 water?

8 BOARD MEMBER MARINELLO: (Coughing)
9 I'm sorry.

10 CHAIRMAN ANTHONY: Okay.

11 BOARD MEMBER MARINELLO: She's
12 getting me some water.

13 MR. APPELATE: So because of that,
14 I frequently go in and check the signatures.

15 CHAIRMAN ANTHONY: Here?

16 MR. APPELATE: Yeah.

17 CHAIRMAN ANTHONY: Okay.

18 MR. APPELATE: Here, or I'm
19 checking in almost every county in Ohio,
20 because I ran twice for U.S. Senate.

21 CHAIRMAN ANTHONY: Right.

22 MR. APPELATE: You -- it's not
23 uniform throughout Ohio.

24 CHAIRMAN ANTHONY: Okay.

1 MR. APPELATE: For instance, last
2 time when I ran, it was the 18th District. I
3 would go into Zanesville Board of Elections
4 there. I looked at a book, even though I
5 insisted that I have the right to see the
6 actual records, because in the law, the law
7 says that they refer to registration records.
8 They don't refer to computer records. All
9 right?

10 BOARD MEMBER MARINELLO: Are you
11 saying, like, when you put 6 signatures, when
12 there's really 22, that you went and looked,
13 looked up 6?

14 MR. APPELATE: No. I looked up
15 all of them.

16 BOARD MEMBER MARINELLO: We're
17 wondering why you put, like, 6 signatures on
18 22.

19 MR. APPELATE: Because as far as
20 I'm concerned, all right, I'm a scientist.

21 BOARD MEMBER MARINELLO:
22 Okey-dokey.

23 MR. APPELATE: I check everything.
24 As a matter of fact, Darcy said to me, she

1 said, Ralph, you don't trust anybody.

2 So I have 6 valid signatures. All
3 right?

4 BOARD MEMBER MARINELLO: So none of
5 these other ones were witnessed by anyone?

6 MR. APPELATE: That's not the
7 point. The point is when you check them
8 against the computer records here, they don't
9 come up valid. All right?

10 BOARD MEMBER MARINELLO: But if
11 you've done so many petitions before, you'd
12 know that that number was supposed to be the
13 number of signatures that were on the
14 petition.

15 MR. APPELATE: Every time that
16 I've done this, the last 20 years, I've done
17 the same thing.

18 BOARD MEMBER MARINELLO: Were they
19 all rejected?

20 MR. APPELATE: No. They've never
21 been rejected. No. I -- every time --

22 DEPUTY DIRECTOR WHITE: Okay.
23 You're a scientist. Here we go: What's this
24 say right here?

1 MR. APPELATE: Are you making fun
2 of me now?

3 DEPUTY DIRECTOR WHITE: No, I'm
4 just wondering what that says. I mean,
5 I don't understand it.

6 MR. APPELATE: You don't
7 understand it?

8 DEPUTY DIRECTOR WHITE:
9 I don't understand why you put 10 there.

10 MR. APPELATE: Because that's all
11 that's valid.

12 DEPUTY DIRECTOR WHITE: What's that
13 saying, though?

14 MR. APPELATE: It says
15 "contained." But that's -- my understanding
16 of that, that's another problem, if you want
17 to get into technicalities.

18 MR. WHITE: I'm just curious.

19 MR. APPELATE: That's what we're
20 talking about here. We're talking about
21 technicalities. We're not talking about --
22 there's nothing actually in the law itself
23 about what we're discussing here. But I put
24 10 there, because that's what I came up with.

1 All right?

2 If you notice, I have NP, NP, NP,
3 no, NP, NP, NP, R, R, NP and NP. That's my
4 analysis of what those people said, based on
5 my review of your computer.

6 Now, I've also learned, now, that
7 you check these with computerized
8 photostating, some sort of computerized
9 photostating system.

10 DIRECTOR DAMSCHRODER: Correct.

11 MR. APPELATE: If that's true, I
12 constitutionally have a right to use that
13 method to check my petitions,
14 constitutionally.

15 So basically, do you understand
16 what I'm saying?

17 I check all these. If -- and if --
18 actually, the Board themselves, they can
19 check. As a matter of fact, the law says
20 that a strike-out is all right. The law says
21 that. But, it says, nevertheless, that's a
22 signature, which means that the Board could
23 actually contradict me in my checking of it.
24 The Board could check it and contradict it,

1 which means that I could actually have more
2 signatures than what I say I do.

3 But I have to come as a scientist.
4 I have to come to some kind of technical
5 decision about what I have, because when I go
6 and talk to these people in the street, I
7 have -- they have to be clear to me that I
8 can rely on what they say.

9 So it's never -- I've never had any
10 problem with this before. I don't even know
11 it's ever come up before, never had any
12 problems.

13 BOARD MEMBER MARINELLO: Well, then
14 somebody probably dropped the ball with it.

15 MR. APPELATE: I didn't hear you.

16 This is yours.

17 Or is that --

18 CHAIRMAN ANTHONY: No. That's
19 mine.

20 (Sorting through documents.)

21 MR. APPELATE: So did I answer
22 your question?

23 CHAIRMAN ANTHONY: I think you did.
24 I'm going to paraphrase it, because I think I

1 heard what -- what you said. What you're
2 telling us is, that once you got the
3 completed petitions, you went and you looked
4 at all these names on the available machines,
5 and from your estimation you picked out the
6 ones that looked like they were valid
7 signatures, and that's the number you put
8 back on the back of it, instead of the total
9 number of signatures. Right?

10 MR. APPELATE: Correct.

11 CHAIRMAN ANTHONY: Okay. I got it.

12 MR. APPELATE: Because I can't --
13 I cannot rely on somebody else telling me --

14 CHAIRMAN ANTHONY: Right.

15 MR. APPELATE: -- who they are.

16 CHAIRMAN ANTHONY: I understand.

17 MR. APPELATE: That's the voters
18 in the United States --

19 BOARD MEMBER MARINELLO: Were you
20 the circulator of all the petitions?

21 MR. APPELATE: Say that again.

22 BOARD MEMBER MARINELLO: Were you
23 the circulator of all the petitions?

24 MR. APPELATE: All these, yes.

1 BOARD MEMBER MARINELLO: And you
2 witnessed all the signatures. So --

3 MR. APPELEGATE: Every one of them.

4 BOARD MEMBER MARINELLO: You should
5 have put down how many signatures you
6 witnessed on there, and then it's the Board's
7 job to look them up and verify it.

8 MR. APPELEGATE: No, it's not. No,
9 it's not.

10 BOARD MEMBER MARINELLO: No?

11 MR. APPELEGATE: It's mine.

12 BOARD MEMBER MARINELLO: Well, and
13 it's your job to fill out the petition
14 correctly.

15 MR. APPELEGATE: I -- I don't trust
16 government.

17 BOARD MEMBER MARINELLO: Oh, that's
18 great. I mean, you could -- you can check
19 them. That's fine and everything.

20 MR. APPELEGATE: As a matter of
21 fact --

22 BOARD MEMBER MARINELLO: But, you
23 know, you have to fill out the petition
24 correctly.

1 MR. APPELEGATE: Three federal
2 judges said you cannot trust any government
3 agent.

4 BOARD MEMBER MARINELLO: Yikes.

5 MR. APPELEGATE: No kidding. I got
6 to check my signatures.

7 BOARD MEMBER MARINELLO: That's
8 good. That's good, but you still have to
9 fill out the petition to the Secretary of
10 State's standard.

11 MR. APPELEGATE: So, you know, I'm a
12 tough guy.

13 BOARD MEMBER MARINELLO: Yes, you
14 are.

15 CHAIRMAN ANTHONY: Thank you.

16 Any other questions for -- all
17 right. And so basically, the Board is
18 saying --

19 DIRECTOR DAMSCHRODER: At this
20 point, Mr. Applegate is not on the ballot.
21 If the Board wants to agree with
22 Mr. Applegate's presentation and put him on
23 the ballot, it would require a motion in the
24 affirmative, seconded, and the majority who

1 votes today.

2 CHAIRMAN ANTHONY: Okay.

3 DIRECTOR DAMSCHRODER: Otherwise,
4 at this point, he is not on the ballot.

5 CHAIRMAN ANTHONY: Okay. And the
6 Board feels that the issues that you raised
7 are fatal flaws?

8 DIRECTOR DAMSCHRODER: Yes.

9 DEPUTY DIRECTOR WHITE: If I could
10 add, that the prosecuting attorney has looked
11 all these petitions over prior to the last
12 vote on the petition problems. And I'm not
13 aware of any difference of opinion from your
14 legal counsel in regards to these matters.

15 CHAIRMAN ANTHONY: Oh, okay. So
16 it's my understanding that in order to
17 reverse ourselves there has to be a motion,
18 and it has to be seconded.

19 Are there any motions?

20 (No response is heard.)

21 CHAIRMAN ANTHONY: Hearing none,
22 the ruling stands as it did earlier. You are
23 not on the ballot. That's it.

24 MR. APPELATE: All right. There

1 was no motion, would you think?

2 CHAIRMAN ANTHONY: No. We don't
3 have to take one. No. We don't have to take
4 one. Our first ruling to rule you off the
5 ballot stands.

6 Matt.

7 DIRECTOR DAMSCHRODER: The next
8 appeal is relative to the candidacy of Karen
9 A. Cincione, who was a candidate for a member
10 of the Franklin County Democratic Party's
11 Central Committee from the Village of Marble
12 Cliff.

13 CHAIRMAN ANTHONY: Is --

14 DIRECTOR DAMSCHRODER: Ms. Cincione
15 submitted a petition with five total
16 signatures, and Staff found the third
17 signature to not be genuine with the
18 signature that appeared on the Board's
19 records.

20 It's my understanding that
21 Ms. Cincione is not -- is not opposed. No
22 one else has filed for this office. Well,
23 she -- she's the only one that filed, and she
24 is not presently on the ballot.

1 CHAIRMAN ANTHONY: Is there someone
2 here to speak?

3 Are you going to speak on her
4 behalf, Mr. Cincione?

5 MR. CINCIONE: Yes. Actually,
6 there was a couple different solutions to
7 this problem. Probably the easiest would
8 have been to not do anything and ask
9 Mr. Anthony to reappoint her.

10 CHAIRMAN ANTHONY: Then, let's do
11 that.

12 MR. CINCIONE: But we can do that.
13 And then, being a lawyer and stuff,
14 I guess I -- I was concerned when they said
15 there was one that looked like it was
16 printed, that it was my signature being too
17 neat, but Mr. White just pointed out it's
18 probably the signature number three, which
19 is -- actually, I didn't circulate the
20 petitions. I was there when it was done. It
21 was actually Rich Murray's signature, is the
22 mayor of Marble Cliff.

23 CHAIRMAN ANTHONY: Is that
24 Mr. Murray's signature?

1 MR. CINCIONE: Apparently.
2 That's -- well, I don't know if you have this
3 same information that I have.

4 CHAIRMAN ANTHONY: Yeah. I have
5 the same information.

6 MR. CINCIONE: But -- and of
7 course, we -- she made a mistake in not
8 getting additional signatures to cover the
9 ones that may or may not be seen, so I'll
10 leave it to your discretion on that.

11 Obviously, we have the other
12 solution.

13 But it always is just a pleasure to
14 come to this Board, even though the first
15 time I went was I was running for Grandview
16 City Council, and I got challenged back in
17 1987. Of course, it's always great to see
18 Mr. Colley, who I don't get to see as much as
19 I used to.

20 So anyway, I'll leave it to your
21 discretion, however you want to solve the
22 problem. But I appreciate your at least
23 hearing our question.

24 And again, I thought might have

1 been my signature, but it appears it's
2 probably Rich Murray's signature. So --

3 DEPUTY DIRECTOR WHITE: You were
4 there when the mayor signed it?

5 MR. CINCIONE: Yeah.

6 DEPUTY DIRECTOR WHITE: So you did
7 see this, then?

8 MR. CINCIONE: Yes. I did. And I
9 looked at it. I thought, you're not really
10 going to -- I mean, see, my thought on these
11 signatures is, first of all, it's hard to fit
12 a signature, my signature, in that little
13 box. And it seems like he -- you know, it's
14 hard to get one that's legible in there.

15 But --

16 CHAIRMAN ANTHONY: You know what
17 the problem was, is that on the application
18 he signed his name so you could read it, and
19 then on the petition it's just some
20 scripted --

21 DEPUTY DIRECTOR WHITE: What year
22 did he do that?

23 CHAIRMAN ANTHONY: Last year, '06.

24 MR. CINCIONE: Right.

