

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
DIVISION**

Derek Hamilton et al.,	:	Case No. 1: 08-CV-02546
Plaintiffs,	:	
vs.	:	Judge
Ashland County Board of Elections, et al.,	:	
Defendants.	:	Magistrate Judge

**MOTION FOR A TEMPORARY RESTRAINING ORDER**

Pursuant to Fed. R. Civ. P. 65(b), Plaintiffs move for a Temporary Restraining Order to protect their fundamental right to vote. A memorandum of law in support of this Motion is attached.

Respectfully submitted,

/s/David A. Singleton  
David A. Singleton (#0074556)  
Trial Attorney for Plaintiffs  
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\* Seeking admission pro hac vice

**MEMORANDUM OF LAW IN SUPPORT OF**  
**MOTION FOR A TEMPORARY RESTRAINING ORDER**

**I. Introduction**

Plaintiffs, who are incarcerated in the Mohican Juvenile Correctional Facility in Ashland County (“Mohican”), seek emergency relief to block the Ashland County Board of Elections (“Board”) from denying them the right to vote in the upcoming election on November 4, 2008.

Plaintiffs are eighteen years or older and are eligible to vote. Each resides at the Mohican Juvenile Correctional Facility in Ashland County, Ohio (“Mohican”). Each registered to vote by the October 6, 2008 deadline. Each will have resided there for more than 30 days before the November 4, 2008 election. None are scheduled to be released before the election. Accordingly, they are each entitled to vote in Ashland County.

On October 15, 2008, a local resident filed a challenge to Plaintiffs’ voter registrations, claiming that they should not be allowed to vote in Ashland County because they were only residing there temporarily. The Board of Elections scheduled a challenge hearing for October 24, 2008. Plaintiffs, however, did not receive notice of the hearing until October 23, 2008, the day before. Because they are incarcerated in a secure facility, Plaintiffs were unable to obtain court orders to allow them to attend the hearing, or to obtain the assistance of counsel to represent them at the hearing.

Despite the fact that not a single Plaintiff was in attendance, the Board proceeded to hold this hearing and determined that Plaintiffs were ineligible to vote pursuant to R.C. 3503.02, the default rule for determining residence. But, the Board failed to consider that all the Plaintiffs are eligible to vote pursuant to R.C. § 3503.04 which requires inmates of public institutions to register in the county in which the institution is located. Had plaintiffs been afforded an opportunity to attend the hearing, they would have informed the Board of their right to register in

Ashland County. Instead, the Board voted to remove the plaintiffs from the registration list and deprive them of their fundamental right to vote.

## **II. Statement of the Facts**

### **A. Ohio Registration Laws**

To vote in a general election in Ohio, an individual must register thirty days before the election and reside in the county in which he seeks to vote. R.C. § 3503.01. In order to qualify to register, an individual need only be a citizen, eighteen years old, “and who, if he continues to reside in the precinct until the next election, will at that time have fulfilled all the requirements as to length of residence to qualify him as an elector.” R.C. § 3505.07.

Ohio has three statutory provisions to determine the county of residence. The default rules for determining residence are found in R.C. § 3503.02. Additionally, Ohio has two exceptions to the default rule, one for inmates of soldiers’ homes and one for inmates of public or private institutions. R.C. § 3503.03; R.C. § 3503.04. These exceptions mandate that these inmates “shall have their lawful residence in the county, city, village and township in which said institution is located...,” provided the inmates are “qualified as to age and residence within the county....” R.C. § 3503.03; R.C. § 3503.04. Thus, inmates of soldiers’ homes, public, and private institutions who are eighteen years old and reside in the precinct at least thirty days prior to the election, shall register in the county where those institutions are located.

Ohio law allows a qualified voter to challenge the right to vote of any registered voter and seek a cancellation of his right to vote, but the challenge “shall be filed with the board on a form prescribed by the Secretary of State and shall be signed under penalty of election falsification.” R.C. § 3503.24. When a proper challenge is filed, a county board of elections is required to set a hearing and send notice to the challenged voter at least three days before the

hearing. *Id.* A challenge may be filed to question whether the voter has registered in the correct county.

## **B. The Plaintiffs.**

### **Derek Hamilton**

Plaintiff Derek Hamilton is an eighteen-year-old United States citizen who resides at Mohican. (Declaration of Derek Hamilton at ¶1, attached hereto as Exhibit 1). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Hamilton registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Hamilton explains the importance of his voting rights as follows: “My voting rights are very important to me – especially now that I have a young son. There are a lot of issues that matter to me and my family and it is very important to me that I make my voice be heard by voting.” *Id.* at ¶6.

### **Xavier Brock**

Plaintiff Xavier Brock is an eighteen-year-old United States citizen who resides at Mohican. (Declaration of Xavier Brock at ¶1, attached hereto as Exhibit 2). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Brock registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Brock explains the importance of his voting rights as follows: “It is very important that I be able to vote. This is my first election and I am concerned about the future of the country. I want my future to be bright. Some day I hope to own a business. Who the president is could impact my life and whether I will be able to achieve my dreams.” *Id.* at ¶6.

### **David Lee Sweazy**

Plaintiff David Lee Sweazy is an eighteen-year-old United States citizen who resides at Mohican. (Declaration of David Lee Sweazy at ¶1, attached hereto as Exhibit 3). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Sweazy registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Sweazy explains the importance of his voting rights as follows: “I really want to vote. I am worried about gas prices and high food costs. I am worried about my family. I want my voice to be heard.” *Id.* at ¶6.

### **Chevin Joseph Rought**

Plaintiff Chevin Joseph Rought is an eighteen-year-old United States citizen who resides at Mohican. (Declaration of Chevin Joseph Rought at ¶1, attached hereto as Exhibit 4). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Rought registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Rought explains the importance of his voting rights as follows: “I want to vote for a couple of important reasons. First, I want to make my voice heard. Second, I just recently had a son. When my boy is old enough to understand, I want to tell him that I voted in my first election. I want to set an example for him to follow when he is old enough to vote.” *Id.* at ¶6.

### **Javon D. Patton**

Plaintiff Javon D. Patton is a nineteen-year-old United States citizen who resides at Mohican. (Declaration of Javon D. Patton at ¶1, attached hereto as Exhibit 5). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election.

*Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Patton registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Patton explains the importance of his voting rights as follows: “Voting is a big part of being an American. I want to vote so that I can make my voice heard on how the country should be run.” *Id.* at ¶7.

#### **Jeremiah M. Ramos**

Plaintiff Jeremiah M. Ramos is an eighteen-year-old United States citizen who resides at Mohican. (Declaration of Jeremiah M. Ramos at ¶1, attached hereto as Exhibit 6). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Ramos registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Ramos explains the importance of his voting rights as follows: “I want to vote because this is an important election. I keep hearing that the presidential election could come down to Ohio and that it could be close. I believe that every vote matters. I want to vote and have my voice heard.” *Id.* at ¶6.

#### **Jabrail A. Wofford**

Plaintiff Jabrail A. Wofford is an eighteen-year-old United States citizen who resides at Mohican. (Declaration of Jabrail A. Wofford at ¶1, attached hereto as Exhibit 7). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Wofford registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Wofford explains the importance of his voting rights as follows: “People I respect tell me that every vote matters and that I shouldn’t let my opportunity to vote go to waste. That’s why I want to vote.” *Id.* at ¶6.

### **Rameon J. Sumlin**

Plaintiff Rameon J. Sumlin is an eighteen-year-old United States citizen who resides at Mohican. (Declaration of Rameon J. Sumlin at ¶1, attached hereto as Exhibit 8). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Sumlin registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Sumlin explains the importance of his voting rights as follows: “Voting is important to me because there are not too many people in my family who take the opportunity to vote. I feel that because I am of age I should vote. Voting gives me the chance to express my views about who should run the country. Voting is an important responsibility.” *Id.* at ¶6.

### **James Mack**

Plaintiff James Mack is an eighteen-year-old United States citizen who resides at Mohican. (Declaration of James Mack at ¶1, attached hereto as Exhibit 9). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Mack registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Mack explains the importance of his voting rights as follows: “I really want to vote to make a difference and to have my voice heard. Voting is my right.” *Id.* at ¶7.

**Markus H. Barrett**

Plaintiff Markus H. Barrett is over eighteen years old and is a United States citizen. (Declaration of Markus H. Barrett at ¶1, attached hereto as Exhibit 10). He resides at Mohican. *Id.* He will have resided at Mohican in excess of thirty days immediately before the November, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Barrett registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* ¶2.

Plaintiff Barrett explains the importance of his voting rights as follows: “It is very important to me that I vote on November 4, 2008 because I want to make a difference.” *Id.* at ¶7.

**Raymond L. Welcher**

Plaintiff Raymond L. Welcher is an eighteen-year-old United States citizen who resides at Mohican. (Declaration of Raymond L. Welcher at ¶1, attached hereto as Exhibit 11). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Welcher registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Welcher explained the importance of his voting rights as follows: “I really want to vote to have my say in how society should change.” *Id.* at ¶6.

**Nicholas M. Seefong**

Plaintiff Nicholas M. Seefong is a twenty-year-old United States citizen who resides at Mohican. (Declaration of Nicholas M. Seefong at ¶1, attached hereto as Exhibit 12). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Seefong registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.



Plaintiff Seefong explains the importance of his voting rights as follows: “I want to vote because I will be released and I would like to have a voice and opinion about who leads this country since I will be impacted by his decisions and policies.” *Id.* at ¶6.

**Taronn L. Allen**

Plaintiff Taronn L. Allen is an eighteen-year-old United States citizen who resides at Mohican. (Declaration of Taronn L. Allen at ¶1, attached hereto as Exhibit 13). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Allen registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Allen explains the importance of his voting rights as follows: “I really want to vote. Now that I am old enough, I realize how important voting is. I’ve been paying attention to the election and want to vote.” *Id.* at ¶6.

**Troy Tomlin**

Plaintiff Troy Tomlin is an eighteen-year-old United States citizen who resides at Mohican. (Declaration of Troy Tomlin at ¶1, attached hereto as Exhibit 14). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Tomlin registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Tomlin explains the importance of his voting rights as follows: “Because I am 18, I have the right to vote. Voting is something that is very important to me.” *Id.* at ¶7.

**Nick S. Mallison**

Plaintiff Nick S. Mallison is an eighteen-year-old United States citizen, who resides at Mohican. (Declaration of Nick S. Mallison at ¶1, attached hereto as Exhibit 15). He will have

resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Mallison registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Mallison explains the importance of his voting rights as follows: “I want to vote because one vote can make a difference. I want to be a part of deciding who runs the country. Now that I’ve turned eighteen, I want to make my voice heard by voting.” *Id.* at ¶6.

### **Roget Carr**

Plaintiff Roget Carr is an eighteen-year-old United States citizen who resides at Mohican. (Declaration of Roget Carr at ¶1, attached hereto as Exhibit 16). He will have resided at Mohican in excess of thirty days immediately before the November 4, 2008 election. *Id.* He is not scheduled to be released before November 4, 2008. *Id.* Plaintiff Carr registered to vote in Ashland County before the October 6, 2008 deadline. *Id.* at ¶2.

Plaintiff Carr explains the importance of his voting rights as follows: “I want to vote because my opinion is just as important as anyone else’s. Now that I am eighteen, I want to help choose who runs the country.” *Id.* at ¶6.

### **C. The Deprivation of Plaintiffs’ Voting Rights.**

Shortly before the voting registration deadline, The Ohio Justice and Policy Center (“OJPC”) organized a lawful voter registration drive within DYS facilities. (Slagle Declaration at ¶7). OJPC staff and volunteers registered youth at the following facilities: Indian River Juvenile Correctional Facility in Stark County; Marion Juvenile Correctional Facility in Marion County; Ohio River Valley Correctional Facility in Scioto County; Circleville Juvenile Correctional Facility in Pickaway County; Scioto Juvenile Correctional Facility in Delaware County; and Mohican Juvenile Correctional Facility in Ashland County. *Id.* To the knowledge

of Plaintiffs' counsel, only the youth from Mohican have had their registrations cancelled on the alleged basis that they reside within the county only temporarily. *Id.*

On October 15, Michael Barrett, an alleged registered voter in Ashland County, filed a Challenge to Registered Voters as Unqualified Electors with the Board questioning whether the Plaintiffs' were residents of Ashland County. (Barrett Challenge, attached as Exhibit A to the Declaration of Margie Slagle, attached hereto as Exhibit 17). Specifically, the Challenge alleged that Plaintiffs were not residents of Ashland County pursuant to R.C. § 3503.02 (A) and (C) because they entered Ashland County on a temporary basis and had no intention of making Ashland County their permanent residence. *Id.*

Pursuant to R.C. § 3503.24, the Board scheduled a hearing for October 24, 2008, to determine whether Barrett's challenge should be granted. (Hamilton Declaration at ¶3). However, Plaintiffs, all of whom received the notice on October 23, 2008, were not provided sufficient notice to enable them to seek attorneys and a court order allowing them to leave the facility. *See* Plaintiffs' Declarations (Hamilton Declaration at ¶¶3-4; Brock Declaration at ¶¶3-4; Sweazy Declaration at ¶¶3-4; Rought Declaration at ¶¶3-4; Patton Declaration at ¶¶4-5; Ramos Declaration at ¶¶3-4; Wofford Declaration at ¶¶3-4; Sumlin Declaration at ¶¶3-4; Mack Declaration at ¶¶4-5; Barrett Declaration at ¶¶4-5; Welcher Declaration at ¶¶3-4; Seefong Declaration at ¶¶3-4; Allen Declaration at ¶¶3-4; Tomlin Declaration at ¶¶4-5; Mallison Declaration at ¶¶3-4; Carr Declaration at ¶¶3-4). Moreover, the Board did not issue subpoenas compelling Plaintiffs' attendance. (Slagle Declaration at ¶6). Consequently, Plaintiffs were unable to attend the hearing.

At the hearing, the Board heard only from Barrett, who testified that Plaintiffs were ineligible to register in Ashland County under the rules for determining residence contained in

R.C. § 3503.02 (A) and (C).<sup>1</sup> (Transcript of Hearing at 4-5, attached to Slagle Declaration as Exhibit B). Specifically, he presumed that Plaintiffs were in the county on a temporary basis only and had no intention to make Ashland County their permanent home. *Id.* Barrett testified: “I would put forth, once they are released from state custody, they will not stay in the area of Mohican Youth Center, or in the county for that matter.” *Id.* at 4. He then dismissively claimed: “they likely don’t even know what county they’re in; and they surely don’t know what part of the county they are in if they do. So, I’m fairly certain that upon questioning, they will tell us that they will not plan on residing in Ashland County once the state releases them from custody.” *Id.* at 5-6.

The Board then sought testimony from the Plaintiffs, presumably to inquire whether they intended to make Ashland County their permanent home. *Id.* at 7-8. When the Board learned that none of the Plaintiffs were present, they proceeded to make their decision without hearing from the Plaintiffs and unanimously voted<sup>2</sup> that the Plaintiffs were not residents of Ashland County. *Id.* at 9.

### **III. Argument**

#### **A. Plaintiffs Can Demonstrate a Substantial Likelihood of Success.**

##### **1. Canceling Plaintiffs Registration without Adequate Notice and a Meaningful Hearing Violates the Due Process Clause of the Fourteenth Amendment.**

The Supreme Court has held that “[n]o right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we

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<sup>1</sup> R.C. § 3503.02 (A) states: “That place shall be considered the residence of a person in which the person’s habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.” R.C. § 3503.02 (C) states: “A person shall not be considered to have gained a residence in any county of this state into which the person comes for temporary purposes only, without the intention of making such county the permanent place of abode.”

<sup>2</sup> Mr. David Samsel was not present for the hearing.

must live. Other rights, even the most basic, are illusory if the right to vote is undermined.” *Wesberry v. Sanders*, 376 U.S. 1, 17, 84 S.Ct. 526, (1964). Cancelling an individual’s right to vote, implicates a liberty interest protected by the Due Process Clause of the Fourteenth Amendment. *Bell v. Marinko*, 235 F.Supp.2d 772, 777 (N.D.Ohio 2002). The Due Process Clause requires notice that is “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Dusenbery v. United States*, 534 U.S. 161, 168, 122 S.Ct. 694, 151 L.Ed.2d 597 (2002).

The notice that Defendants sent was not calculated to afford the Plaintiffs an opportunity to attend the hearing and present their objections. First, the Plaintiffs received the notice on October 23, only one day before the scheduled hearing. As the Defendants well knew, Plaintiffs are confined to a juvenile facility and cannot freely leave to attend a hearing. Had the Plaintiffs had more time, they could have sought a court order allowing them to attend the hearing. But, a 24 hour notice is not enough time to find attorneys and seek the requisite court orders. The Defendants could have notified Plaintiffs sooner since they received the challenge on October 15. Or the Defendants could have issued subpoenas compelling the Plaintiffs to attend. Instead, the Board sent a late notice that they should have known would not provide adequate time for the Plaintiffs to attend and participate in the hearing in a meaningful way.

Despite the fact that Plaintiffs were not in attendance, the Board proceeded with the hearing. The only substantive testimony the Board considered was from the challenger, Michael Barrett. Barrett alleged that the juveniles were not eligible to vote in Ashland County based on R.C. § 3503.02, the default rule to determine residency. To support this conclusion, he testified that the plaintiffs were temporary residents who had no intention of making Ashland County

their permanent home. He then questioned whether they even realized they were in Ashland County and claimed that: “So, I’m fairly certain that upon questioning, they will tell us that they will not plan on residing in Ashland County once the state releases them from custody.” But no one questioned the plaintiffs regarding their intentions. Instead, the board voted to disenfranchise the Plaintiffs based solely on the musings of Michael Barrett.

To add insult to injury, the Board completely failed to realize that Michael Barrett had applied the wrong residency statute to the Plaintiffs. Plaintiffs are not governed by the default statute. Rather, they are governed by one of the exceptions to the general rule that determines where inmates of a public institution shall register. R.C. § 3503.04 mandates that inmates “shall have their lawful residence in the county, city, village and township in which said institution is located...,” provided the inmates are “qualified as to age and residence within the county....” Plaintiffs meet both of the qualifications as to age and residence within the county. All of the plaintiffs are citizens, eighteen or older, who will have resided in the precinct at least thirty days prior to the election. *See* Section 1, Article V of the Ohio Constitution and R.C. § 3503.07.

Had the plaintiffs been afforded adequate time to seek counsel and participate in the hearing, the Plaintiffs would have informed the Board they were duly registered pursuant to R.C. § 3505.07. But the unconstitutional deprivation of their Due Process Rights has resulted in an erroneous decision by the Board that has unlawfully disenfranchised the Plaintiffs.

## **2. Canceling Plaintiffs Registration without Violates the Equal Protection Clause of the Fourteenth Amendment.**

Plaintiffs are being treated differently than other DYS residents who registered to vote in their county of confinement. To the knowledge of Plaintiffs’ counsel, DYS residents who registered to vote in other counties – specifically, Marion, Scioto, Delaware, Stark County, and

Pickaway Counties – have not had their registrations cancelled. The right of these young voters to vote should not depend on the county where they live.

The Equal Protection Clause of the United States Constitution forbids such a result. Like state poll taxes that have been struck down on equal protection grounds, *see Harper v. Virginia State Bd. of Elections*, 383 U.S. 663, 667-668 (1966), Ohio’s unequal application of voter registration requirements for youth incarcerated in DYS facilities wrongfully excludes from the polls those who live in Ashland County. In *Reynolds v. Sims*, the Supreme Court stated, “the fundamental principle of representative government in this country is one of equal representation for equal numbers of people, without regard to race, sex, economic status, or place of residence within a State.” *Reynolds*, 377 U.S. at 561-562.

Thus, Plaintiffs’ are likely to prevail on their Equal Protection claim.

**B. Plaintiffs will Suffer Irreparable Harm if Disenfranchised**

Plaintiffs seek to protect their right to vote, a right that ranks among the most fundamental in our society. *See, e. g. Dunn v. Blumstein*, 405 U.S. 330, 336 (1972); *Kramer v. Union Free Sch. Dist. No. 15*, 395 U.S. 621, 626 (1969). The Plaintiffs lawfully registered to vote and looked forward to voting for the very first time, yet they will be denied their right to vote on November 4 without court intervention.

As the Sixth Circuit has long recognized, when it comes to infringements of fundamental constitutional rights, courts may find irreparable injury “stem[ming] from... ‘the fear that, if these rights are not jealously safeguarded, persons will be deterred, even if imperceptibly, from exercising those rights in the future.’” *United Food & Commercial Workers Union, Local 1099v. Southwest Ohio Regional Transit Authority*, 163 F.3d 341, 363 (6th Cir. 1998) (holding that infringing upon the union’s First Amendment rights constituted irreparable harm); *see also*

*Miller v. Blackwell*, 348 F.Supp.2d 916, 922, (S.D.Ohio 2004), *aff'd per curiam*, 388 F.3d 546 (6th Cir. 2004) (finding that because “the Defendants' challenged actions threaten or impair both Plaintiffs' constitutional right to due process and constitutional right to vote, the Court must find that Plaintiffs will suffer an irreparable injury if the temporary restraining order does not issue.”); *Overstreet v. Lexington-Fayette Urban County Gov't*, 305 F.3d 566, 578 (6th Cir.2002) (“[c]ourts have also held that a plaintiff can demonstrate that a denial of an injunction will cause irreparable harm if the claim is based upon a violation of the plaintiff's constitutional rights.”).

For these reasons, tampering with the Plaintiffs right to vote immediately before an election threatens a quintessential form of harm, one courts regularly address through the issuance of injunctive relief.

**C. The Injury Plaintiffs Will Suffer Greatly Outweighs any Harm to a Third Party**

As discussed above, Plaintiffs will suffer irreparable harm if this order is not granted. Meanwhile, there is no cognizable injury that any third party would suffer if injunctive relief is granted. Any harm to a third party is speculative and unfounded, and therefore outweighed by the irreparable harms Plaintiffs face absent injunctive relief.

**D. The Public Interest Favors the Granting of this Order**

In the National Voters Registration Act, Congress declared that:

- (1) the right of citizens of the United States to vote is a fundamental right;
- (2) it is the duty of the Federal, State, and local governments to promote the exercise of that right; and
- (3) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.

(b) Purposes

The purposes of this subchapter are--



- (1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;
- (2) to make it possible for Federal, State, and local governments to implement this subchapter in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;
- (3) to protect the integrity of the electoral process; and
- (4) to ensure that accurate and current voter registration rolls are maintained.

42 USC § 1873gg.

The public interest is furthered when all citizens are guaranteed the fundamental right to vote.

#### **IV. CONCLUSION**

For the reasons discussed above, the Court should grant Plaintiffs' request for a preliminary injunction.

Respectfully submitted,

/s/David A. Singleton

David A. Singleton (#0074556)

Trial Attorney for Plaintiffs

Stephen JohnsonGrove (Ohio#0078999)

Margie Slagle (Ohio #0082217) \*

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\* Seeking admission pro hac vice

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Motion for Temporary Restraining Order* was filed electronically on October 27, 2008. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/DAVID A. SINGLETON  
David A. Singleton

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al., : Case No.  
 :  
 Plaintiffs, :  
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 vs. : Judge  
 :  
 Ashland County Board of Elections and its :  
 members in their official capacities, et al., :  
 : Magistrate Judge  
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 Defendants. :  
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**DECLARATION OF DEREK HAMILTON**

I, Derek Hamilton, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On or about October 6, 2008, I filled out an application to register to vote. I gave my application to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

3. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

4. By the time I received the notice, I didn't have time to get a court order to attend the hearing or to find a lawyer to represent me. I was told by the facility that the hearing would be postponed since we had just gotten notice the day before.

5. I have been told that the Board of Elections decided to cancel my registration at the hearing.

6. My voting rights are very important to me – especially now that I have a young son. There are a lot of issues that matter to me and my family and it is very important to me that I make my voice be heard by voting.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**

Derek Hamilton  
Derek Hamilton

Dated: October 26, 2008



**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al.,	:	Case No.
	:	
Plaintiffs,	:	
	:	
vs.	:	Judge
	:	
Ashland County Board of Elections and its members in their official capacities, et al.,	:	
	:	Magistrate Judge
	:	
Defendants.	:	
	:	
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**DECLARATION OF XAVIER BROCK**

I, Xavier Brock, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On or about October 6, 2008, I filled out a voter registration form. I gave the form to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

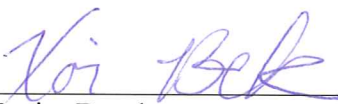
3. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

4. By the time I received the notice, I was unable to get a court order to attend the hearing or to find a lawyer to represent me. Because of the short notice, I wasn't able to attend the hearing.

5. I've since learned that the Board of Elections canceled my registration at the hearing.

6. It is very important that I be able to vote. This is my first election and I am concerned about the future of the country. I want my future to be bright. Some day I hope to own a business. Who the president is could impact my life and whether I will be able to achieve my dreams.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**

  
\_\_\_\_\_  
Xavier Brock

Dated: October 26, 2008

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al., : Case No.  
 :  
 Plaintiffs, :  
 :  
 vs. : Judge  
 :  
 Ashland County Board of Elections and its :  
 members in their official capacities, et al., :  
 : Magistrate Judge  
 :  
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 Defendants. :  
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**DECLARATION OF DAVID LEE SWEAZY**

I, David Lee Sweazy, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On October 6, 2008, I filled out an application to register to vote. I gave my application to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

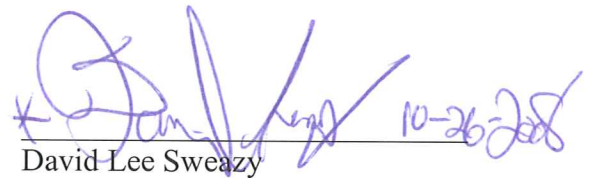
3. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

4. By the time I received the notice, I didn't have time to get a court order to attend the hearing or to find a lawyer to represent me. Because I didn't have a court order to attend the hearing, the facility did not let me go.

5. I have been told that the Board of Elections decided to cancel my registration at the hearing.

6. I really want to vote. I am worried about gas prices and high food costs. I am worried about my family. I want my voice to be heard.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**

  
David Lee Sweazy

Dated: October 26, 2008





**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al.,	:	Case No.
Plaintiffs,	:	
vs.	:	Judge
Ashland County Board of Elections and its members in their official capacities, et al.,	:	Magistrate Judge
	:	
Defendants.	:	
	:	
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**DECLARATION OF CHEVIN JOSEPH ROUGHT**

I, Chevin Joseph Rought, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On or about October 6, 2008, I filled out an application to register to vote. I gave my application to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

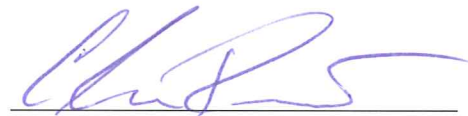
3. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

4. By the time I received the notice, I didn't have time to get a court order to attend the hearing or to find a lawyer to represent me. Because of the short notice, I wasn't able to attend the hearing.

5. I have been told that the Board of Elections decided to cancel my registration at the hearing.

6. I want to vote for a couple of important reasons. First, I want to make my voice heard. Second, I just recently had a son. When my boy is old enough to understand, I want to tell him that I voted in my first election. I want to set an example for him to follow when he is old enough to vote.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**



Chevin Joseph Rought

Dated: October 26, 2008

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al., : Case No.  
 :  
 Plaintiffs, :  
 :  
 vs. : Judge  
 :  
 Ashland County Board of Elections and its :  
 members in their official capacities, et al., :  
 : Magistrate Judge  
 :  
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 Defendants. :  
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**DECLARATION OF JAVON D. PATTON**

I, Javon D. Patton, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am nineteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On or about October 6, 2008, I filled out a voter registration form. I gave the form to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

3. Several days after I completed my registration, I got a card from the Board of Elections confirming my registration.

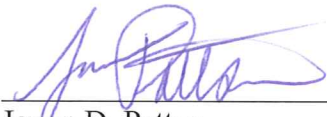
4. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

5. By the time I received the notice, I didn't have time to get a court order to attend the hearing or to find a lawyer to represent me. Because of the short notice, I wasn't able to attend the hearing.

6. I've since learned that the Board of Elections canceled my registration at the hearing.

7. Voting is a big part of being an American. I want to vote so that I can make my voice heard on how the country should be run.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**



---

Javon D. Patton

Dated: October 26, 2008

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al., : Case No.  
 :  
 Plaintiffs, :  
 :  
 vs. : Judge  
 :  
 Ashland County Board of Elections and its :  
 members in their official capacities, et al., :  
 : Magistrate Judge  
 :  
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 Defendants. :  
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**DECLARATION OF JEREMIAH M. RAMOS**

I, Jeremiah M. Ramos, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On or about October 6, 2008, I filled out a voter registration form. I gave the form to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

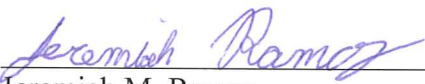
3. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

4. By the time I received the notice, I was unable to get a court order to attend the hearing or to find a lawyer to represent me. Because of the short notice, I wasn't able to attend the hearing.

5. I've since learned that the Board of Elections canceled my registration at the hearing.

6. I want to vote because this is an important election. I keep hearing that the presidential election could come down to Ohio and that it could be close. I believe that every vote matters. I want to vote and have my voice heard.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**

  
Jeremiah M. Ramos

Dated: October 26, 2008



**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al.,	:	Case No.
Plaintiffs,	:	
vs.	:	Judge
Ashland County Board of Elections and its members in their official capacities, et al.,	:	Magistrate Judge
	:	
Defendants.	:	
	:	
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**DECLARATION OF JABRAIL A. WOFFORD**

I, Jabrail A. Wofford, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On or about October 6, 2008, I filled out a voter registration form. I gave the form to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

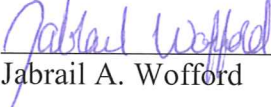
3. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

4. By the time I received the notice, I was unable to get a court order to attend the hearing or to find a lawyer to represent me. Because of the short notice, I wasn't able to attend the hearing.

5. I've since learned that the Board of Elections canceled my registration at the hearing.

6. People I respect tell me that every vote matters and that I shouldn't let my opportunity to vote go to waste. That's why I want to vote.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**

  
\_\_\_\_\_  
Jabrail A. Wofford

Dated: October 26, 2008



**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al., : Case No.  
 :  
 Plaintiffs, :  
 :  
 vs. : Judge  
 :  
 Ashland County Board of Elections and its :  
 members in their official capacities, et al., :  
 : Magistrate Judge  
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 Defendants. :  
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**DECLARATION OF RAMEON J. SUMLIN**

I, Rameon J. Sumlin, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On or about October 6, 2008, I filled out a voter registration form. I gave the form to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.


3. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

4. By the time I received the notice, I was unable to get a court order to attend the hearing or to find a lawyer to represent me. Because of the short notice, I wasn't able to attend the hearing.

5. I've since learned that the Board of Elections canceled my registration at the hearing.

6. Voting is important to me because there are not too many people in my family who take the opportunity to vote. I feel that because I am of age I should vote. Voting gives me the chance to express my views about who should run the country. Voting is an important responsibility.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**

  
\_\_\_\_\_  
Rameon J. Sumlin

Dated: October 26, 2008



IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Derek Hamilton, et al.,	:	Case No.
	:	
Plaintiffs,	:	
	:	
vs.	:	Judge
	:	
Ashland County Board of Elections and its members in their official capacities, et al.,	:	Magistrate Judge
	:	
	:	
Defendants.	:	
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**DECLARATION OF JAMES MACK**

I, James Mack, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am over eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. I filled out an application to register to vote on or about October 6, 2008. I gave my application to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

3. I think I received a notice from the Board of Elections stating that my voter registration was received. I am not entirely sure but I think that's what it said.

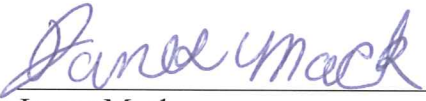
4. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

5. By the time I received the notice about the hearing, I didn't have time to get a court order to attend the hearing or to find someone to represent me. Because I didn't have a court order to attend the hearing, the facility did not let me go.

6. I have been told that the Board of Elections decided to cancel my registration at the hearing.

7. I really want to vote to make a difference and to have my voice heard. Voting is my right.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**

  
James Mack

Dated: October 26, 2008

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al., : Case No.  
 :  
 Plaintiffs, :  
 :  
 vs. : Judge  
 :  
 Ashland County Board of Elections and its :  
 members in their official capacities, et al., :  
 : Magistrate Judge  
 :  
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 Defendants. :  
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**DECLARATION OF MARKUS H. BARRETT**

I, Markus H. Barrett, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am over eighteen years old. I have resided in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. I filled out an application to register to vote on or about October 6, 2008. I gave my application to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

3. I believe I received a notice from the board of elections confirming my registration. But I am not sure.

4. On October 23, 2008, I received a notice from the Ashland County Board of Elections that my registration was being challenged at a hearing on October 24, 2008.

5. By the time I received the notice about the hearing, I did not have enough time to get a court order to allow me to attend the hearing. Nor could I find an attorney to represent to me. The facility did not allow me to attend the hearing.

6. I have since learned that the Board of Elections decided to cancel my registration at the hearing.

7. It is very important to me that I vote on November 4, 2008 because I want to make a difference.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**

  
Markus H. Barrett

Dated: October 26, 2008



**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al.,	:	Case No.
	:	
Plaintiffs,	:	
	:	
vs.	:	Judge
	:	
Ashland County Board of Elections and its members in their official capacities, et al.,	:	Magistrate Judge
	:	
	:	
Defendants.	:	
	:	
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**DECLARATION OF RAYMOND L. WELCHER**

I, Raymond L. Welcher, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On October 6, 2008, I completed an application to register to vote. I gave my application to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

3. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

4. By the time I received the notice, I didn't have time to get a court order to attend the hearing or to find a lawyer to represent me. Because I didn't have a court order to attend the hearing, the facility did not let me go.

5. I have been told that the Board of Elections decided to cancel my registration at the hearing.

6. I really want to vote to have my say in how society should change.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**

Raymond L. Welcher  
Raymond L. Welcher

Dated: October 26, 2008





**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al.,	:	Case No.
	:	
Plaintiffs,	:	
	:	
vs.	:	Judge
	:	
Ashland County Board of Elections and its members in their official capacities, et al.,	:	
	:	Magistrate Judge
	:	
Defendants.	:	
	:	
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**DECLARATION OF NICHOLAS M. SEEFONG**

I, Nicholas M. Seefong, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am twenty years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On or about October 6, 2008, I filled out a voter registration form. I gave the form to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

3. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

4. By the time I received the notice, I was unable to get a court order to attend the hearing or to find a lawyer to represent me. Because of the short notice, I wasn't able to attend the hearing.

5. I've since learned that the Board of Elections canceled my registration at the hearing.

6. I want to vote because I will be released and I would like to have a voice and opinion about who leads this country since I will be impacted by his decisions and policies.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**

  
Nicholas M. Seefong

Dated: October 26, 2008



**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al.,	:	Case No.
Plaintiffs,	:	
vs.	:	Judge
Ashland County Board of Elections and its members in their official capacities, et al.,	:	
	:	Magistrate Judge
	:	
Defendants.	:	
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**DECLARATION OF TARONN L. ALLEN**

I, Taronn L. Allen, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On or about October 6, 2008, I filled out a voter registration form. I gave the form to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

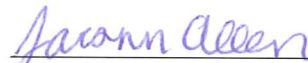
3. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

4. By the time I received the notice, I was unable to get a court order to attend the hearing or to find a lawyer to represent me. Because of the short notice, I wasn't able to attend the hearing.

5. I've since learned that the Board of Elections canceled my registration at the hearing.

6. I really want to vote. Now that I am old enough, I realize how important voting is. I've been paying attention to the election and want to vote.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**



---

Taronn L. Allen

Dated: October 26, 2008



IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Derek Hamilton, et al.,	:	Case No.
	:	
Plaintiffs,	:	
	:	
vs.	:	Judge
	:	
Ashland County Board of Elections and its members in their official capacities, et al.,	:	
	:	Magistrate Judge
	:	
	:	
Defendants.	:	
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**DECLARATION OF TROY TOMLIN**

I, Troy Tomlin, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On or about October 6, 2008, I filled out a voter registration form. I gave the form to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

3. After my registration was submitted, I got some mail from the Board of Elections. I'm pretty sure that the mail I received stated that I was now registered to vote. I'm not positive, though, about what the document said.

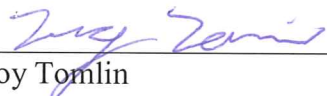
4. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

5. By the time I received the notice, I was unable to get a court order to attend the hearing or to find a lawyer to represent me. Because of the short notice, I wasn't able to attend the hearing.

6. I've since learned that the Board of Elections canceled my registration at the hearing.

7. Because I am 18, I have the right to vote. Voting is something that is very important to me.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**

  
\_\_\_\_\_  
Troy Tomlin

Dated: October 26, 2008

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al., : Case No.  
 :  
 Plaintiffs, :  
 :  
 vs. : Judge  
 :  
 Ashland County Board of Elections and its :  
 members in their official capacities, et al., :  
 : Magistrate Judge  
 :  
 :  
 Defendants. :  
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**DECLARATION OF NICK S. MALLISON**

I, Nick S. Mallison, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On or about October 6, 2008, I filled out a voter registration form. I gave the form to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

3. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

4. By the time I received the notice, I was unable to get a court order to attend the hearing or to find a lawyer to represent me. Because of the short notice, I wasn't able to attend the hearing.

5. I've since learned that the Board of Elections canceled my registration at the hearing.

6. I want to vote because one vote can make a difference. I want to be a part of deciding who runs the country. Now that I've turned eighteen, I want to make my voice heard by voting.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**



---

Nick S. Mallison

Dated: October 26, 2008





**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al.,	:	Case No.
	:	
Plaintiffs,	:	
	:	
vs.	:	Judge
	:	
Ashland County Board of Elections and its members in their official capacities, et al.,	:	
	:	Magistrate Judge
	:	
Defendants.	:	
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**DECLARATION OF ROGET CARR**

I, Roget Carr, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am a citizen of the United States and am eighteen years old. I have lived in the State of Ohio and the Mohican Juvenile Correction Facility in Ashland County in excess of thirty days immediately before the election on November 4, 2008. I am not scheduled to be released before November 4, 2008.

2. On or about October 6, 2008, I filled out a voter registration form. I gave the form to Laurie Wen who told me she would hand deliver it to the Ashland County Board of Elections on October 6, 2008.

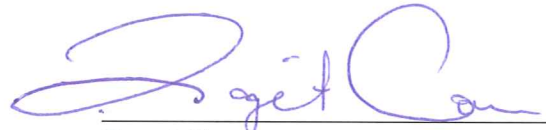
3. On October 23, 2008, I received a notice from the Ashland County Board of Elections stating that my registration was being challenged at a hearing on October 24, 2008.

4. By the time I received the notice, I was unable to get a court order to attend the hearing or to find a lawyer to represent me. Because of the short notice, I wasn't able to attend the hearing.

5. I've since learned that the Board of Elections canceled my registration at the hearing.

6. I want to vote because my opinion is just as important as anyone else's. Now that I am eighteen, I want to help choose who runs the country.

**I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.**



Roget Carr

Dated: October 26, 2008



**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

Derek Hamilton, et al., : Case No.  
Plaintiffs, :  
vs. : Judge  
Ashland County Board of Elections, et al., :  
Magistrate Judge  
Defendants. :

**DECLARATION OF MARGIE SLAGLE**

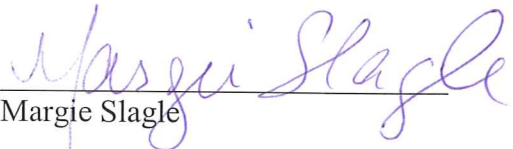
I, Margie Slagle, being of sound mind and with personal knowledge of the facts, do make this declaration pursuant to 28 U.S.C. ¶ 1746(2), under penalty of perjury:

1. I am employed as a staff attorney at the Ohio Justice & Policy Center in Cincinnati, Ohio.
2. I have helped prepare the Complaint and Motion for Temporary Restraining Order in the above-captioned case. I serve as co-counsel for Plaintiffs in this action.
3. As co-counsel in this case, I have obtained certain documents and information relating to the subject of this litigation.
4. OJPC has obtained the October 15, 2008, challenge filed by Ashland County resident Michael Barrett. Barrett's challenge is attached as Exhibit A.
5. OJPC also obtained the transcript of the hearing held by the Board of Elections on October 24, 2008. That transcript is attached as Exhibit B.

6. To my knowledge, the Board did not issue subpoenas compelling Plaintiffs to attend the October 24, 2008 hearing.

7. Shortly before the registration deadline, OJPC organized a voter registration drive within DYS facilities. OJPC staff and volunteers registered youth at the following facilities: Indian River Juvenile Correctional Facility in Stark County; Marion Juvenile Correctional Facility in Marion County; Ohio River Valley Correctional Facility in Scioto County; Circleville Juvenile Correctional Facility in Pickaway County; Scioto Juvenile Correctional Facility in Delaware County; and Mohican Juvenile Correctional Facility in Ashland County. To my knowledge, only the youth from Mohican have had their registrations cancelled on the alleged basis that they reside within the county only temporarily.

**I declare under penalty of perjury that the foregoing is true and correct.**

  
Margie Slagle

Dated: October 27, 2008



To: Ashland County Board of Elections  
 From: Michael Barrett Ashland County Registered Voter  
 Re: Challenge to Registered Voters as Unqualified Electors  
 Date: October 15, 2008

I would like to challenge the below registered voters on the grounds they are not residents of Ashland County as defined in 3503.02 sections (A) and (C). These have been placed in Ashland County while in the custody of the Ohio Department of Youth Services. If they were to be released today, they would return to their home county from which they were sentenced. In fact, Ashland County would be their temporary residence as defined in 3503.02 (B). Section (C) further states that *a person shall not be considered to have gained a residence in any county.....into which the person comes for temporary purposes only.* Incarceration against their will would fit this criteria.

I would further question the concept of in loco parentis as applied to adults in the custody of DYS. They are no longer juveniles, they are merely serving out a juvenile sentence. In any other situation they would be treated as adults, if for example they were on juvenile probation and committed a probation violation, they would be sent to an adult facility to serve their sentence. In loco parentis only applies to juveniles or those who are incompetent. They only responsibility the state has to them is the same responsibility that it has to anyone incarcerated against their will.

- |                          |                      |
|--------------------------|----------------------|
| Bruce Q. Devon           | Taronn L Allen       |
| Roget Carr               | Markus H Barrett     |
| Jeremiah M Ramos         | Chevin Joseph Rought |
| Raymond L Welcher        | Javon D Patton       |
| Kenneth K Tye            | David Lee Sweazy     |
| Derek Hamilton           | Jabrail A Wofford    |
| Nick S Mallison          | Xavier E Brock       |
| James M Mack             | Nickolas M Seefong   |
| Rameon J Sumlin          | Troy D Tomlin        |
| Dikembe R Locke          | Damiko D Russell     |
| Brandon J Sengkecophainh |                      |

*Michael Barrett* 2-C

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ASHLAND COUNTY BOARD OF ELECTIONS

PUBLIC HEARING

- - -

The following hearing was held before the Board of Elections concerning a challenge by Michael Barrett of voter eligibility of 21 voter applications.

Date and Time: Friday, October 24, 2008  
1:00 p.m.

Place: Ashland County Board of Elections  
110 Cottage Street  
Ashland, Ohio

Board Members: Mr. Dennis Ragle  
Ms. Bonnie Manos  
Mr. George Bringman  
Mr David Samsel - not present

Reporter: Marie B. Fresch  
Registered Merit Reporter  
Notary Public, State of Ohio

- - -

1                   MRS. MANOS:                                   I would like to  
2                   open this hearing with the Board of Elections in a quasi  
3                   judicial capacity. There are three board members  
4                   present which is a majority. They are Dennis Ragle,  
5                   George Bringman and Bonnie Manos. Absent is Dave  
6                   Samsel.

7                   Following guidelines of the Secretary of State for  
8                   having another board member other than the chairman  
9                   conduct the hearing, the entire board will appoint  
10                  Dennis Ragle to conduct this hearing.

11                  MR. RAGLE:                                   We'll call this  
12                  hearing to order. I believe all the board members have  
13                  been introduced. I would ask at this time if any board  
14                  member has, would like to recuse themselves from this  
15                  hearing based on any kind of conflict of interest.

16                  Hearing none, we will proceed.

17                  All parties in this matter have been notified as  
18                  required by the Ohio Revised Code 3505.19. The scope of  
19                  this hearing is to determine if the Board of Elections  
20                  can process registrations to vote -- applications based  
21                  on residency requirements that are spelled out in the  
22                  Ohio Revised Code.

23                  The board will take testimony first from the  
24                  challenger. That is Mr. Michael Barrett. Then, the  
25                  board will hear testimony from each of the 21 applicants

1 who have made application to be registered to vote in  
2 the County of Ashland.

3 All parties giving testimony to this hearing will  
4 be recognized first by me and properly sworn in by a  
5 court reporter. Order will be maintained at all times  
6 and proper respect will be shown to all people here.

7 After the parties have given their testimony, the  
8 board will briefly recess, deliberate, and we will give  
9 the ruling on this matter.

10 At this time, I will call for his testimony,  
11 Mr. Michael Barrett.

12 And, Mike, if you would just come and have a seat  
13 right here, and be properly sworn in by the court  
14 reporter.

15 MICHAEL BARRETT

16 being first duly sworn and testified as follows:

17 THE WITNESS: Okay. I became  
18 aware of the 21 individuals that had registered from the  
19 Department of Youth Service Facility, Mohican; and after  
20 I became aware of that, I became concerned. Being  
21 somewhat familiar with the election law, I began to look  
22 at some of the laws I felt applied to that particular  
23 scenario, and I came up with three situations that I  
24 would like to briefly suggest to the board for their  
25 consideration.



1           The first one was that the date on the applications  
2           as they were stamped into the Board of Elections is  
3           October 7th. Statute 3503.01 Section A and 3503.19  
4           Section A both say that the applications have to be  
5           received 30 days prior. By my count, it's 28 days. So,  
6           I felt there was an eligibility issue by the day they  
7           were received, which is inside of the 30-day minimum.  
8           That was the first consideration.

9           Second consideration was one regarding residency of  
10          the individuals, Section 3502, 3503.02 residency  
11          determination rules; all three of the beginning  
12          sections; A, B and C.

13          Section A states the place shall be considered a  
14          residence of a person in which the person's habitation  
15          is fixed into which whenever the person is absent the  
16          person has an intention of returning.

17          I believe Section A does not apply to these  
18          individuals. Their residency is only fixed at the  
19          Mohican Center because the State has them there in  
20          involuntary custody. I would put forth, once they are  
21          released from State custody, they will not stay in the  
22          area of the Mohican Youth Center or in the county, for  
23          that matter. Further, it is very likely the State can  
24          move them at any point. They're at the whim of the  
25          State's control.

1           Section B of 3503.02 says a person shall not be  
2           considered to have lost the person's residence who he  
3           leaves the person's home and goes into another state or  
4           county of this state for temporary purposes only with  
5           the intention of returning.

6           And, I believe Section B does not apply to them.  
7           They have not lost their residency from whence they  
8           came. They can clearly go home once they are released  
9           from the State's custody. And, if I get the opportunity  
10          to question them, I will ask them where they plan on  
11          staying once they leave here. Involuntary incarceration  
12          is clearly a temporary situation. So, clearly, they are  
13          not likely to maintain residence in the, in the Hanover  
14          Precinct Township they currently reside in.

15          3503.02 C says a person shall not be considered to  
16          have gained a residence in any county of this state into  
17          which the person comes for temporary purposes only,  
18          without the intention of making such county their  
19          permanent place of abode.

20          Again, reiterating, Section C does not apply. They  
21          have not gained residence here because they are here for  
22          temporary purposes only. They are, I would put forth  
23          that they likely don't even know what county they're in;  
24          and, they surely don't know what part of the county  
25          they're in if they do. So, I'm fairly certain that upon

1       questioning, they will tell us that they will not plan  
2       on residing in Ashland County once the State releases  
3       them from custody.

4             I think it is important to know where they came  
5       from originally, what county they were in. If they had  
6       previously registered to vote in the county that they  
7       came from, I would like to know what address they list  
8       as home address on the state forms that they have to  
9       fill out when they are incarcerated and booked; for that  
10      matter, when the law enforcement agencies originally  
11      arrested them.

12            I would like to ask them if they know what county  
13      they're in and what district they're in, in terms of a  
14      voting situation.

15            The third issue that I would like to raise is that  
16      these are all adults. They're incarcerated for  
17      felonies. Granted, they are adjudicated delinquents by  
18      means of felony, but they are incarcerated for felonies.

19            By extension, since they are adults, I believe they  
20      are statutorily considered convicted felons. I, under  
21      2151.02 (C) (6), they are at the discretion of the  
22      Department of Youth Services, able to be confined in any  
23      adult correctional facility.

24            I would be interested to know if they were  
25      adjudicated serious youthful offenders, and if so, what

1 crime they committed, because clearly they could be  
2 serving an adult sentence upon their release from the  
3 Department of Youth Corrections.

4 MR. RAGLE: Excuse me, we're  
5 only really interested in their residency requirements.

6 THE WITNESS: Okay. That, my  
7 issue with their residency is basically the ones I  
8 stated prior.

9 MR. RAGLE: Okay, that  
10 concludes your testimony?

11 THE WITNESS: Yes.

12 MR. RAGLE: Thank you very  
13 much.

14 The board now calls the first applicant, Bruce  
15 Devon.

16 Mike, do you have any other witnesses that you want  
17 to testify?

18 MR. BARRETT: Outside of the  
19 person that signed their forms, or had them sign their  
20 forms, if that person is available. I don't know their  
21 identity.

22 MR. RAGLE: Okay.

23 THE WITNESS: That will be the  
24 only other person I would be interested in.

25 MR. RAGLE: Okay. Bruce

1 Devon is not here.

2 Roger Carr? Not here.

3 Are any of the 21 inmates from the Mohican  
4 Detentional Facility present? Hearing none, we'll move  
5 on.

6 We would like to hear testimony from Kathy Howman.

7 KATHY HOWMAN

8 being first duly sworn, was examined and testified as  
9 follows:

10 EXAMINATION

11 BY MR. RAGLE:

12 Q. We have a question. Have you gone through the  
13 applications to register to vote and processed these,  
14 and did you find any person that had voted in another  
15 county, or had been registered in another county?

16 A. Yes, I checked them on the State's system to verify  
17 if any of them were registered and I found one, Raymond  
18 L. Welcher who is registered in Hamilton County.  
19 That's the only one of all of them that I found  
20 registered.

21 Q. So, he filled out an application to register in  
22 Ashland County and he was already registered to vote in  
23 Hamilton County?

24 A. Yes.

25 MR. RAGLE: Do we have any

1 other questions? The board has nothing else. Thank  
2 you.

3 Does anyone else present have any testimony that  
4 they would like to present as to the scope this hearing?

5 Hearing none, we will temporarily recess, and  
6 deliberate, and come back with our decision. Thank you.  
7 (Discussion held off the record.)

8 MR. RAGLE: Okay. We'll  
9 come out of recess, and I will call for the vote, for  
10 the vote from the board. And, I will ask each board  
11 member based on the following question. Do you find  
12 that the applicants do meet the residency requirements  
13 as prescribed in Ohio Revised Codes 3503.02, and  
14 3503-04?

15 Mrs. Manos?

16 MRS. MANOS: No.

17 MR. RAGLE: Mr. Bringman?

18 MR. BRINGMAN: No.

19 THE COURT: And I also vote  
20 no.

21 Based on the majority vote, we the board find the  
22 challenge is sustained. That concludes this hearing.  
23 Thank you very much.

24 (Discussion held off the record.)

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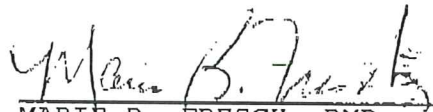
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C E R T I F I C A T E

I, Marie B. Fresch, Registered Merit Reporter, and Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the witnesses were duly sworn by me prior to the taking of testimony, that the testimony of said witnesses were taken by me in machine shorthand and were thereafter reduced to typewritten form by me and that the foregoing transcript is a true and accurate record of the testimony so given by the witnesses and that this hearing was taken at the time and place specified in the foregoing caption.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action, as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Norwalk, Ohio, on the 25th day of October, 2008.

  
\_\_\_\_\_  
MARIE B. FRESCH, RMR  
Notary Public, State of Ohio  
My Commission expires: 10-9-2013

Taronn L Allen

Markus H Barrett

Chevin Joseen Rought

Jayon D Patton

David Lee Sweazy

Jabrail A Wolford

Xavier E Brock

Nickolas M Seefong

Troy D Tomlin

Damiko D Russeli

Bruce Q Devon

Rogel Carr

Jeremiah M Ramos

Raymond L Welther

Kenneth K Tye

Derek Hamilton

Nick S Mailson

James M Mack

Rameon J Sumlin

Dikembe R Locke

Brandon J Sengkeophaann

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