

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

**KING LINCOLN BRONZEVILLE
NEIGHBORHOOD ASSOCIATION, ET AL.,**

PLAINTIFFS,

VS.

JENNIFER BRUNNER, ET AL.,

DEFENDANTS.

CASE NO. 2:06-CV-745

JUDGE MARBLEY

MAGISTRATE JUDGE KEMP

**PLAINTIFFS' REPLY TO DEFENDANT SECRETARY OF STATE'S MEMORANDUM
IN OPPOSITION TO PLAINTIFFS' MOTION FOR RELIEF FROM STAY**

A TALE OF TWO WITNESSES

On May 16, 2008, plaintiffs' trial counsel asked defendant's trial counsel to join in a motion to lift the stay in this case in order to allow the plaintiffs to take the deposition of Michael Connell.

Connell is an unusual witness, described by plaintiffs' new cyber security expert, Stephen Spoonamore, as uniquely preeminent in his field of Internet and data processing systems design. Connell handles information technology ("IT") for the George W. Bush White House; some of the most important congressional committees, including House Judiciary and House Intelligence; sensitive Agencies such as the Departments of Justice and Energy, and currently, for the McCain presidential campaign.

In 2000, Connell handled the IT function for parts of the Florida state government, after having successfully done the IT work for Jeb Bush's gubernatorial campaign. In that year he also

handled the IT function for the George W. Bush presidential campaign, the Republican National Committee and state counterparts including Florida and Ohio, along with side ventures for various industry front groups interested in electing a "business friendly" president and state supreme court justices.

Connell played an even more central role in the 2004 presidential election, where he pivoted between IT design for the George W. Bush presidential campaign including the "Swift Boat Veterans for Truth," the Ohio and National Republican parties, and IT design for the Ohio Secretary of State Kenneth Blackwell.

Connell's role in his work for Ohio Secretary of State Kenneth Blackwell is perhaps the most interesting for purposes of understanding the 2004 election in which Ohio played a determinative role. Connell designed the architecture and web applications for the interplay between the computer server reporting live election night results located in the offices of the Ohio Secretary of State Kenneth Blackwell and a parallel server located in Chattanooga, Tennessee. A Chattanooga bank building housed the servers for the Republican National Committee, the Bush campaign and many other partisan Republican campaigns. These were managed by a company called Smartech Corporation with which Connell is affiliated.

Stephen Spoonamore, out of his concern as a citizen for the preservation of democracy in the United States, had persuaded his friend and colleague Mike Connell to meet with the staff of US House Judiciary Committee to discuss these matters. The meeting has not taken place, but the

fact that Connell was agreeable to truthfully answering questions was a major concern to Karl Rove.

Plaintiffs' counsel are now working with an investigator who received a tip, deemed credible by expert witness Stephen Spoonamore, that Rove had threatened Connell should he implicate Rove in the fraudulent manipulation of the 2004 presidential election.

PLAINTIFFS' PROPOSED PRE ELECTION DISCOVERY PLAN

Plaintiffs propose to take the deposition of Michael Connell to establish his testimony as he has described his views to Stephen Spoonamore, reflected in Spoonamore's declaration attached hereto.

The public has a need and right to know, before the next presidential election, that the top Republican IT expert shares a concern about the vulnerability of electronic voting systems to fraudulent manipulation, and that this is not just "conspiracy theory."

Any further depositions before the election would, plaintiffs propose, be by agreement of counsel, after the Connell deposition.

Candidates would include:

1) Steve P. Harsman and Betty Smith, director and deputy director of the Montgomery County Board of Elections. See declaration of Richard Hayes Phillips, attached hereto, at paragraphs 30 and 31.

2) members and senior staff of the Warren and Clermont County boards of elections. See declaration of Richard Hayes Phillips, paragraphs 17, 18, 22, 23 and 29.

3) Secretary of State Kenneth Blackwell. See declaration of Stephen Spoonamore and declaration of Richard Hayes Phillips paragraph 15

4) Brett Rapp of Triad Government Services, Inc. See Richard Hayes Phillips declaration, paragraphs 21 and 24.

5) Jeff Avertebeck, President of Smartech. See declaration of Stephen Spoonamore.

6) Laurie Davis, administrative assistant for the Butler County Board of Elections and the Election Systems and Software technician who programmed all six of Butler County's central tabulators on the morning of election day. See declaration of Richard Hayes Phillips paragraph 12.

7) Karl Rove.

CONCLUSION

Plaintiffs submit that this discovery would be in aid of consummating the settlement concept on which the parties entered a standstill agreement and jointly moved for a stay.

Further, it would likely produce information that the public should have before voting in the next election. It would provide a clear signal that the rule of law will apply, and there will be accountability for criminal conduct.

Finally, this is discovery that plaintiffs' counsel could accomplish without a significant drain on the resources of either the Ohio Secretary of State or Ohio Attorney General's office.

Wherefore, plaintiffs respectfully request that their motion for relief from stay be granted, and that the discovery outlined above be permitted to proceed, forthwith.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify a copy of the foregoing was served upon counsel of record by means of the Court's electronic filing system on this 17th day of September 2008.

/s/ Clifford O. Arnebeck, Jr.