

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

KING LINCOLN BRONZEVILLE	:	
NEIGHBORHOOD ASSOCIATION, <i>et. al.</i>	:	
	:	Case No. C2 06 745
Plaintiffs,	:	
	:	
v.	:	Judge Algenon L. Marbley
	:	
J. KENNETH BLACKWELL, <i>et. al.</i>	:	
	:	
Defendants	:	

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DECLARATION OF RICHARD HAYES PHILLIPS

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Pursuant to 28 U.S.C. § 1746, I, Richard Hayes Phillips, declare the following:

1. I have personal knowledge of the facts alleged herein.
2. I reside at 4 Fisher Street, Canton, New York.
3. I have been retained by Plaintiffs to be a fact witness and an expert witness in the instant case, based upon my gathering and examination of some 30,000 digital images of records from the 2004 election, and my background in academic research as set forth in my previous declaration to this court, dated September 1, 2006.
4. Upon information and belief, the case is presently stayed, indefinitely, unless and until Judge Algenon L. Marbley issues an order to the contrary.
5. Upon information and belief, Plaintiffs desire that the stay be lifted so that discovery of evidence and deposition of both friendly and hostile witnesses can immediately proceed.
6. Upon information and belief, Defendant desires that the stay remain in effect until after the presidential election of November 4, 2008.
7. In my opinion, the position of Ohio Secretary of State Jennifer Brunner is well taken. This case was filed in the United States District Court for the Southern District of Ohio on August 31, 2006. The case pertains to the presidential election held on November 2, 2004. Nearly four years have elapsed since the crimes were allegedly committed, and still there has been no discovery of evidence and no deposition of hostile witnesses. But while I understand the argument that a delay of another ten weeks would be helpful to the Secretary of State because she and her staff are responsible for administering the upcoming election, I do not find the argument persuasive.

8. This is a nation that prides itself on the rule of law. One of the reasons for punishment of criminals is its deterrent effect not only upon those convicted of the crimes, but also upon those who might contemplate committing similar crimes in the future. Even if the persons who engaged in criminal activity related to the election of November 2, 2004 are no longer in a position to do so, it is vital that their crimes be investigated and that their guilt or innocence be established. Election fraud undermines the very foundation of the United States of America.
9. Any time I am asked when would be a good time to hold accountable those who were responsible for rigging a presidential election I will give the same answer: Now is the time. And for every day we have failed to do so: That was the time.
10. October 13, 2004 was the time to investigate the break-in at Lucas County Democratic headquarters in Toledo. Thieves shattered a side window and stole computers with sensitive campaign information. The story was reported in the Toledo Blade, in an article written by Robin Erb, who interviewed Democratic Party spokesman Jerry Chabler and office manager Barbara Koonce.
11. October 21, 2004 was the time to investigate how and why, according to a letter of resignation signed by Ken Nuss, Deputy Director of the Auglaize County Board of Elections, Joe McGinnis, a former employee of the vendor, Election Systems & Software (ES&S), gained unauthorized access to the county's central tabulating computer that creates ballots and compiles election results.
12. The morning of November 2, 2004 was the time to investigate why, according to Lori Davis, Administrative Assistant for the Butler County Board of Elections, a technician for the vendor, Election Systems & Software (ES&S), arrived unexpectedly at the Board of Elections office and reprogrammed all six of their tabulators. Such an investigation would have revealed that the punch card ballots consistently fail to match the tabulator count; and that ballots were sorted according to presidential candidate, there being 212 consecutive ballots for Bush in Monroe City, Precinct 4CA.
13. The afternoon of November 2, 2004 was the time to investigate Matthew Damschroder, Director of the Franklin County Board of Elections, for testifying under oath that all voting machines in Franklin County had been deployed, when in fact approximately 122 voting machines, most of them intended for heavily Democratic precincts, were never delivered to any polling place at any time on Election Day, thus causing voters to stand in line for as long as four hours in a cold rain, or else to leave without exercising their right to vote.
14. The evening of November 2, 2004 was the time to investigate how, in Lucas County, two groups of partisan Republican volunteers gained access to the warehouse where unused ballots were stored. Their refusal to leave prompted Richard Weghorst, a representative of Secretary of State Blackwell's office, to call the police, who escorted the partisan volunteers away from the building.
15. The evening of November 2, 2004 was the time to investigate J. Kenneth Blackwell, Ohio Secretary of State, for abandoning his directive issued the previous day to all Ohio Boards of Elections instructing them to begin reviewing the qualifications of provisional voters on the day after the election, and supplanting it with a public

announcement, which I personally witnessed on CBS television, stating that Ohio Boards of Elections could not begin counting provisional ballots for eleven days, the effect of which was to pressure John Kerry to concede the election prematurely to George W. Bush. Blackwell, an openly partisan official, was the Ohio state co-chairman of the Bush-Cheney reelection campaign.

16. The night of November 2, 2004 was the time to investigate why, according to Mark Munroe, Chairman of the Mahoning County Board of Elections, there were at least 20 to 30 touch screen voting machines on which votes for one candidate were being counted for that candidate's opponent. Such an investigation would have revealed that all voter complaints involved vote switching away from Kerry, and that these voting machines in Youngstown were programmed to default to George W. Bush.
17. The wee hours of the morning on November 3, 2004 was the time to investigate the lockdown of the Warren County Administration Building on the false pretext of a terrorist threat, the effect of which was to prevent news reporters and independent observers from watching the vote count. Such an investigation would have revealed that ballots issued at the polls in Warren County were not identified by precinct, thus allowing ballots punched for John Kerry to be shifted to precincts where, due to ballot rotation, those ballots would be counted for Bush; that at least three hours elapsed between the time the polls closed and the time the voted ballots arrived at the Board of Elections; and that ballots in Warren County were run through the tabulators not by Board of Elections personnel, but by a technician from the vendor, Triad Governmental Systems, Inc., as confirmed to me on August 22, 2007 by Susan Johnson, Deputy Director of the Warren County Board of Elections.
18. November 16, 2004 was the time to investigate the conspiracy behind the Warren County lockdown, on the day that the conspiracy was first revealed by Erica Solvig, reporter for the Cincinnati Enquirer, who personally reviewed e-mails between Emergency Services Director Frank Young and Building Services Director Jake Jones planning the lockdown seven and eight days in advance, and who personally interviewed County Commissioner Pat South who confirmed that the lockdown was approved behind closed doors by the Warren County Commissioners five days in advance. Susan Johnson has confirmed to me that the Warren County Board of Elections knew about the planned lockdown "a couple of days" in advance.
19. November 18, 2004 was the time to investigate the switching of votes in Cleveland from Kerry to little-known third-party presidential candidates, as first revealed on that date in my paper entitled "Stealing Votes in Cleveland." Such an investigation would have revealed that the vote-switching was accomplished by allowing voters in polling places with multiple precincts to take their ballots to the wrong voting booth, intended for a different precinct with a different ballot rotation, and that this happened by design, as witnessed by Mrs. Agnes Maxwell, Democratic Booth Official, Precinct 8G, and recorded on the pink memo sheet included with the voter signature book.
20. December 8, 2004 was the time to investigate why, in Miami County, the officially certified voter turnout in Concord South West was 98.55%, a number almost impossible to achieve; and this in a county where, after 100% of the precincts had reported, another 18,615 votes were added to the totals, increasing Bush's plurality to 16,000 votes exactly, and leaving the percentages for Bush and Kerry essentially

unchanged. Such an investigation would have revealed that the officially certified voter turnout was wrong not just in Concord South West, but in all 82 precincts of Miami County. Steve Quillen, Director of the Miami County Board of Elections, told me that he has carefully protected electronic evidence from the 2004 presidential election, and has indicated to me that he did not trust Sam Hogsett, the technician for the vendor, Elections Systems & Software (ES&S).

21. December 15, 2004 was the time to investigate why, according to a sworn affidavit by Sherole Eaton, Deputy Director of the Hocking County Board of Elections, submitted to John Conyers, ranking Democratic member of the House Judiciary Committee, an employee of the vendor, Triad Governmental Services, Inc., made several adjustments to the Hocking County tabulator in advance of the Ohio "recount." Subsequent to the initial complaint, Michael Barbian, the Ohio Field Representative for Triad, admitted to altering tabulator software in Hocking, Lorain, Muskingum, Clark, Harrison, and Guernsey counties.
22. December 16, 2004 was the time to investigate the Clermont County Board of Elections for placing white stickers over the mark for Kerry, filling in the mark for Bush, and running the altered ballots through the optical scanners, as reported on that day by Green, Libertarian, and Democratic observers to the "recount." Upon information and belief, Danny Bare, Director of the Clermont County Board of Elections, publicly admitted that he had applied the stickers himself; Maureen McCarthy, Board of Elections technician, has knowledge that he did so; and the witnesses to the "recount," including Bob Drake, heard his public confession. Such an investigation would have found "stickered" ballots not only in the presidential race, but also for Associate Justice of the Supreme Court, Judge of Court of Common Pleas, State Representative, County Commissioner, and Issue One, the constitutional amendment banning gay marriage.
23. December 16, 2004 was the time to investigate the Clermont County Board of Elections for selecting in advance, and not at random, the precincts to be hand counted in the "recount." A circular dated December 10, 2004, four days before the "recount," directly states that the smallest precincts were chosen. The circular was issued in the name of the Clermont County Board of Elections, and all members should be called to testify. Such an investigation would have revealed that the absentee ballots in the hand-counted precincts were identified in the upper right-hand corner in a different manner than the absentee ballots from the machine-counted precincts. As the absentee ballots were counted on Election Day, this indicates that the Board of Elections knew on November 2, 2004 which precincts would be subjected to the public scrutiny of a hand-count if a "recount" should become necessary.
24. December 22, 2004 was the time to investigate why, in more than one county in Ohio (e.g. Pike and Madison), Brandon Sandlin, on behalf of the vendor, Triad Governmental Systems, Inc., provided via e-mail the election results for the 2004 election to the Boards of Elections. I know this to be true because these Boards of Elections forwarded via e-mail to Ellis Goldberg, my colleague, said election results, together with identical cover letters from Brandon Sandlin, the second example being received on the above specified date.
25. January 6, 2005 was the time to investigate voter suppression in Ohio, when the certification of Ohio's electoral votes was challenged in a joint session of Congress

by Congresswoman Stephanie Tubbs-Jones, who had been the first public official to receive copies of my work. Tubbs-Jones stated that “as a lawyer, former judge and prosecutor, I am duty bound to follow the law and apply the law to the facts as I find them. It is on behalf of those millions of Americans who believe in and value our democratic process and the right to vote that I put forth this objection today. If they are willing to stand at the polls for countless hours in the rain as many did in Ohio, then I can surely stand up for them here in the halls of Congress.”

26. March 27, 2006 was the time to investigate why, in Delaware County, an armed, uniformed paramilitary policeman was summoned to stop United States citizens from examining public records. His name was Seth, and his shoulder patch said “Global Security Services,” whose website proclaims that they are “comprised of former Secret Service and FBI agents, CIA operatives, (and) military special operations personnel such as Navy SEALs.” Global Security Services agents were summoned on five occasions, including April 3, 2006, when an agent stationed outside the building saw us drive into the parking lot, ran into the Delaware County Board of Elections office, and locked the door behind him during business hours. The Court should find out, from the Delaware County Commissioners, who hired Global Security Services, when, and why.
27. April 8, 2006 was the time to investigate why, in Cuyahoga County, 168,169 voters were purged from the voter rolls between the 2000 and 2004 elections, including 63,721 voters in Cleveland, the number one Democratic stronghold in the State of Ohio, and why heavily Democratic wards appear to have been targeted. The story first appeared on the above specified date in my paper, “Purging the Voter Rolls in Cuyahoga County,” and was incorporated into an article by Robert F. Kennedy, Jr. in Rolling Stone magazine, issued June 2, 2006. Said purging was conducted when the Chairman of the Cuyahoga County Board of Elections was Robert T. Bennett, who was, and still is, the Chairman of the Republican Party of the State of Ohio.
28. June 9, 2006 was the time to investigate why, in Delaware County, Genoa Township, Precinct I, the punch card ballots were found to be sorted according to presidential candidate, including 359 consecutive ballots for George W. Bush. It is extremely unlikely that this was the sequence in which voters lined up at the polls on Election Day. Official minutes obtained from the Delaware County Board of Elections show that Genoa I was not one of the four precincts that were hand counted during the “recount” staged in December 2004. The ballot room was under double lock and key. To my personal knowledge, Kim Spangler and Janet Brenneman, Director and Deputy Director of the Delaware County Board of Elections, each had one key, as I personally saw them unlock the ballot room on March 22, 2006. If they did not sort the Genoa I ballots, then someone had unauthorized access to the ballot room.
29. August 22, 2006 was the time to investigate why the Hamilton County Board of Elections could not produce their unused ballots. Altogether, eleven counties failed to produce their unused ballots in response to public records requests (Clermont, Cuyahoga, Darke, Hamilton, Mercer, Montgomery, Shelby, Stark, Summit, Van Wert, and Warren). The ballot rooms are supposed to be under double lock and key. John Williams and Pamela M. Swafford, Director and Deputy Director of the Hamilton County Board of Elections, were the only officials courageous enough to confirm to me in writing that their unused ballots had been destroyed. Williams later stated to Secretary Brunner, in writing, on May 16, 2007, that their unused ballots, of which

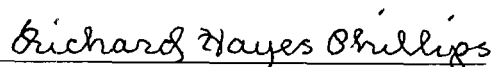
there were at least 146,285, were "inadvertently shredded." The Warren County Board of Elections openly stated, on April 30, 2007, that 22,726 unused ballots "were intentionally destroyed." Without the unused ballots there is no way to prove that ballots were not pre-punched, or that fake ballots were not substituted for real ones.

30. August 24, 2006 was the time to investigate why Steven P. Harsman and Betty Smith, Director and Deputy Director of the Montgomery County Board of Elections, barged into the room where I was photographing ballots and ordered me to stop. I refused, stating that Harsman had agreed to allow me one full day to photograph the uncounted ballots from all 23 precincts specified in my public records request. Such an investigation would have revealed that 70 (14%) of these uncounted ballots had dimpled chads for president, far more than were found in seven other urban counties combined, and that these ballots contained 1124 holes punched cleanly through the ballots, more than 16 per ballot, indicating that the voting machines were rigged to make it more difficult to punch for president than for any other office on the ballot.
31. July 27, 2007 was the time to investigate why 56 of 88 Boards of Elections in Ohio destroyed some or all of their records from the 2004 presidential election, as first publicly disclosed in my paper, "Shreds of Evidence," on the above specified date. The destruction of records would appear to be in violation of federal law, state law, Secretary of State Directive 2004-43, and, in some cases, in violation of an order issued by this Court on September 11, 2006. Steven P. Harsman openly stated to Ohio Secretary of State Jennifer Brunner, in writing, that the Montgomery County ballots were destroyed *after* receiving formal notice from the Court, thus leaving the photographs I took with my own camera as the best evidence. As election records were supposed to be stored in a secure area under double lock and key, the Court should direct Ohio Secretary of State Jennifer Brunner to require that these 56 Boards of Elections identify, by name, each person who had access to the records, and why.
32. Having personally examined 126,000 ballots, 127 poll books, and 141 voter signature books from 18 counties in Ohio, and having examined many other election records as well, it is my conclusion that there is so much evidence of ballot alteration, ballot substitution, ballot box stuffing, ballot destruction, vote switching, tabulator rigging, and old-fashioned voter suppression, that the results of the 2004 presidential election, in all likelihood, have been reversed. The examples listed in this declaration are the ones for which I am able to identify, by name, witnesses to be subpoenaed and deposed, whether friendly or hostile. There are many more examples, presented in relentless detail in my book, "Witness to a Crime: A Citizens' Audit of an American Election." In my opinion, the question before the court is improperly framed. Rather than ask why this case should proceed at this time, we should be asking why not. Now is the time. We have waited far too long already. Justice delayed is justice denied.

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

Executed this fourth day of September, 2008.

  
JANETTE J. ANDERSON  
Notary Public, State of New York  
No. 01AN5020772  
Qualified in St. Lawrence County  
Commission Expires Nov. 29, 2011

  
Richard Hayes Phillips