

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

PROJECT VOTE, et al.,	)	CASE NO. 1:06CV 1628
	)	
Plaintiffs,	)	JUDGE O'MALLEY
	)	
vs.	)	
	)	
J. KENNETH BLACKWELL, et al.,	)	
	)	
Defendants.	)	

**ANSWER OF DEFENDANT WILLIAM D. MASON, PROSECUTING ATTORNEY
OF CUYAHOGA COUNTY**

Defendant William D. Mason, Prosecuting Attorney of Cuyahoga County, answers
Plaintiffs' Complaint as follows:

1. Complaint Paragraphs 1 – 29 are denied for want of knowledge or information sufficient to form a belief as to their truth.
2. In response to Complaint Paragraph 30, it is admitted that Defendant J. Kenneth Blackwell is the Secretary of the State of Ohio and the remainder is admitted insofar as it accurately sets forth provisions of R.C. 3501.05 and other sections of the Ohio Revised Code.
3. In response to Complaint Paragraph 31, it is admitted that Defendant Jim Petro is the Attorney General of the State of Ohio and the remainder is admitted insofar as it accurately sets forth provisions of R.C. 109.02 and other sections of the Ohio Revised Code.

4. In response to Complaint Paragraph 32, it is admitted that Defendant William D. Mason is the Prosecuting Attorney for Cuyahoga County, Ohio and the remainder is admitted insofar as it accurately sets forth provisions of R.C. 309.08 and other sections of the Ohio Revised Code.
5. In response to Complaint Paragraph 33, it is admitted that Defendant Sherri Beven Walsh is the Prosecuting Attorney for Summit County, Ohio and the remainder is admitted insofar as it accurately sets forth provisions of R.C. 309.08 and other sections of the Ohio Revised Code.44113.
6. In response to Complaint Paragraphs 34 and 35, it is admitted that Plaintiffs' Complaint alleges that this case arises under the Constitution and laws of the United States and that the Court has statutory jurisdiction over such claims, and statutory authority to issue declaratory and injunctive relief, and the remainder is denied for want of knowledge or information sufficient to form a belief as to their truth.
7. Complaint Paragraph 36 is denied for want of knowledge or information sufficient to form a belief as to its truth.
8. Insofar as response is required of this Defendant to the allegations contained in Complaint Paragraphs 37 – 49, they are denied for want of knowledge or information sufficient to form a belief as to their truth.
9. Complaint Paragraphs 50 – 76 are denied for want of knowledge or information sufficient to form a belief as to their truth.
10. Complaint Paragraph 77 is admitted.
11. Complaint Paragraph 78 is denied for want of knowledge or information sufficient to form a belief as to its truth.

12. Complaint Paragraph 79 is admitted.
13. In response to Complaint Paragraph 80, it is admitted that H.B. 3 was signed by the Governor on January 31, 2006, and the remainder is admitted only insofar as it is consistent with the provisions of Sections 3-9 of H.B. 3.
14. The allegations in Complaint Paragraph 81 are admitted save for those specifying dates, which are denied for want of knowledge or information sufficient to form a belief as to their truth.
15. Complaint Paragraph 82 is admitted insofar as it accurately sets forth language and contents of R.C. 3503.29, enacted by H.B. 3.
16. Complaint Paragraph 83 is admitted insofar as it accurately sets forth language and contents of R.C. 3503.29, and is otherwise denied for want of knowledge or information sufficient to form a belief as to its truth.
17. Complaint Paragraph 84 is admitted insofar as it accurately sets forth language and contents of R.C. 3503.29, and is otherwise denied for want of knowledge or information sufficient to form a belief as to its truth.
18. Complaint Paragraph 85 is admitted insofar as it accurately sets forth language and contents of R.C. 3503.29, and is otherwise denied for want of knowledge or information sufficient to form a belief as to its truth.
19. Complaint Paragraph 86 is admitted insofar as it accurately sets forth language and contents of R.C. 3503.28, and is otherwise denied.
20. Complaint Paragraph 87 is admitted insofar as it accurately sets forth language and contents of R.C. 3599.11, as amended by H.B. 3.
21. In response to Complaint Paragraph 88, it is admitted that R.C. 3503.19 was amended by H.B. 3, admitted that division (B)(2)(c) was part of the amendment,

denied that division (B)(2)(c) was the extent of the amendment, and further admitted insofar as it accurately sets forth language and contents of R.C. 3503.19(B)(2)(c).

22. Complaint Paragraph 89 is admitted insofar as it accurately sets forth language and contents of R.C. 3503.19(B).
23. In response to Complaint Paragraph 90, it is admitted that R.C. 3599.11 was amended by H.B. 3, admitted that division (B)(2)(a) was part of the amendment, denied that division (B)(2)(a) was the extent of the amendment, and further admitted insofar as it accurately sets forth language and contents of R.C. 3599.11(B)(2)(a).
24. In response to Complaint Paragraph 91, it is admitted that R.C. 3599.11 was amended by H.B. 3, admitted that division (C)(2) was part of the amendment, denied that division (C)(2) was the extent of the amendment, and further admitted insofar as it accurately sets forth language and contents of R.C. 3599.11(C)(2).
25. Complaint Paragraph 92 is admitted insofar as it accurately sets forth language and contents of R.C. 3599.11(B)(2)(a) and (C)(2).
26. In response to Complaint Paragraph 93, it is admitted that the paragraph accurately sets forth the text of R.C. 3599.11(C)(2), and it is otherwise denied for want of knowledge or information sufficient to form a belief as to its truth.
27. Complaint Paragraph 94 is denied for want of knowledge or information sufficient to form a belief as to its truth.
28. In response to Complaint Paragraph 95, it is admitted that the paragraph accurately sets forth a portion of the text of the Secretary of State's "Advisory No. 2006-05," dated June 5, 2006.

29. In response to Complaint Paragraph 96, it is admitted that a paragraph of R.C. 3503.14(A) states: “The registration form shall include a space on which the person registering an applicant shall sign the person's name and provide the person's address and a space on which the person registering an applicant shall name the employer who is employing that person to register the applicant”; that H.B. 3 amended that sentence to add the words, “and provide the person’s address”; and it is otherwise denied.
30. In response to Complaint Paragraph 97, it is admitted that ¶ 15 of the voter registration form prescribed by the Secretary of State provides for the signature and address of the person registering the applicant, the date, and a declaration under penalty of election falsification by the person registering the applicant that requires the name of the employer of certain persons registering applicants, and it is otherwise denied for want of knowledge or information sufficient to form a belief as to its truth.
31. Complaint Paragraph 98 is admitted.
32. Complaint Paragraph 99 is admitted insofar as it accurately describes the contents of H.B. 3 as introduced and is otherwise denied.
33. Complaint Paragraph 100 is denied for want of knowledge or information sufficient to form a belief as to its truth.
34. Complaint Paragraph 101 is admitted.
35. Complaint Paragraphs 102 – 105 are denied for want of knowledge or information sufficient to form a belief as to their truth.
36. Complaint Paragraphs 106 and 107 are admitted except insofar as they omit the conference committee actions regarding H.B. 3.

37. Complaint Paragraph 108 is admitted only insofar as it is consistent with the provisions of H.B. 3, including Sections 3-9, and is otherwise denied.
38. Complaint Paragraph 109 is denied for want of knowledge or information sufficient to form a belief as to its truth.
39. Complaint Paragraph 110 is admitted insofar as it accurately sets forth language and contents of R.C. 3599.11, and the remainder denied for want of knowledge or information sufficient to form a belief as to its truth.
40. Complaint Paragraphs 111 – 120 are denied for want of knowledge or information sufficient to form a belief as to their truth.
41. Complaint Paragraphs 121 – 127 are denied for want of knowledge or information sufficient to form a belief as to their truth.
42. Defendant is not required to respond to Complaint Paragraph 128.
43. Complaint Paragraph 129 is admitted insofar as it accurately sets forth the locations where R.C. 3503.19(B)(2)(c) and 3599.11 require persons other than a voter registration applicant to return applicants' voter registration forms and registration forms entrusted to them, and it is otherwise denied for want of knowledge or information sufficient to form a belief as to its truth.
44. Complaint Paragraph 130 is denied for want of knowledge or information sufficient to form a belief as to its truth.
45. In response to Complaint Paragraph 131, it is denied that the phrase, "compensated to register voters," is contained in H.B. 3.
46. Complaint Paragraphs 132 through 134 are denied for want of knowledge or information sufficient to form a belief as to their truth.

47. Complaint Paragraph 135, referring generally to all H.B. 3's registration return provisions, is denied.
48. Defendant is not required to respond to Complaint Paragraph 136.
49. Complaint Paragraph 137 is admitted insofar as it accurately sets forth locations specified in R.C. 3503.19(B)(2)(c) and 3599.11.
50. Complaint Paragraphs 138 and 139 are denied for want of knowledge or information sufficient to form a belief as to their truth.
51. Defendant is not required to respond to Complaint Paragraph 140.
52. Complaint Paragraph 141 is admitted.
53. Complaint Paragraph 142 is admitted with respect to "pre-registration, training, affirmation" and denied for want of knowledge or information sufficient to form a belief as to its truth with respect to "disclosure, or personal return."
54. Complaint Paragraph 143 is denied for want of knowledge or information sufficient to form a belief as to its truth.
55. Defendant is not required to respond to Complaint Paragraph 144.
56. Complaint Paragraph 145 is admitted.
57. Complaint Paragraphs 146 through 148 are denied for want of knowledge or information sufficient to form a belief as to their truth.
58. Defendant is not required to respond to Complaint Paragraph 149.
59. Complaint Paragraph 150 is denied for want of knowledge or information sufficient to form a belief as to its truth.
60. Complaint Paragraph 151 is admitted.
61. Complaint Paragraph 152 is denied based upon Box D of said form.

62. Complaint Paragraphs 153 – 155 are admitted insofar as they accurately set for provisions of 42 U.S.C. § 1973gg-4 and –gg-7.
63. Complaint Paragraph 156 is admitted.
64. Complaint Paragraph 157 is denied for want of knowledge or information sufficient to form a belief as to its truth.
65. Defendant is not required to respond to Complaint Paragraph 158.
66. In response to Complaint Paragraph 159, it is admitted that it contains one of the purposes set out in 42 U.S.C. § 1976gg(b).
67. In response to Complaint Paragraph 160, it is admitted that 42 U.S.C. § 1973gg4(b), “Availability of forms,” includes the quoted material, referring to “mail voter registration forms” or “mail voter registration application forms.”
68. Complaint Paragraph 161 is denied for want of knowledge or information sufficient to form a belief as to its truth.
69. Complaint Paragraph 162 is admitted insofar as it accurately sets forth the provisions of the NVRA and is otherwise denied.
70. Complaint Paragraph 163 is denied for want of knowledge or information sufficient to form a belief as to its truth.
71. Defendant is not required to respond to Complaint Paragraph 164.
72. Complaint Paragraphs 165 and 166 are denied for want of knowledge or information sufficient to form a belief as to their truth.
73. Defendant is not required to respond to Complaint Paragraph 167.
74. Complaint Paragraphs 168 and 169 are denied for want of knowledge or information sufficient to form a belief as to their truth.

AFFIRMATIVE DEFENSES

75. Plaintiffs' Complaint fails to state a claim against this answering defendant upon which relief can be granted.
76. Plaintiffs' Complaint fails to state a basis for award of nominal damages against this Defendant.
77. Plaintiffs' Complaint fails to state a basis for granting relief pursuant to 42 U.S.C. § 1973gg-9-(c) or 42 U.S.C. § 1988 against this Defendant.
78. This defendant official has neither enforced nor threatened to enforce those enactments that Plaintiffs claim are unconstitutional or violate federal laws.
79. This Defendant and Defendant Summit County Prosecuting Attorney Sherri Bevan Walsh are but two of eighty-eight county prosecutors in Ohio.

Respectfully submitted,

WILLIAM D. MASON, Prosecuting
Attorney of Cuyahoga County, Ohio

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CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2006, a copy of the foregoing *Answer* was filed electronically. 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. Service was also made this date by regular U.S. Mail to the following:

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