

## Voter Registrations for Juvenile Offenders

*Hamilton v. Ashland County Board of Education*

(Donald C. Nugent, N.D. Ohio 1:08-cv-2546)

Adult inmates of a juvenile correctional facility sued to enjoin cancellation of their voter registrations for not being permanent residents. The district court denied the plaintiffs relief. The court of appeals vacated the portion of the district court's decision pertaining to state law as a matter for state courts to decide.

*Subject:* Nullifying registrations. *Topics:* Prisoner voters; registration challenges; matters for state courts.

On Monday, October 27, 2008, a week before the 2008 presidential election, inmates of the Mohican Juvenile Correctional Facility in Ashland County, Ohio, filed an action in Cleveland's federal courthouse to enjoin cancellation of their voter registrations.<sup>1</sup> On October 15, an Ashland University professor of criminal justice and local resident challenged the registrations because the inmates were only in the county temporarily.<sup>2</sup> The board of elections heard and sustained the challenge on October 24.<sup>3</sup> The inmates were unable to attend because of their confinement.<sup>4</sup>

On Tuesday, the plaintiffs filed a motion for a temporary restraining order,<sup>5</sup> and the court assigned the case to Judge Donald C. Nugent.<sup>6</sup> As soon as an application for a temporary restraining order was filed, the clerk's office notified the assigned judge's chambers.<sup>7</sup> If the assigned judge was unavailable, the matter could be decided by the judge on duty for miscellaneous matters, but this court developed an ethic against referring election cases to the miscellaneous judge.<sup>8</sup>

On Wednesday, the plaintiffs filed an amended complaint<sup>9</sup> and the defendants filed a motion for a court order requiring the plaintiffs' release for participation in an evidentiary hearing on the temporary restraining order,

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1. Complaint, *Hamilton v. Ashland Cty. Bd. of Educ.*, No. 1:08-cv-2546 (N.D. Ohio Oct. 27, 2008), D.E. 1; see Rachel Dissell, *Ashland Elections Board Sued*, *Cleveland Plain Dealer*, Oct. 29, 2008, at B3.

2. Opinion at 2, *Hamilton*, No. 1:08-cv-2546 (N.D. Ohio Oct. 31, 2008), D.E. 15; see Complaint, *supra* note 1, at 4; see also *Ashland Man Challenges Voter Registrations at Mohican Juvenile Correctional Facility*, *Mansfield News J.*, Oct. 24, 2008, at A8.

3. Opinion, *supra* note 2, at 2–3; see Complaint, *supra* note 1, at 4; see also *BOE Upholds Voter Registration Challenge*, *Mansfield News J.*, Oct. 25, 2008, at A1.

4. Opinion, *supra* note 2, at 2–3; see Complaint, *supra* note 1, at 4.

5. Temporary-Restraining-Order Motion, *Hamilton*, No. 1:08-cv-2546 (N.D. Ohio Oct. 28, 2008), D.E. 2.

6. Docket Sheet, *id.* (Oct. 27, 2008).

Tim Reagan interviewed Judge Nugent for this report by telephone on February 6, 2012.

7. Interview with Hon. Donald C. Nugent, Feb. 6, 2012.

8. *Id.*

9. Amended Complaint, *Hamilton*, No. 1:08-cv-2546 (N.D. Ohio Oct. 29, 2008), D.E. 7.

scheduled for Friday.<sup>10</sup> Judge Nugent informally suggested that live testimony from the would-be voters might not be necessary.<sup>11</sup> He issued an opinion on Friday denying the temporary restraining order and dismissing the complaint on a finding that the plaintiffs did not meet voter residency requirements for Ashland County under Ohio law.<sup>12</sup> He found no federal constitutional violation.<sup>13</sup>

On Monday, November 3, the day before the election, the plaintiffs filed a notice of appeal,<sup>14</sup> and the court of appeals resolved the case that day.<sup>15</sup> The court of appeals affirmed the denial of federal claims and vacated the state-law ruling, dismissing the claim without prejudice so that it could be pursued in state court.<sup>16</sup> The state court ruled as Judge Nugent did.<sup>17</sup>

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10. Opinion, *supra* note 2, at 1; Motion to Convey, *Hamilton*, No. 1:08-cv-2546 (N.D. Ohio Oct. 29, 2008), D.E. 6.

11. Interview with Hon. Donald C. Nugent, Feb. 6, 2012.

The docket sheet does not show a resolution of the defendants' motion.

12. Opinion, *supra* note 2, at 8–13; see Transcript, *Hamilton*, No. 1:08-cv-2546 (N.D. Ohio Oct. 31, 2008, filed Nov. 3, 2008), D.E. 20.

13. Opinion, *supra* note 2, at 3–8.

14. Notice of Appeal, *Hamilton*, No. 1:08-cv-2546 (N.D. Ohio Nov. 3, 2008), D.E. 23.

15. *Hamilton v. Ashland Bd. of Educ.*, 320 F. App'x 307 (6th Cir. 2008).

16. *Id.*

17. Interview with Hon. Donald C. Nugent, Feb. 6, 2012.