

Keeping Polls Open Longer Because of Weather

*Obama for America v. Cuyahoga County Board of
Elections (Solomon Oliver, Jr., N.D. Ohio 1:08-cv-562)*

Ohio’s 2008 presidential primary election was held on March 4, 2008, and the weather in Ohio that day was not good.¹ In addition, many locations in the state were experiencing shortages of ballots.² Barack Obama filed an action in the U.S. District Court for the Northern District of Ohio to keep the polls open until 9:00 p.m., an extra hour and a half, in three counties: Franklin, which includes Columbus; Cuyahoga, which includes Cleveland; and Clermont, a county slightly east of Cincinnati.³

The court assigned the case to Judge Patricia A. Gaughan.⁴ By the time the plaintiffs filed their action, however, Judge Gaughan had gone home.⁵ The clerk’s office tried to reach her, but it either had or dialed an incorrect telephone number.⁶

Judge Solomon Oliver, Jr., was on duty that day for miscellaneous matters, and he was still in the courthouse that evening when the case was filed.⁷ He held a teleconference proceeding with the parties.⁸ The Obama campaign withdrew its claim with respect to Clermont County, and Judge Oliver denied the claim with respect to Franklin County.⁹ Both Clermont County and Franklin County are in the other district.¹⁰ Judge Oliver granted the requested relief with respect to some polling places in Cuyahoga County, based on representations made at the teleconference.¹¹ All votes received by persons arriving after the usual closing time of 7:30 p.m. would be segregated as provisional ballots.¹² It was reported that some

1. Temporary Restraining Order, [Obama for America v. Cuyahoga County Board of Elections](#), No. 1:08-cv-562 (N.D. Ohio Mar. 4, 2008), D.E. 5 (filed at 8:07 p.m.); see Complaint at 2–3, *id.* (Mar. 4, 2008), D.E. 1; see also Joe Guillen, *Obama Campaign Outcry Extends Precinct Hours*, Cleveland Plain Dealer, Mar. 5, 2008, at A1; Mark Niquette, *Weather, Suit Slow Cuyahoga County Results*, Columbus Dispatch, Mar. 5, 2008, at 1A.

2. Temporary Restraining Order, *supra* note 1; see Complaint, *supra* note 1, at 1; see also Niquette, *supra* note 1.

3. Complaint, *supra* note 1.

4. Docket Sheet, [Obama for America](#), No. 1:08-cv-562 (N.D. Ohio Mar. 4, 2008).

5. Interview with Hon. Solomon Oliver, Jr., July 27, 2012.

6. *Id.*

7. *Id.* Tim Reagan interviewed Judge Oliver for this report by telephone.

8. Docket Sheet, *supra* note 4.

9. Temporary Restraining Order, *supra* note 1.

10. Interview with Hon. Solomon Oliver, Jr., July 27, 2012.

11. Temporary Restraining Order, *supra* note 1 (listing 21 polling places); Interview with Hon. Solomon Oliver, Jr., July 27, 2012; see Guillen, *supra* note 1 (reporting that the order applied to 20 precincts); Niquette, *supra* note 1 (reporting that the order applied to “14 of the 576 Cuyahoga County polling locations”).

12. Temporary Restraining Order, *supra* note 1.

polls covered by the order had already closed when they received the order, and some of these did not reopen.¹³

Judge Gaughan formally dismissed the action on March 24 on the plaintiff's representation that no live claim remained.¹⁴

As a result of the court's experiences with this case, it has sharpened its procedures for being available on election days.¹⁵ The clerk's office takes greater care to make sure it has accurate contact information for the judges.¹⁶ The clerk's office stays open late to accept filings, and a court reporter is on duty.¹⁷

13. Guillen, *supra* note 1; Niquette, *supra* note 1.

14. Minute Order, [Obama for America v. Cuyahoga County Board of Elections](#), No. 1:08-cv-562 (N.D. Ohio Mar. 4, 2008), D.E. 15.

15. Interview with Hon. Solomon Oliver, Jr., July 27, 2012.

16. *Id.*

17. *Id.*