

Akron *Beacon Journal* Access to Polls on Election Day

Beacon Journal Publishing Co. v. Blackwell
(Paul R. Matia, N.D. Ohio 5:04-cv-2178)

On the day before the 2004 general election, the *Beacon Journal* filed a federal complaint at the Northern District of Ohio’s Akron courthouse.¹ The *Beacon Journal* is a local newspaper serving readers in Summit County, of which Akron is the seat, and the neighboring counties of Medina, Portage, Stark, and Wayne.² According to the complaint, the newspaper learned on the previous Friday, while covering early voting, that Ohio’s secretary of state had issued directives to poll workers that only voters, poll workers, and police officers could enter a polling place on election day.³ With the complaint, the newspaper filed a motion for a temporary restraining order and a preliminary injunction granting the newspaper’s reporters and photographers access to Ohio polling places on election day.⁴

The court assigned the case to Judge Paul R. Matia,⁵ who ordered a hearing on the case at 4:00 p.m. on the day the action was filed.⁶ That same day, Judge Matia denied the newspaper immediate relief, finding that the state had “a compelling interest in making sure that voters vote freely and without intimidation” and that, “The media can perform their First Amendment function almost as well from outside the polling places.”⁷ Also that day, the newspaper filed a notice of appeal.⁸

Four and one-half hours before polls closed on election day, the court of appeals, by a vote of two-to-one, vacated the district court’s order because denying news media access to polling places was not narrowly drawn to serve the state’s

1. Complaint, [Beacon Journal Publ’g Co. v. Blackwell](#), No. 5:04-cv-2178 (N.D. Ohio Nov. 1, 2004), D.E. 1.

2. See Complaint, *supra* note 1, at 3.

3. Complaint, *supra* note 1, at 3–4; see *Beacon Journal Sues State for Access to Polling Places*, Akron Beacon J., Nov. 1, 2004, at A12; *Paper Denied Access at Polls*, Akron Beacon J., Nov. 2, 2004, at B1 [hereinafter *Paper Denied Access*].

4. Temporary Restraining Order and Preliminary Injunction Motion, *Beacon Journal*, No. 5:04-cv-2178 (N.D. Ohio Nov. 1, 2004), D.E. 4.

5. Tim Reagan interviewed Judge Matia for this report by telephone on May 1, 2012.

Judge Matia sat in Cleveland; when a disproportionate number of cases are filed in one of the division’s three courthouses, cases may be assigned to judges in other courthouses. Interview with Paul R. Matia, May 1, 2012.

Judge Matia retired from the bench on May 31, 2005. Federal Judicial Center Biographical Directory of Federal Judges, <http://www.fjc.gov/history/home.nsf/page/judges.html>.

6. Order, *Beacon Journal*, No. 5:04-cv-2178 (N.D. Ohio Nov. 1, 2004), D.E. 5.

7. Opinion at 3, *Beacon Journal*, No. 5:04-cv-2178 (N.D. Ohio Nov. 1, 2004), D.E. 8; see Minute Order, *id.* (Nov. 1, 2004), D.E. 7; see also John Caniglia & T.C. Brown, *Judge Upholds Media Ban from Polls*, Cleveland Plain Dealer, Nov. 2, 2004, at A12.

8. Notice of Appeal, *Beacon Journal*, No. 5:04-cv-2178 (N.D. Ohio Nov. 1, 2004), D.E. 10; see *Paper Denied Access*, *supra* note 3.

interests.⁹ The court ordered “that Defendants immediately and forthwith permit Plaintiffs to have reasonable access to any polling place for the purpose of news-gathering and reporting so long as Plaintiffs do not interfere with poll workers and voters as voters exercise their right to vote.”¹⁰

On November 22, Ohio answered the complaint.¹¹ On December 17, the newspaper moved to dismiss its action, because it had obtained from the court of appeals the relief that it sought.¹² The court dismissed the case on January 14, 2005.¹³

On January 31, Ohio sought U.S. Supreme Court review of the court of appeals’ decision,¹⁴ but the Court granted Ohio’s motion for voluntary dismissal on March 18.¹⁵

9. [Beacon Journal Publ’g Co. v. Blackwell](#), 389 F.3d 683, 685 (6th Cir. 2004); see *Media Given Access to Poll Sites*, Akron Beacon J., Nov. 3, 2004, at B9; *Voting Issues Keep Courts Busy Up to Last Minute*, Cleveland Plain Dealer, Nov. 3, 2004, at S9.

10. *Beacon Journal*, 389 F.3d 683 at 685.

11. Answer, *Beacon Journal*, No. 5:04-cv-2178 (N.D. Ohio Nov. 22, 2004), D.E. 12.

12. Motion to Dismiss, *id.* (Dec. 17, 2004), D.E. 15.

13. Order, *id.* (Jan. 14, 2005), D.E. 20.

14. [Docket Sheet](#), Blackwell v. Beacon Journal Publ’g Co., No. 04-1032 (U.S. Feb. 3, 2005).

15. [Blackwell v. Beacon Journal Publ’g Co.](#), 544 U.S. 915 (2005).