

Exit Polling in Ohio

ABC v. Blackwell

(Michael H. Watson, S.D. Ohio 1:04-cv-750)

On the morning before the 2004 general election, news media filed a complaint and motion for a temporary restraining order in the Southern District of Ohio's Cincinnati courthouse challenging the constitutionality of an oral directive by Ohio's secretary of state that exit polling not be conducted within 100 feet of a polling place.¹

The court assigned the case to Judge Michael H. Watson.² Judge Watson had joined the bench in September;³ his primary chambers were in Columbus, but most of his cases were Cincinnati cases during his first few years on the bench.⁴ Judge Watson held an informal status conference at 11:00 a.m. on the day of filing.⁵ The motion was heard that evening at 6:40 p.m.⁶ Late at night following the hearing, Judge Watson granted the temporary restraining order, and the news media were able to conduct exit polls the next day within 100 feet of polling places.⁷ Judge Watson reaffirmed this ruling by summary judgment on September 26, 2006.⁸

Both sides appealed elements of Judge Watson's opinion, but the appeals were voluntarily dismissed.⁹

1. **TRO Motion**, *ABC, Inc. v. Blackwell*, No. 1:04-cv-750 (S.D. Ohio Nov. 1, 2004), D.E. 4; **Complaint**, *id.* (Nov. 1, 2004), D.E. 1; **ABC, Inc. v. Blackwell**, 479 F. Supp. 2d 719, 721–26 (S.D. Ohio 2006); **Temporary Restraining Order** at 1–3, *ABC, Inc.*, No. 1:04-cv-750 (S.D. Ohio Nov. 1, 2004), D.E. 9; *see Blackwell Sued by News Groups on Exit Polls*, Cincinnati Enquirer, Nov. 2, 2004, at A9; *Media Sue Blackwell Over Exit Poll Limits*, Cincinnati Post, Nov. 2, 2004, at A4; Julie Wallace, *Paper Denied Access at Polls*, Akron Beacon J., Nov. 2, 2004, at B1.

2. **Docket Sheet**, *ABC, Inc.*, No. 1:04-cv-750 (S.D. Ohio Nov. 1, 2004).

Tim Reagan interviewed Judge Watson for this report by telephone on June 7, 2012.

3. Federal Judicial Center Biographical Directory of Federal Judges, <http://www.fjc.gov/history/home.nsf/page/judges.html>.

4. Interview with Hon. Michael H. Watson, June 7, 2012.

5. **Civil Minutes**, *ABC, Inc.*, No. 1:04-cv-750 (S.D. Ohio Nov. 1, 2004), D.E. 7.

6. **Transcript**, *ABC, Inc.*, No. 1:04-cv-750 (S.D. Ohio Nov. 1, 2004, filed Dec. 13, 2004), D.E. 14; **Civil Minutes**, *id.* (Nov. 1, 2004), D.E. 8; *see John Caniglia & T.C. Brown, Judge Upholds Media Ban from Polls*, Cleveland Plain Dealer, Nov. 2, 2004, at A12.

7. **Temporary Restraining Order**, *supra* note 1; *ABC, Inc.*, 479 F. Supp. 2d at 725.

8. *ABC, Inc.*, 479 F. Supp. 2d 719; *see Jesse Tinsley, Court Gives Exit Poll Workers Access*, Cleveland Plain Dealer, Sept. 27, 2006, at B2.

9. Docket Sheet, *ABC, Inc. v. Blackwell*, No. 06-4484 (6th Cir. Nov. 15, 2006) (plaintiffs' appeal); Docket Sheet, *ABC, Inc. v. Blackwell*, No. 06-4410 (6th Cir. Oct. 26, 2006) (defendant's appeal).