

Provisional Ballot Procedures in Ohio

Schering v. Blackwell

(Michael H. Watson, S.D. Ohio 1:04-cv-755)

At 5:00 p.m. on election day, November 2, 2004, a Hamilton County, Ohio, voter filed a federal action in the Southern District of Ohio's Cincinnati courthouse challenging Ohio's secretary of state's October 29, 2004, directive on how county boards of elections should handle provisional ballots.¹ Apparently, 155,337 provisional ballots were cast in Ohio on election day.²

District Judge Michael H. Watson held an informal status conference on the following morning.³ At the conference, the plaintiff's attorney said that he would defer adding to the case a request for a temporary restraining order.⁴ A telephonic status conference was set for the following week.⁵ At this conference, the parties agreed that they would inform the court if any further action by the court would be necessary.⁶

The parties stipulated to a dismissal on March 15, 2005.⁷

Two years later, a pro se litigant attempted to intervene in the case to allege President Bush's orchestration of the September 11, 2001, tragedy.⁸ On February 1, 2008, Judge Watson determined that the motion reflected "the fantasies of a troubled mind" and denied the motion.⁹ On April 10, Judge Watson ordered the clerk not to accept any more filings from the would-be intervenor.¹⁰

1. [Complaint](#), *Schering v. Blackwell*, No. 1:04-cv-755 (S.D. Ohio Nov. 2, 2004); see Lisa A. Abraham, *Provisional Ballots Still to Be Verified*, Akron Beacon J., Nov. 4, 2004, at A1; Adam Liptak, *Justice Lets Ohio Ruling on Monitors at Polls Stand*, N.Y. Times, Nov. 3, 2004, at P6.

2. See Abraham, *supra* note 1.

3. [Minute Entry](#), *Schering*, No. 1:04-cv-755 (S.D. Ohio Nov. 3, 2004).

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

Although Judge Watson's primary chambers were in Columbus, as a recently appointed judge most of his cases at the time were Cincinnati cases. Interview with Hon. Michael H. Watson, June 7, 2012.

4. [Minute Entry](#), *supra* note 3; [Docket Sheet](#), *Schering*, No. 1:04-cv-755 (S.D. Ohio Nov. 2, 2004) [hereinafter *Schering* Docket Sheet].

5. [Notice of Hearing](#), *Schering*, No. 1:04-cv-755 (S.D. Ohio Nov. 9, 2004).

6. [Minute Entry](#), *id.* (Nov. 10, 2004); *Schering* Docket Sheet, *supra* note 4.

7. [Stipulation](#), *Schering*, No. 1:04-cv-755 (S.D. Ohio Mar. 15, 2005).

8. [Motion to Intervene](#), *id.* (Mar. 13, 2007).

9. [Order](#), *id.* (Feb. 1, 2008).

10. [Order](#), *id.* (Apr. 10, 2008).