

## Extra Proof of Citizenship for Naturalized Citizens

*Boustani v. Blackwell*

(*Christopher A. Boyko, N.D. Ohio 1:06-cv-2065*)

On August 29, 2006, 18 naturalized citizens and six organizations filed a constitutional challenge in the U.S. District Court for the Northern District of Ohio to a new Ohio law that required naturalized citizens whose citizenship is challenged at the polls to present their naturalization certificates before they can vote.<sup>1</sup>

The court assigned the case to Judge Christopher A. Boyko.<sup>2</sup> On the day before an October 4 hearing, Ohio's secretary of state filed a brief stating that he had concerns about the new law and he would not oppose an injunction.<sup>3</sup> The secretary said that there was not time for the legislature to cure a constitutional defect.<sup>4</sup> The secretary's concession greatly facilitated the court's accommodation of the case's time pressure.<sup>5</sup>

After the hearing, Judge Boyko issued an injunction forbidding naturalized citizens from being required to provide additional documentation or information before voting.<sup>6</sup> Three weeks later, Judge Boyko issued a longer opinion clarifying that he applied strict scrutiny to the statute<sup>7</sup> and determined, "It is shameful to imagine that this statute is an example of how the State of Ohio says 'thank you' to those who helped build this country."<sup>8</sup>

Judge Boyko referred the question of attorney fees to Magistrate Judge Nancy A. Vecchiarelli.<sup>9</sup> After five docketed proceedings,<sup>10</sup> the parties agreed on March 12, 2007, to a fee award of \$80,000.<sup>11</sup>

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1. Complaint, [Boustani v. Blackwell](#), No. 1:06-cv-2065 (N.D. Ohio Aug. 29, 2006), D.E. 1; [Boustani v. Blackwell](#), 460 F. Supp. 2d 822, 824 (N.D. Ohio 2006); see [Ohio Rev. Code § 3505.20\(A\)](#); see also Michael O'Malley, *Foreign-Born File Election Suit*, Cleveland Plain Dealer, Aug. 30, 2006, at B1; *Suit Seeks to End Naturalized ID Provision*, Cincinnati Post, Aug. 30, 2006, at A2.

2. Docket Sheet, [Boustani](#), No. 1:06-cv-2065 (N.D. Ohio Aug. 29, 2006).

Tim Reagan interviewed Judge Boyko for this report by telephone on July 19, 2012.

3. Brief, [Boustani](#), No. 1:06-cv-2065 (N.D. Ohio Oct. 3, 2006), D.E. 17; see Mark Niquette, *Voter-ID Case Remains a Mess as Election Nears*, Columbus Dispatch, Nov. 1, 2006, at 1A.

4. Brief, *supra* note 3.

5. Interview with Hon. Christopher A. Boyko, July 19, 2012.

6. [Boustani](#), 460 F. Supp. 2d at 824.; see *Judge Rejects Voter Rule*, N.Y. Times, Oct. 5, 2006, at A23; Joe Milicia, *Judge Kills Citizenship Proof Rule*, Cincinnati Post, Oct. 5, 2006, at A3; Mike Tobin, *U.S. Court Blocks Part of Voting Law*, Cleveland Plain Dealer, Oct. 5, 2006, at A1.

7. [Boustani](#), 460 F. Supp. 2d at 825–27.

8. *Id.* at 827.

9. Order, [Boustani v. Blackwell](#), No. 1:06-cv-2065 (N.D. Ohio Dec. 20, 2006), D.E. 25.

10. Minutes, *id.* (Jan. 4 & Feb. 6, 7, 9 & 14, 2007), D.E. 28, 33, 35, 36, 38.

11. Order, *id.* (Mar. 15, 2007), D.E. 41.