

## Voter Registrations for Juvenile Offenders

*Hamilton v. Ashland County Board of Education*  
(Donald C. Nugent, N.D. Ohio 1:08-cv-2546)

On Monday, October 27, 2008, a week before the 2008 presidential election, inmates of the Mohican Juvenile Correctional Facility in Ashland County, Ohio, filed an action in Cleveland's federal court to enjoin cancelation of the voter registrations.<sup>1</sup> On October 15, an Ashland University professor of criminal justice and local resident challenged the registrations because the inmates were only in the county temporarily.<sup>2</sup> The board of elections heard and sustained the challenge on October 24.<sup>3</sup> The inmates were unable to attend because of their confinement.<sup>4</sup>

On Tuesday, the plaintiffs filed a motion for a temporary restraining order,<sup>5</sup> and the court assigned the case to District Judge Donald C. Nugent.<sup>6</sup> As soon as an application for a temporary restraining order is filed, the clerk's office notifies the assigned judge's chambers.<sup>7</sup> If the assigned judge is unavailable, the matter can be decided by the judge on duty for miscellaneous matters, but this court has developed an ethic against referring election cases to the miscellaneous judge.<sup>8</sup>

On Wednesday, the plaintiffs filed an amended complaint<sup>9</sup> and the defendants filed a motion for a court order requiring the plaintiffs' release for participation in an evidentiary hearing on the temporary restraining order, scheduled for Friday.<sup>10</sup> Judge Nugent informally suggested that live testimony from the would-be voters might not be necessary.<sup>11</sup> Judge Nugent issued an opinion on Friday denying the temporary restraining order and dismissing the complaint on a finding that the

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1. Complaint, [Hamilton v. Ashland County Bd. of Educ.](#), No. 1:08-cv-2546 (N.D. Ohio Oct. 27, 2008) [hereinafter *Hamilton* Complaint]; see Rachel Dissell, *Ashland Elections Board Sued*, Cleveland Plain Dealer, Oct. 29, 2008, at B3.

2. Opinion at 2, [Hamilton](#), No. 1:08-cv-2546 (N.D. Ohio Oct. 31, 2008) [hereinafter *Hamilton* Opinion]; see *Hamilton* Complaint, *supra* note 1, at 4; see also *Ashland Man Challenges Voter Registrations at Mohican Juvenile Correctional Facility*, Mansfield News J., Oct. 24, 2008, at A8.

3. *Hamilton* Opinion, *supra* note 2, at 2–3; see *Hamilton* Complaint, *supra* note 1, at 4; see also *BOE Upholds Voter Registration Challenge*, Mansfield News J., Oct. 25, 2008, at A1.

4. *Hamilton* Opinion, *supra* note 2, at 2–3; see *Hamilton* Complaint, *supra* note 1, at 4.

5. TRO Motion, [Hamilton](#), No. 1:08-cv-2546 (N.D. Ohio Oct. 28, 2008).

6. Docket Sheet, *id.* (Oct. 27, 2008).

Tim Reagan interviewed Judge Nugent for this report by telephone on February 6, 2012.

7. Interview with Hon. Donald C. Nugent, Feb. 6, 2012.

8. *Id.*

9. Amended Complaint, [Hamilton](#), No. 1:08-cv-2546 (N.D. Ohio Oct. 29, 2008).

10. *Hamilton* Opinion, *supra* note 2, at 1; Motion to Convey, [Hamilton](#), No. 1:08-cv-2546 (N.D. Ohio Oct. 29, 2008).

11. Interview with Hon. Donald C. Nugent, Feb. 6, 2012.

The docket sheet does not show a resolution of the defendants' motion.

plaintiffs did not meet voter residency requirements for Ashland County under Ohio law.<sup>12</sup> Judge Nugent found no federal constitutional violation.<sup>13</sup>

On Monday, November 3, the day before the election, the plaintiffs filed a notice of appeal,<sup>14</sup> and the court of appeals resolved the case that day.<sup>15</sup> The court of appeals affirmed the denial of federal claims and vacated the state-law ruling, dismissing the claim without prejudice so that it could be pursued in state court.<sup>16</sup> The state court ruled as Judge Nugent did.<sup>17</sup>

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12. *Hamilton* Opinion, *supra* note 2, at 8–13; see Transcript, *Hamilton*, No. 1:08-cv-2546 (N.D. Ohio Oct. 31, 2008, filed Nov. 3, 2008).

13. *Hamilton* Opinion, *supra* note 2, at 3–8.

14. Notice of Appeal, *Hamilton*, No. 1:08-cv-2546 (N.D. Ohio Nov. 3, 2008).

15. *Hamilton v. Ashland Bd. of Educ.*, 320 F. App'x 307 (6th Cir. 2008).

16. *Id.*

17. Interview with Hon. Donald C. Nugent, Feb. 6, 2012.