

**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

Ohio Democratic Party
697 E. Broad Street, Suite 101
Columbus, Ohio 43215

Case No:

Plaintiff,

v.

**VERIFIED
COMPLAINT FOR
INJUNCTIVE RELIEF**

Hamilton County Board of Elections
4700 Smith Rd
Norwood, OH 45212

Defendant.

Plaintiff, for their Verified Complaint against the Hamilton County Board of Elections, and their officers and agents, allege:

PARTIES

1. Plaintiff Ohio Democratic Party is a political party organization dedicated to electing candidates of the Democratic Party to public office throughout the State of Ohio. The Ohio Democratic Party has hundreds of thousands of members from across the state, including many eligible voters, who regularly support and vote for candidates affiliated with the Ohio Democratic Party.

2. Jacob Morvay is a credentialed poll observer for the Ohio Democratic Party appointed under Ohio law who was present at the precinct in question.

3. Defendant Hamilton County Board of Elections is responsible for conducting elections in Hamilton County.

JURISDICTION AND VENUE

4. Jurisdiction and venue in this Court are proper because Defendant Board of Elections is situated in Hamilton County and all or part of the claim for relief arose in Hamilton County. Ohio Revised Code § 2727.03 grants this Court jurisdiction to issue injunctive relief, and this Court has jurisdiction to hear claims for the violation of federal and state constitutional rights. *See* 42 U.S.C. § 1983. *See Schwarz v. Board of Trustees*, 31 Ohio St. 3d 267, 273 (Ohio 1987).

LEGAL BACKGROUND

5. The right to vote in a presidential election is guaranteed by, *inter alia*, the Ohio Constitution, the First and Fourteenth Amendments of the United States Constitution, and 42 U.S.C. § 1971. *See, e.g., MacDonald v. Bernard*, 438 N.E.2d 410, 411 (Ohio 1982). Once a State allows its citizens to vote for its presidential electors, “the State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.” *Bush v. Gore*, 531 U.S. 98, 104–05 (2000).

6. Ohio Revised Code § 3501.32(A) provides that on election day the polls shall be opened at 6:30 a.m. and shall be closed at 7:30 p.m. “unless there are voters waiting in line to cast their ballots, in which case the polls shall be kept open until such waiting voters have voted.”

7. Ohio law thus requires each voting location be open for 13 hours, plus the amount of time that is needed to accommodate voters waiting to vote when the polls close.

FACTUAL ALLEGATIONS

8. As detailed in the Verification of Poll Observer Jacob Morvay on November 5, 2024 and attached hereto, voting precinct Cincinnati 4-G (31-ADV), located at The Episcopal Church of the Redeemer, 2944 Erie Ave, Cincinnati, OH 45208, (the “precinct”) was closed during late afternoon commencing at approximately 4:15 P.M. due to an evacuation order from local law enforcement, meaning that voters who arrived during polling hours at their assigned voting location were either turned away or otherwise unable to cast a vote in violation of Ohio

Rev. Code § 3501.32 and their rights under the United States and Ohio constitutions. On information and belief, the precinct has not been reopened and will not be reopened before polls close at 7:30 p.m.

9. Instead, at approximately 5:15 p.m., a different polling place was opened at Knox Presbyterian Church located at 3400 Michigan Ave, Cincinnati, Ohio, where voting resumed approximately one hour later. This new location is more than half a mile away from the original precinct location. As a result, any voter who arrives at the original precinct location will be unable to vote. Moreover, a voter who arrives at the original precinct location will need to travel more than a half a mile away to cast their ballot. Voters arriving shortly before the polls otherwise close at 7:30 p.m. will not have time to travel to the new polling place.

10. The Voting Location Managers in this precinct, appointed and supervised by the Board of Elections of Hamilton, were informed of these issues and were asked to keep the polls open for additional time in order to comply with ORC § 3501.32. However, the requested action was denied.

11. Attached to the Complaint are photographs taken at the scene of the old precinct during the evacuation.

12. Defendant Hamilton County Board of Elections lacks the capacity to ensure that voters who normally vote or are planning to vote at the Church of the Redeemer shortly before the polls close at 7:30 p.m. will learn of the substitute polling place and arrive there in time to park and get in line before 7:30 p.m.

13. Absent the relief sought herein, members of the Ohio Democratic Party who are voters assigned to that polling location received less time to vote than other voters at other polling locations, and may not be able to vote, which will cause them to suffer irreparable harm. Plaintiff has no other adequate remedy at law.

CAUSES OF ACTION

First Cause of Action (Violation of Ohio Election Code)

14. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in paragraphs 1-13.

15. Ohio law requires the polling places to remain open continuously between 6:30 a.m. and 7:30 p.m. on election day, “unless there are voters waiting in line to cast their ballots, in which case the polls shall be kept open until such waiting voters have voted.” ORC § 3501.32.

16. As a result of the relocation of the polling location while voting was ongoing, voters in precinct Cincinnati 4-G (31-ADV) were not provided with 13 hours in which they could access the polls to cast their ballots on election day, as required by Ohio law.

17. Defendant’s refusal to keep the polls open until 9:00 p.m., in order to prove the voters in that jurisdiction with 13 hours in which the polls are open on election day to cast their ballot, is a violation of Ohio law. *See* ORC § 3501.32.

Second Cause of Action (Violation of 28 U.S.C. § 1983)

18. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in paragraphs 1-17.

19. The conduct alleged herein threatens to deprive Plaintiffs and their members and constituents of the right to vote as guaranteed by the First and Fourteenth Amendments of the United States Constitution.

20. Under the First Amendment and the Equal Protection Clause of the Fourteenth Amendment, the court must carefully balance the character and magnitude of the injury to First and Fourteenth Amendment rights that the plaintiff seeks to vindicate against the justifications put forward by the state for the burdens imposed by the rule the state seeks to enforce. *See Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983).

21. The court “must weigh ‘the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate’ against ‘the precise interests put forward by the State as justifications for the burden imposed by its rule,’ taking into consideration ‘the extent to which those interests make it necessary to burden the plaintiff’s rights.’” *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. at 789).

22. The *Anderson-Burdick* test weighs strongly in favor of Plaintiffs under these circumstances. If the polls are not kept open for the modest extension that Plaintiffs seek, then voters, including Plaintiffs and their members and constituents, will be completely disenfranchised in violation of their First and Fourteenth Amendment rights. That categorical denial of the right to vote plainly amounts to a severe burden on the franchise.

23. Given the likelihood of total disenfranchisement for voters in Hamilton County, there is no state interest that is “sufficiently weighty” to justify not granting the relief Plaintiffs seek, which is a modest extension of the polling place hours that would merely ensure that polling places in Hamilton County have been open to voters for thirteen hours as required under Ohio law.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs respectfully request a Temporary Restraining Order and Preliminary and Permanent Injunctions directing Defendant to keep the new precinct, located at Knox Presbyterian Church located at 3400 Michigan Ave, Cincinnati, Ohio, open until 9:00 P.M. and prohibit Defendant from denying any and all voters in line by 9:00 PM the right to cast their ballots.

Respectfully submitted,

s/ Paul De Marco

Paul De Marco (0041153)

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Markovits Stock & DeMarco

119 E Court St #530

Cincinnati, OH 45202

Tele: 513-665-0204

Attorney for Plaintiff

VERIFICATION

Hamilton County

/ss

State of Ohio

I, Jacob Morvay, being first duly cautioned and sworn, state that he has read the foregoing Complaint and that the matters stated therein are true to his own knowledge, information, and belief, and so far as upon information and belief, he believes such information to be true.

1. I am a poll observer for the 2024 General Election assigned to observe the polling place at the Episcopal Church of the Redeemer, located at 2944 Erie Avenue, Cincinnati OH 45208.
2. The polling place was evacuated at approximately 4:15PM after the voting location manager noticed a suspicious backpack outside the polling location and notified law enforcement.
3. After the polling location was evacuated, the poll workers packed up the ballot bags and boxes and loaded them into a van to drive to a new location.
4. I followed the van in my vehicle to Knox Presbyterian at 3400 Michigan Avenue, Cincinnati OH 45208 and watched the poll workers unload the van and set up the new polling location.
5. Voting resumed at approximately 5:23PM.

Further affiant sayeth naught.

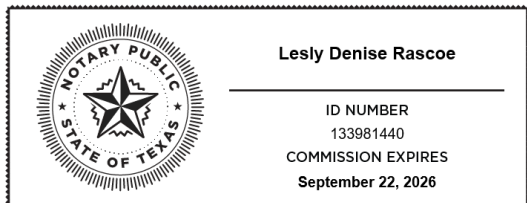
Jacob Morvay

Jacob Morvay

Sworn to and subscribed before me, this 5th day of November, 2024.

Lesly Denise Rascoe

Notary Public Texas



Electronically signed and notarized online using the Proof platform.





CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2024, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Given the urgent timing of this action, I certify that I have also served a copy of the foregoing on the following individuals via fax.

Hamilton County Prosecutor
230 E. Ninth Street
Suite 4000
Cincinnati, Ohio 45202
Fax: (513) 946-3100

Paul De Marco
Attorney for Plaintiff