

Judge Issues Restraining Order against Trump Campaign to Prevent Voter Intimidation

By [Pema Levy](#)

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The order also applies to a Trump adviser who has organized poll-watching activities.

In a surprise ruling, a US district judge in Ohio [issued a restraining order](#) against Donald Trump's campaign to prevent anyone working on the campaign from harassing and intimidating voters at the polls on Tuesday.

The order came after a two-hour hearing in which the judge pressed Trump's lawyer to justify the candidate's inflammatory rhetoric about voter fraud. It also applies to close Trump adviser Roger Stone, who has organized poll-watching activities, and the "officers, agents, servants, and employees" of Trump and Stone.

Voter fraud has been a popular theme among Republicans this year, from Trump to [state Republican leaders](#) who cite fraud as a reason to make it more difficult to vote. But as Friday's ruling shows, it's a lot easier to warn about fraud on the campaign trail than in front of a judge.

The restraining order is the result of a [lawsuit](#) filed by the Ohio Democratic Party against Trump, Stone, and the Ohio Republican Party. The suit asked the court to declare it illegal to intimidate voters at the polls. Similar suits have been filed in Arizona, Nevada, Pennsylvania, North Carolina, and Michigan. The Ohio [complaint](#) laid out a long history of remarks by Trump and his running mate, Mike Pence, encouraging supporters to watch the polls. (For example, Trump told a crowd in Akron, Ohio, "And when I say 'watch,' you know what I'm talking about right? You know what I'm talking about.") The order also covers Stone, after the complaint detailed efforts by his group, Stop the Steal, to recruit poll watchers and conduct exit polls on Election Day, among other activities. The complaint cited provisions of the Voting Rights Act of 1965 and the Ku Klux Klan Act of 1871 that prohibit voter intimidation.

Here's the order:

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

OHIO DEMOCRATIC PARTY,	:	CASE NO. 16-CV-02645
	:	
Plaintiff,	:	
	:	
vs.	:	OPINION & ORDER
	:	[Resolving Doc. No. 8]
OHIO REPUBLICAN PARTY et. al.,	:	
	:	
Defendants.	:	

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Plaintiff Ohio Democratic Party asks this Court to issue a temporary restraining order (“TRO”) enjoining Defendants Ohio Republican Party, Donald J. Trump for President, Inc. (“Trump”), Roger J. Stone, Jr. (“Stone”), and Stop the Steal, Inc. from conspiring to intimidate, threaten, harass, or coerce voters on Election Day.¹

Plaintiff Ohio Democratic Party argues that the Defendants are violating Section 2 of the Ku Klux Klan Act of 1871² and Section 11(b) of the Voting Rights Act of 1965³ by conspiring to prevent minority voters from voting in the 2016 election in violation of.⁴

As evidence, the Plaintiff points to Donald Trump’s comments encouraging rally attendees to monitor “certain areas,”⁵ as well as promises from Mr. Trump’s supporters to aggressively patrol polling places.⁶ Defendants respond that there is no evidence of Defendants

¹ [Doc. 1](#), at 27-29; [Doc. 8](#).

² 42 U.S.C. § 1985(3).

³ 52 U.S.C. § 10307(b).

⁴ [Doc. 1](#) at 1-2.

⁵ *Id.* at 9. “Trump told a crowd in Altoona, Pennsylvania, in August that ‘I hope you people can . . . not just vote on the 8th, [but also] go around and look and watch other polling places and make sure that it’s 100-percent fine. We’re going to watch Pennsylvania—go down to certain areas and watch and study—[and] make sure other people don’t come in and vote five times. . . . The only way we can lose, in my opinion—and I really mean this, Pennsylvania—is if cheating goes on.’”

⁶ *Id.* at 19. The Plaintiffs cite a *Boston Globe* article where an Ohio resident said “‘I’ll look for . . . well, it’s called racial profiling. Mexicans. Syrians. People who can’t speak American,’” he said. “‘I’m going to go right up behind

Case No. 16-CV-2645
Gwin, J.

intimidating or harassing voters.⁷ Defendants also say that Ohio election law already prohibits the hypothetical conduct complained about by Plaintiffs, and therefore a TRO is inappropriate.⁸

Defendant Trump argues that Plaintiff's proposed TRO is an impermissible "obey-the-law" injunction that simply orders Defendants and their supporters to do what is already required—obey Ohio law.⁹ While "obey the law" injunctions are generally disfavored, this motion for injunctive relief does not fit in that category. "Obey the law" injunctions are hyper-generalized orders to indefinitely abide by broad legal commands.¹⁰ Here, rather than issue a broad and indefinite injunctive order, the Court orders compliance with specific provisions of the Ohio Revised Code until voting concludes for the 2016 Presidential Election. And, where there is a legitimate possibility that particular laws may be imminently violated, ordering compliance with those laws is appropriate.

Having considered all of the materials and arguments that have been submitted in this matter, the Court **GRANTS** Plaintiff Ohio Democratic Party's motion for a TRO with respect to Defendants Trump, Stone, and Stop the Steal. The Court denies the request for a TRO as against the Ohio Republican Party.

It is hereby ordered that, effective immediately and extending until 11:59 p.m., November 8, 2016, or until voting in the 2016 Presidential Election is complete, Defendants Trump, Stone, and Stop the Steal—as well as their officers, agents, servants, and employees—and other individuals or groups, including groups associated with the Clinton for Presidency

them. I'll do everything legally. I want to see if they are accountable. I'm not going to do anything illegal. I'm going to make them a little bit nervous."

⁷ [Doc. 24](#) at 3.

⁸ [Doc. 10](#). At 3.

⁹ [Doc. 12](#) at 2 (citing *E.E.O.C. v. Wooster Brush Co. Employees Relief Ass'n*, 727 F.2d 566, 576 (6th Cir. 1984)).

¹⁰ See, e.g., *Perez v. Ohio Bell Tel. Co.*, No. 15-3303, 2016 WL 3755795, at *6 (6th Cir. July 14, 2016); *Wooster Brush*, 727 F.2d at 576 (striking down a district court's general order that the defendant be "permanently enjoined from discriminating against women on the basis of their gender").

Case No. 16-CV-2645
Gwin, J.

campaign, are restrained and enjoined from engaging in voter intimidation activity, including but not limited to:

- a. Hindering or delaying a voter or prospective voter from reaching or leaving the polling place fixed for casting the voter's ballot;
- b. Engaging in any unauthorized "poll watching" activities inside of polling places, within one hundred feet of polling places ("the buffer zone")¹¹, or within ten feet of a voter standing in a line extending beyond the buffer zone.¹²
Unauthorized "poll watching" includes challenging or questioning voters or prospective voters about their eligibility to vote, or training, organizing, or directing others to do the same;
- c. Interrogating, admonishing, interfering with, or verbally harassing voters or prospective voters inside polling places, in the buffer zone, or within ten feet of a voter standing in line outside the buffer zone, or training, organizing, or directing others to do the same;
- d. Distributing literature and/or stating to individuals at polling places, in the buffer zone, or within ten feet of a voter standing in line outside the buffer zone, that voter fraud is a crime, or describing the penalties under any Ohio or Federal statute for impermissibly casting a ballot, or training, organizing, or directing individuals to do the same;

¹¹ See [O.R.C. 3501.30\(A\)\(4\)](#).

¹² See [O.R.C. 3501.35\(A\)\(2\)](#).

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Page 1 of 4

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Civil rights lawyer Subodh Chandra was in the courtroom and tweeted throughout the hearing. Here's what he observed:

.@OHDems@DemNational lawyer in fed ct Cleve:
[@GOP@realDonaldTrump](#) inciting people to polls w racially charged appeals to act as vigilantes

— (((Subodh Chandra))) (@SubodhChandra) [4 November 2016](#)

US Dist Judge Gwin to [@realDonaldTrump](#) lawyer: why would Trump make baseless statements re fraud unless it's to impede voters from voting?

— (((Subodh Chandra))) (@SubodhChandra) [4 November 2016](#)

US Dist Judge Gwin to [@realDonaldTrump](#) lawyer: why would Trump say "you know what I mean" re watching polls? Trump lawyer unintelligible.

— (((Subodh Chandra))) (@SubodhChandra) [4 November 2016](#)

OH [@GOP](#) Party exec dir claims in fed ct not to know what Trump means by exhorting people to "watch" polls saying "you know what I mean."

— (((Subodh Chandra))) (@SubodhChandra) [4 November 2016](#)

US Dist Judge Gwin asks [@realDonaldTrump](#) lawyer to explain Trump's theory re voter fraud when voters provide ID & sign sheet. Lawyer can't.

— (((Subodh Chandra))) (@SubodhChandra) [4 November 2016](#)

US Dist Judge Gwin asks [@realDonaldTrump](#) lawyer to explain Trump's theory re voter fraud when voters provide ID & sign sheet. Lawyer can't.

— (((Subodh Chandra))) (@SubodhChandra) [4 November 2016](#)

Trump lawyer claim Trump's voter-fraud message happens all the time. Judge Gwin demands example. Trump lawyer walks back the claim.

— (((Subodh Chandra))) (@SubodhChandra) [4 November 2016](#)

Graduating [@YaleLawSch](#) 22 yrs ago, I never thought I'd be sitting in a fed ct watching a hrng re enforcement of the KKK Act for an election.

— (((Subodh Chandra))) (@SubodhChandra) [4 November 2016](#)

Later Friday afternoon, the Trump campaign [appealed](#) the ruling to the Sixth Circuit Court of Appeals.

This story has been updated to include the judge's order and Trump's appeal.

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