

Ohio: The E-voting Lawsuit that could Decide the Election

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In Columbus, Ohio, 9:00am Election Day marks the opening of a federal adjudication that could decide who next occupies the White House.

Heard by Judge Gregory Frost, the case is Robert Fitrakis vs. John Husted and Election Systems & Software. It revolves around an “experimental” software patch newly attached to the electronic voting systems in 39 Ohio counties. The patch is ostensibly meant to facilitate the transmission and analysis of the Ohio vote count as conducted on machines supplied by the E.S. & S. company.

In fact, the software opens the Ohio electronic vote count to undetectable manipulation by the office of Secretary of State John Husted, a Republican. Husted has the power to do that now, but this new software “improvement” makes the job of flipping Ohio’s vote count significantly easier. The patch involves the transmission of possibly more than four million votes—roughly 80% of the Ohio vote. In a race as tight as this one, manipulation of a tiny percentage of the votes that are to be moved by this software could change the outcome of the entire national election. It could also cost U.S. Senator Sherrod Brown (D-OH) his seat, as he is locked in a virtual tie with his Republican opponent Josh Mandel of Cleveland.

Election protection activist Fitrakis is the Green Party nominee for a US Congressional seat in central Ohio (disclosure: Fitrakis is my co-author on five books on election protection; he publishes www.freepress.org, where I am Senior Editor). As a candidate who stands to suffer direct damage from a stolen vote count, Fitrakis has sued the secretary of state and the Election Systems & Software (ES&S) voting machine company to remove the patch from the state’s data transmission system.

Freepress.org has broken a long line of stolen election stories dating to 2003. Recent reporting has shown a massive GOP campaign aimed at disenfranchising at least a million suspected Democratic voters, roughly 20% of the state’s electorate, through a wide range of tactics including electronic stripping of voter rolls and restrictive rules for casting a ballot.

The software patch Fitrakis is now challenging was installed without testing required under state statute. In violation of state protocol, it was also not subjected to various inspection procedures. Though the software was apparently produced in 2002, by calling it “experimental” the secretary of state’s office attempted to invoke a loophole that allows experimental software to be exempt from certification and testing.

Among other things, Fitrakis will ask that the patch be removed before it is used to transmit vote count data that could be hacked in ways that would change the outcome of this year’s

election. That means the hearing must be completed and the judge's decision rendered before the end of Election Day.

Removal of the patch would by no means curtail the Ohio GOP's ability to hack the state's electronic vote count. There are innumerable ways they could still do it. But by attempting to remove one easy avenue, and by calling national attention to the problem, the lawsuit has made the potential theft of the 2012 election just a bit dicier.

Stay tuned.

Harvey Wasserman's SOLARTOPIA! Our Green-Powered Earth, is at Harvey Wasserman. He edits www.nukefree.org. His most recent e-book, co-authored with Bob Fittrakis, WILL THE GOP STEAL AMERICA'S 2012 ELECTION? is available from Harvey Wasserman and Freepress.org.

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