

# Will a shocking new GOP court victory and Karl Rove's attack on Ohio 2006 doom the Democrats nationwide?

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COLUMBUS—With a major GOP federal court victory, the Ohio 2006 election has descended into the calculated chaos that has become the trademark of a Karl Rove election theft, and that could help keep the Congress in Republican hands nationwide.

Through a complex series of legal maneuvers, and now a shocking new decision from the 6th U.S. Circuit Court of Appeals, the GOP has thrown Ohio's entire process of voting and vote counting into serious disarray. The mess is perfectly designed to suppress voter turnout, make election monitoring and a recount impossible, and allow the Republican Party to emerge with a victory despite overwhelming evidence the electorate wants exactly the opposite.

The disaster in Ohio began immediately after the theft of the presidential election here in 2004. Though the majority of Ohioans are registered Democrats, the gerrymandered state legislature is overwhelmingly Republican. Soon after John Kerry conceded, it passed House Bill 3, a draconian assault on voter registration drives, voting rights and the ability to secure reliable recounts of federal-level elections.

In brief, HB3 stacked a virtually impossible set of requirements onto the voter registration process. As elsewhere nationwide, voting has traditionally involved citizens coming to the polls and signing a poll book. Upon a signature check from a poll worker, a ballot has been given. A similar process has been in effect for absentee ballots. There is no recent evidence this method has encouraged significant voter fraud.

But the GOP's HB3 has imposed a series of draconian requirements for voter ID, including the demand for certain documents very difficult to obtain by many poor, homeless, elderly or other largely Democratic demographic groups.

To further complicate matters, Secretary of State J. Kenneth Blackwell, who is now in charge of the same election in which he is the GOP nominee for governor, has added some additional, entirely arbitrary disqualifying factors of his own. Blackwell was the state co-chair of the Bush-Cheney campaign in the 2004 election, which he also ran while making the key decisions that gave Bush-Cheney a second term in the White House.

On all absentee ballots, HB3 demands an identifying driver's license number, or the equivalent. But Ohio driver's licenses have two codes on them. The "correct" one has two letters and six numbers. The "wrong" one is an eleven-number bureaucratic code that appears above the ID photo.

According to preliminary reports, as many as ten percent of those sending in absentee ballots so far have included the wrong code, thus disqualifying their vote. The process is so confusing that one Republican federal judge, in a court proceeding, has volunteered the fact that he actually put this same “wrong” number on an application for a rental car, temporarily nullifying his contract. Here in Columbus, Board of Elections Director Matt Damschroder estimates that 5000 ballots would already be disqualified in Franklin County alone.

So far the wave of absentee ballots pouring into the county boards of elections indicate an extraordinary percentage of Ohioans will vote absentee this year. Many are likely hoping to avoid distrusted electronic voting machines, as well as the long, racially-biased lines that tainted the 2004 election.

In response to reports of large numbers of absentee dis-qualifications, a federal lawsuit has been filed by a Cleveland homeless advocacy group and the Service Employee’s International Union. The suit was then deemed to be a related action to the landmark King Lincoln civil rights filing that resulted in a September ruling preserving the ballots from Ohio 2004, and was sent to Judge Algernon Marbley, who made that decision.

Last week Judge Marbley threw out the HB3 drivers license requirement for the absentee ballots. On Wednesday, November 1, he will hold a hearing on whether to void all the HB3 requirements that are poised to disqualify tens of thousands of likely Democratic voters on election day.

Blackwell himself did not appeal Marbley’s ruling. He is trailing by as much as thirty points in some Ohio polls. He has been seriously hurt by the widespread belief that he stole the 2004 election, and is reluctant to be openly identified with yet another mass disenfranchisement of Ohio voters.

Instead, Ohio’s GOP Attorney General Jim Petro did appeal Marbley’s decision. And on Sunday, October 29, the 6th U.S. Circuit Court of Appeals stayed Marbley’s suspension of the driver’s license number requirement on the absentee ballots, casting the entire process into deep confusion.

This ruling means that county boards of election that were telling voters they did not have to include the drivers license number on their absentee ballot after Marbley’s decision must now resume telling them they must include that number.

The decision sends a strong signal that if Marbley overturns the HB3 voter ID requirements for citizens coming to the polls, that too is likely to be appealed and then overturned by the Court of Appeals.

Indeed, if Marbley throws out the rest of the HB3 after the Wednesday, November 1 hearing, a final ruling from the U.S. Supreme Court on all these procedures may not come until within hours of election time.

In other words, Ohio’s lame duck GOP Attorney-General, and the GOP-dominated federal court system, are now in the process of pitching the entire electoral process in the state of Ohio into a spiral of chaos.

HB3 and Blackwell’s arbitrary directives have already devastated Democratic voter

registration drives and caused thousands of mostly Democratic potential voters to wonder about their true eligibility to cast a ballot on November 7.

The mainstream media is portraying this latest episode as a blood feud between Petro and Blackwell. But the real winner is the Bush White House, which has every reason to suppress the vote November 7.

Blackwell is trailing so badly in the polls it's hard to imagine a theft big enough to allow him to win. But the critical U.S. Senate race between the GOP's incumbent Mike DeWine and U.S. Representative Sherrod Brown is very close. So are numerous Congressional races throughout the state, any one of which could help decide who controls the U.S. House of Representatives.

The tactics being tested and used here in Ohio are certain to surface in various forms around the U.S. HB3, for example, has quintupled the fees charged by the state for a recount. In Ohio 2004, the Green and Libertarian Parties obtained a flawed and ultimately worthless recount for about \$120,000. A similar statewide recount for the 2006 U.S. Senate race would cost about \$600,000.

But Blackwell has decimated even the previously feeble safeguards for such recounts, making them even more illusory than they were in 2004. HB3 has also removed any state recourse in the case of a contested election here for the U.S. Senate or House, or for the presidency.

So even if a recount showed a clear theft, the state courts are barred from jurisdiction. The only appeal now allowed would be a direct plea to the federal courts or Congress.

On the other hand, HB3 provides no special system for monitoring the electronic voting machines on which about half the state's ballots will be cast. Though a paper receipt is now required for all electronic voting machines, there is no method by which the Diebold, ES&S, Triad and other touch-screen computers or electronic tabulators can be reliably protected from tampering.

Based on reports from the Conyers Congressional Committee, the Government Accountability Office, the Brennan Center, Princeton University and the Carter-Baker Commission among others, the vote count reported by Ohio's voting machines could be flipped by J. Kenneth Blackwell or other election official—or even amateur hackers—in a matter of moments, with a few simple keystrokes.

In sum: there is no way such a manipulation could be definitively stopped, monitored, proven or reversed.

Thus Ohio enters the last week prior to this most critical mid-term election in recent memory in utter vulnerability and chaos. Tens of thousands of absentee ballots already cast are in limbo. Their ultimate status may not be determined until hours before election day, if then. Hundreds of thousands of potential voters remain uncertain about what, if any, forms of identification they will be required to include on their absentee ballots or to present at their polling stations. If the experience of 2004 is repeated, many of those polling stations will be incorrectly listed on the Secretary of State's official web site.

Thousands of Ohio citizens may also not know if they are actually registered to vote. All 88 of Ohio's county boards of election are effectively controlled by Secretary of State Blackwell.

Since 2000, without official notification, some 170,000 voters have been stripped from the registration rolls in Cuyahoga County (Cleveland), 170,000 in Franklin County (Columbus), 105,000 in Hamilton County (Cincinnati) and 28,000 in Lucas County (Toledo).

Overall nearly 500,000 registered voters are known to have been eliminated from the rolls in overwhelmingly Democratic districts in a state where 5.6 million people voted in 2004, and where George W. Bush won with an alleged margin of less than 119,000 ballots. There is no evidence similar eliminations have occurred in Republican areas.

While reports of widespread purges have not proved true, there is increasing evidence that county boards of elections used voter notification cards required by HB3 that were returned by the post office to flag hundreds of thousands of voters' names at the polls throughout Ohio and force them to vote provisionally. An Erie County official placed the number of flagged voters at about 24% in his county.

Blackwell has further ruled that citizens who vote with provisional ballots at their correct polling place but in the wrong precinct (which may be housed in the same building) will not have their vote counted. Back ups of provisional voters created long lines in 2004. The only safe place to cast a provisional ballot is at the county board of elections, but often these votes are disqualified because voters fail to check off a small affirmation box, or do not supply a date of birth or other requested technical information.

Ohio's electoral process is thus once again sinking into a fog of confusion, disenfranchisement and theft perfectly designed to prolong the GOP control of the government. There is every reason to believe that in the week now remaining before the actual election, the GOP and its allies in the federal court system will use the escalating chaos to their advantage in attempting to keep control of the U.S. Congress, here and in other states.

The definitive question hovering over the future of American democracy thus remains: who will do what about it, and when?

*Bob Fitrakis & Harvey Wasserman are co-authors, with Steve Rosenfeld, of WHAT HAPPENED IN OHIO: A DOCUMENTARY RECORD OF THEFT AND FRAUD IN THE 2004 ELECTION, just published by the New Press. Fitrakis is of counsel, and Wasserman is a plaintiff, in the King Lincoln lawsuit. Fitrakis is an independent candidate for governor, endorsed by the Green Party; Wasserman is author of SOLARTOPIA! OUR GREEN-POWERED EARTH, A.D. 2030, available via <http://www.solartopia.org/>.*

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