

No. 16A405

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IN THE  
SUPREME COURT OF THE UNITED STATES

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NORTHEAST OHIO COALITION FOR THE HOMELESS, et al.,  
*Applicants*

v.

JON HUSTED, In His Official Capacity as Secretary of State, et al.,  
*Respondents.*

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**MOTION TO FILE BRIEF *AMICUS CURIAE*,  
MOTION TO FILE UNDER RULE 33.2, AND  
BRIEF *AMICUS CURIAE* OF  
OHIO A. PHILIP RANDOLPH INSTITUTE  
IN SUPPORT OF EMERGENCY APPLICATION FOR STAY**

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## TABLE OF CONTENTS

TABLE OF CONTENTS .....	i
TABLE OF AUTHORITIES .....	ii
MOTION TO FILE AMICUS BRIEF .....	1
MOTION TO FILE UNDER RULE 33.2 .....	4
BRIEF OF <i>AMICUS CURIAE</i> OHIO A. PHILIP RANDOLPH INSTITUTE.....	6
APPENDIX .....	14

## TABLE OF AUTHORITIES

### Cases

<i>A. Philip Randolph Inst. v. Husted</i> , ___ F.3d ___, 2016 WL 5328160 (6th Cir. 2016) .....	2, 7
<i>Leal Garcia v. Texas</i> , 564 U.S. 940 (2011) .....	1, 2, 5
<i>Ohio A. Philip Randolph Inst. v. Husted</i> , No. 2:16-CV-303, 2016 WL 6093371 (S.D. Ohio Oct. 19, 2016) .....	passim

### Federal Statutes

National Voter Registration Act of 1993, 52 U.S.C. §§ 20501, <i>et seq.</i> .....	7
---	---

### State Statutes

OHIO REV. CODE § 3505.18 .....	8
OHIO REV. CODE § 3505.181 .....	8
OHIO REV. CODE § 3505.182 .....	8
OHIO REV. CODE § 3505.183 .....	8

### Other Authorities

Andy Sullivan and Grant Smith, “Use it or lose it: Occasional Ohio voters may be shut out in November,” REUTERS (Jun. 2, 2016) .....	7
Kathleen Clyde, “Husted Has Made Ohio a Leader in Voter Purging,” CINCINNATI.COM (Oct. 24, 2016) .....	8
Notice of Issuance of Directive Pursuant to Court Order (Doc. 90), <i>Ohio A. Phillip Randolph Inst., et al. v. Husted</i> , No. 2:16-CV-303 (S.D. Ohio Oct. 20, 2016) .....	8

IN THE  
**SUPREME COURT OF THE UNITED STATES**

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NORTHEAST OHIO COALITION FOR THE HOMELESS, et al.,  
*Applicants-Petitioners*

v.

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*Respondents.*

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**MOTION TO FILE AMICUS BRIEF**

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*Amicus curiae*, the Ohio A. Philip Randolph Institute (“APRI”), respectfully moves for leave to file the attached brief in support of Applicants’ emergency application for stay. Applicants and Respondent have consented to the filing of this brief.

While *amicus* briefs in support of an application for stay are not expressly provided for in this Court’s rules, they have been allowed at times. For example, in *Leal Garcia v. Texas*, 564 U.S. 940 (2011), the United States submitted a motion for leave to file an *amicus* brief in support of the stay request, *see id.* at 941, and this Court granted that motion. *Id.* at 943, n.\*.

APRI’s interests are deeply implicated by the instant Petition and Application. APRI is a state chapter of the A. Philip Randolph Institute, a national

organization of African-American trade unionists and community activists, established in 1965 to forge an alliance between the civil rights and labor movements. APRI works to mobilize voters in African-American communities and other under-represented populations in Ohio.

Earlier this year, APRI, along with Applicant Northeast Ohio Coalition for the Homeless, brought a challenge to Ohio's practice of removing infrequent voters from the rolls. *See A. Philip Randolph Inst., et al. v. Husted*, \_\_ F.3d \_\_, 2016 WL 5328160, \*2 (6th Cir. Sept. 23, 2016). In September, the United States Court of Appeals for the Sixth Circuit found that this practice violates the National Voter Registration Act of 1993, *id.* at \*9, and in October, the United States District Court for the Southern District of Ohio issued an opinion and order fashioning a remedy to allow unlawfully purged voters to participate in this November's election. *Ohio A. Philip Randolph Inst., et al. v. Husted*, No. 2:16-CV-303, 2016 WL 6093371 (S.D. Ohio Oct. 19, 2016). The district court found that, although reinstatement of the voters would best preserve their rights, it would be difficult to reinstate them prior to the election, and so it crafted a remedy allowing the unlawfully purged voters to cast provisional ballots in this election. *Id.* at \*10-\*12.

If the Ohio law at issue in this case remains in effect for this year's Presidential Election, the unlawfully purged voters that APRI serves may be prevented from having their provisional ballots counted. The harm caused by this law to these voters, who cannot cast regular ballots in the upcoming election only because they were unlawfully purged by the Ohio Secretary of State, is distinct from

the harm it will cause to other provisional voters. The outcome of Petitioner-Applicants' Application for an Emergency Stay is therefore of paramount importance to *amicus curiae* APRI.

October 28, 2016

Respectfully submitted,



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**MOTION TO FILE UNDER RULE 33.2**

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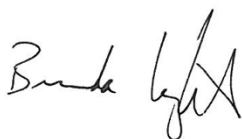
*Amicus curiae*, Ohio A. Philip Randolph Institute (“APRI”), moves to file its brief in the format provided in Rule 33.2 (8½ x 11) rather than the booklet format required by Rule 33.1

An application for a stay is exempt from the printing requirements of Rules 22, 23, and 33.1(a). While Rule 37 contemplates *amicus* briefs being filed in booklet form even in instances where the petition the *amicus* supports was filed in 8½ x 11 format, this rule contemplates *amicus* briefs being filed in relation to a petition for a writ of certiorari, or a motion for leave to file a bill of complaint. *See* Rule 37.2(a). Given that Applicants have filed an emergency application for stay and that this case involves the November 2016 General Election—which is less than 2 weeks away—the time that would be needed to print a booklet meeting the specifications of Rule 33.1 would render APRI’s brief untimely. In *Leal Garcia v. Texas*, 564 U.S.

940 (2011), this Court accepted an *amicus* brief supporting a stay petition that was submitted in 8½ x 11 format. APRI, therefore, requests leave to file this brief in 8½ x 11 format.

October 28, 2016

Respectfully submitted,



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---

**BRIEF OF *AMICUS CURIAE***  
**OHIO A. PHILIP RANDOLPH INSTITUTE**

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Earlier this year, *amicus curiae* Ohio A. Philip Randolph Institute, along with Applicant Northeast Ohio Coalition for the Homeless, brought a case challenging Ohio’s practice, under what the state calls the “Supplemental Process,” of removing infrequent voters from its registration rolls. On September 23, 2016,

the United States Court of Appeals for the Sixth Circuit found that this practice violated the National Voter Registration Act of 1993 (“NVRA”). *A. Philip Randolph Inst., et al. v. Husted*, \_\_ F.3d \_\_, 2016 WL 5328160, \*9 (6th Cir. Sept. 23, 2016) (citing 52 U.S.C. §§ 20501, *et seq.*) (“*APRI I*”). On October 19, 2016, the district court issued a preliminary injunction to protect the voting rights of the voters Ohio had unlawfully purged in the November 2016 Election. *Ohio A. Philip Randolph Inst., et al. v. Husted*, No. 2:16-CV-303, 2016 WL 6093371 (S.D. Ohio Oct. 19, 2016) (“*APRI II*”).

In *APRI II*, the court acknowledged that while full reinstatement of the unlawfully purged voters—which would allow them to cast a regular ballot—would best preserve their rights, reinstatement “would be difficult to accomplish prior to the 2016 General Election.” *Id.* at \*3 n.2. Seeking to ensure as much as possible that these voters are not “denied rights that they would have enjoyed had they not been unlawfully purged under the Supplemental Process,” the court crafted a remedial plan that called for voters who have been unlawfully purged since 2011 to be permitted to vote by provisional ballot. *Id.* at \*7, \*10-\*12.

As a result of the court’s order, it is almost certain that the number of provisional ballots cast in Ohio in the upcoming presidential election will be far greater than in any past election. Hundreds of thousands of voters were unlawfully purged by Ohio’s 88 counties in 2015, *see* Andy Sullivan and Grant Smith, “Use it or lose it: Occasional Ohio voters may be shut out in November,” REUTERS, <http://reut.rs/25CsEM1> (Jun. 2, 2016), and it is estimated that as many as 1.2

million Ohio voters have been purged based on inactivity since 2011. Kathleen Clyde, “Husted Has Made Ohio a Leader in Voter Purging,” CINCINNATI.COM, <http://cin.ci/2eKBKh2> (Oct. 24, 2016). In his Directive implementing the *APRI II* order, the Secretary anticipated that the number of provisional ballots cast this year could be as much 20 percent higher than the record levels seen in 2012. *See* Notice of Issuance of Directive Pursuant to Court Order (Doc. 90), *Ohio A. Philip Randolph Inst., et al. v. Husted*, No. 2:16-CV-303 (S.D. Ohio Oct. 20, 2016), at 1.

Under the *APRI II* order, for a provisional ballot cast by an unlawfully purged voter to count, it must “comply with all applicable laws and directives.” *APRI II*, 2016 WL 6093371, at \*10. Ohio law requires voters who cast a provisional ballot, including those who have been unlawfully purged from Ohio’s voter rolls under the Supplemental Process, to complete a “provisional ballot affirmation” that includes identifying information identical to that required to register to vote. OHIO REV. CODE §§ 3505.181(B)(2), 3505.182. Further, since 2014, Ohio law has required that provisional ballots be rejected unless a voter perfectly fills out his or her name, address, birthdate, identification, and signature (known in Ohio as “the five fields”), even if county election boards can determine the voter’s identity and eligibility to vote despite any errors or omissions in these fields. *See id.* §§ 3505.181, 3505.182, 3505.183. Voters who are able to cast a regular ballot need not complete a provisional ballot affirmation and are therefore not subject to the “perfect form” requirement. *See id.* § 3505.18.

Thus, the voters who were wrongfully purged under the Supplemental Process will have to meet the perfect form requirement, a requirement most would not be subject to had they not suffered the unlawful cancellation of their registrations.<sup>1</sup> As Applicants note in their emergency motion for a stay, the perfect form requirement has “disenfranchise[d] thousands of eligible voters, including for errors as trivial as writing a name legible in cursive instead of Roman letters, omitting a zip code from an otherwise accurate address, writing the current date rather than a birthdate,” and transposing the date and month in the birthdate field. See Emergency Application to Stay Sixth Circuit Mandate Pending Disposition of a Petition for Writ of Certiorari, No. 16A405, at 2-3.

If the Sixth Circuit’s mandate in this case is allowed to issue and the District Court’s order is prevented from going into effect, the relief ordered by the court in *APRI II* will be far less effective in protecting the rights of the voters who were purged in violation of the NVRA. Subjecting the provisional ballots cast by these voters—who but for Ohio’s unlawful acts would have appeared on the rolls and been able to cast a regular ballot—to Ohio’s perfect form requirement will create an additional hurdle that may disenfranchise unlawfully purged voters who make trivial errors on their provisional ballot affirmations. Such a result would undermine the *APRI II* court’s effort to put these voters on the same footing as similarly situated voters who remained on the rolls.

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<sup>1</sup> Some voters who fall under the protection of *APRI II* would have to cast a provisional ballot even if they had not been purged—specifically, those who have moved within a county and not updated their voter registrations.



## CONCLUSION

*Amicus curiae* respectfully requests that this Court stay the Sixth Circuit's mandate and leave in place the District Court's permanent injunction barring enforcement of the perfect form requirement.

October 28, 2016

Respectfully submitted,



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## STATEMENT OF SERVICE

Case No. 16A405

Title: *Northeast Ohio Coalition for the Homeless, et al. v. Jon Husted, et al.*

Type of Document:

Motion to File Brief *Amicus Curiae*, Motion to File Under Rule 33.2, Brief *Amicus Curiae* of Ohio A. Philip Randolph Institute in Support of Emergency Application for Stay

The undersigned certifies that this 28th day of October, 2016, one copy of the foregoing documents were served upon parties by email and regular mail, and that all persons required to be served have been served:

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A handwritten signature in black ink, appearing to read 'Stuart C. Naifeh', written in a cursive style.

---

Stuart C. Naifeh  
Demos

# Appendix

## TABLE OF CONTENTS

Notice of Issuance of Directive Pursuant to Court Order (Doc. 90), No. 2:16-CV-303 (S.D. Ohio Oct. 20, 2016) .....	A-001
Andy Sullivan and Grant Smith, “Use it or lose it: Occasional Ohio voters may be shut out in November,” REUTERS (Jun. 2, 2016).....	A-008
Kathleen Clyde, “Husted Has Made Ohio a Leader in Voter Purging,” CINCINNATI.COM (Oct. 24, 2016).....	A-013

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION**

<b>OHIO A. PHILIP RANDOLPH INSTITUTE, <i>et al.</i></b>	:	
	:	
<b>Plaintiffs,</b>	:	<b>Case No. 2:16-cv-00303</b>
	:	
<b>v.</b>	:	<b>JUDGE GEORGE C. SMITH</b>
	:	
<b>SECRETARY OF STATE, JON HUSTED</b>	:	<b>Magistrate Judge Deavers</b>
	:	
<b>Defendant.</b>	:	

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**NOTICE OF ISSUANCE OF DIRECTIVE PURSUANT TO COURT ORDER**

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On the evening of October 19, 2016, the Secretary of State issued the attached Directive (Exhibit A) pursuant to the Court's decision and Order, also issued on October 19, 2016. The Court instructed:

The Secretary of State is hereby **ORDERED** to issue a directive no later than Friday, October 21, 2016 in a form substantially similar to the language below. The Court approves of any formatting changes deemed appropriate by the Secretary of State so long as they do not substantively alter the Court's approved language.

The attached Directive complies with the Order and is substantively the same as the language in the Court's Order. Two differences are:

- (1) An introduction is included; and
- (2) In the abundance of caution, the issued Directive changed "15 percent" to "20 percent" in the following sentence:

"The board must provide ballots and envelopes in the quantity of at least 20 percent more than the number of provisional ballots cast in that precinct at the 2008 or 2012 Presidential General Election, whichever is higher."

In addition to above, there are a few minor changes that also do not alter the substantive requirements in the Court's Order. More specifically, footnotes 1 and 4 are new and the text in footnote 3 is slightly altered.

Also, the Secretary anticipates that the Court-ordered changes to the Secretary's web page should be implemented later today.

Respectfully submitted,

MIKE DEWINE  
Ohio Attorney General

*s/ Steven T. Voigt*

---

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*Secretary of State Jon Husted*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 20, 2016, the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the foregoing has been served by e-mail or facsimile upon all parties for whom counsel has not yet entered an appearance and upon all counsel who have not entered their appearance via the electronic system.

/s/ Steven T. Voigt

STEVEN T. VOIGT (0092879)  
Principal Assistant Attorney General



**Jon Husted**  
**Ohio Secretary of State**

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***Issued Pursuant to Court Order***

**DIRECTIVE 2016-39**

October 19, 2016

To: All County Boards of Elections  
Directors, Deputy Directors, and Board Members

Re: Provisional Ballots Cast by Voters Cancelled Since 2011 Under Ohio's Supplemental Process

On September 23, 2016, the United States Court of Appeals for the Sixth Circuit issued a decision in *Ohio A. Philip Randolph Institute, et al. v. Husted*, Case No. 2:16-cv-303, holding among other things, that Ohio's longstanding Supplemental Process used by four secretaries of state from both major political parties violates Section 8(b)(2) of the NVRA. The Court reversed and remanded the case to the United States District Court for further proceedings consistent with its opinion.

This Directive, relative to the November 8, 2016 General Election, is issued in accordance with today's Order from the United States District Court for the Southern District of Ohio, Eastern Division. The Court ordered the issuance of the Directive below.

If you have any questions regarding this Directive, please contact the Secretary of State's elections counsel assigned to your county at (614) 466-2585.

Sincerely,

  
Jon Husted

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**PURPOSE**

For purposes of the November 8, 2016 General Election, a provisional ballot cast during the in-person absentee voting period or on Election day by a voter who is not registered to vote in the State of Ohio may be counted if all of the following apply (the "APRI Exception"):

1. The individual's voter registration was cancelled in 2011, 2013, or 2015 (confirmation card mailed in 2007, 2009, or 2011) pursuant to the Supplemental Process;
2. The voter's provisional ballot affirmation reflects an address within that precinct and the voter was previously registered to vote within that same county prior to cancellation;

3. The board of elections does not have information that the voter was deceased, incarcerated on a felony conviction, or adjudicated as incompetent under Ohio law by a county probate court after the individual's registration record was cancelled; and,
4. The voter's provisional ballot affirmation form and the ballot otherwise comply with all applicable laws and directives.

### **INSTRUCTIONS**

Boards must apply the *APRI* Exception to the provisional ballot eligibility determination of any provisional voter who is not registered to vote in the State of Ohio at least 30 days before the election. If the board determines, as evidenced by the voter having a "cancelled" status in the Statewide Voter Registration Database (SWVRD), that the voter previously was registered to vote in the State of Ohio, it must count the provisional ballot using the following steps in conjunction with the mandatory process for determining eligibility of provisional ballots in Chapter 6, Provisional Voting, of the Ohio Election Official Manual:

- a. Identify the most recent address of registration in the Statewide Voter File for the voter (because merged records can result in multiple records for a single voter, it is necessary to identify the most recent address of registration on file prior to cancellation). Proceed to "step b" below.
- b. If the most recent address of registration in the Statewide Voter File for the voter is in a different county than the address provided by the voter on the provisional affirmation, the board must reject the provisional ballot. If the most recent address of registration in the Statewide Voter File for the voter is the same as the address provided by the voter on the provisional affirmation or is in the same county, proceed to "step c" below.
- c. Identify the "reason" code in the SWVRD. If the reason code is "Cancelled – Deceased," "Cancelled – Incompetent," or "Cancelled – Incarcerated" the board must reject the provisional ballot. (A "merged" record is not a "cancelled" record.) If the reason code is something other than death, adjudication of incompetency by a probate judge, or incarceration on a felony conviction, proceed to "step d" below.
- d. Identify the date of cancellation in the SWVRD. If the date of cancellation is prior to 2011, the board must reject the provisional ballot. If the date of cancellation in the SWVRD is after January 1, 2011, proceed to "step e" below.
- e. Determine if the voter was cancelled under the "Supplemental Process" of the state's general voter records maintenance program.

**If the board's records do not differentiate between a cancellation under the "NCOA Process" and a cancellation under the "Supplemental Process," the board must contact the Secretary of State's elections counsel assigned to its county.** The Secretary of State's elections counsel will compare the information from the voter's provisional ballot affirmation to the

NCOA list from the year in which the voter was sent a confirmation notice (four years prior to the year of cancellation).

The Secretary's Office shall possess the NCOA lists from 2007, 2009, and 2011. A county seeking to determine whether an individual is on the NCOA list in accordance with subsection (b) above shall contact the Secretary's Office, which shall provide the county with a prompt response.

The provisional ballot of a voter whose registration was cancelled under the "NCOA Process" cannot be counted under the *APRI* Exception. If the voter's registration was cancelled under the "NCOA Process," the board must reject the provisional ballot.

The provisional ballot of a voter whose registration was cancelled under the "Supplemental Process" must be counted under the *APRI* Exception if the provisional ballot affirmation and the provisional ballot otherwise comply with all applicable laws, as directed in the mandatory process for determining eligibility of provisional ballots in Chapter 6, Provisional Voting, of the Ohio Election Official Manual.

### **ADDITIONAL INSTRUCTIONS**

- The board must provide ballots and envelopes in the quantity of at least 20<sup>1</sup> percent more than the number of provisional ballots cast in that precinct at the 2008 or 2012 Presidential General Election, whichever is higher.<sup>2</sup> Additionally, each board must provide to each precinct and/or polling location a stock of provisional ballot affirmation envelopes (containing Secretary of State Form 12-B) that is greater than the number of provisional ballots being provided for this election. Be mindful of the proper allocation of ballot and envelope quantities across precinct splits. Additionally, any multi-precinct polling location must have a sufficient supply of Secretary of State Form 12-D.<sup>3</sup>
- Boards of elections will be required to provide the total count of provisional ballots counted using the *APRI* Exception separate from all other counted provisional ballots when the board submits its supplemental report at the conclusion of the official canvass following Election Day.
- Boards of elections are required to add the following language to any web tool used to aid voters in searching for their registration information:

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<sup>1</sup> Because the Court includes voters cancelled pursuant to the Supplemental Process in three cycles (2011, 2013, and 2015), the Secretary of State's Office has increased the Court's percentage from 15 percent to 20 percent, which is not substantive to the intent or effect of the Order.

<sup>2</sup> This is a minimum requirement for preparedness, not a prediction for the number of provisional ballots expected to be cast this election or as a result of the *APRI* Exception.

<sup>3</sup> For all information and instructions relative to ballot quantities besides the required minimum number of provisional ballots and envelopes contained herein for the November 8, 2016 general election, see Directive 2016-35.

- If you are unable to locate your voter registration information but think you are registered to vote and you have not moved outside of your county of prior registration, you may be eligible to cast a provisional ballot during in-person absentee voting period at an appropriate early voting location or the county board of elections, or on Election Day at the correct polling place for your current address that may be counted. We encourage you to check your registration status by contacting your local county board of elections. To find your polling place, please [click here](#) or call your county board of elections. [Click here for a full listing of Boards of Elections.](#)<sup>4</sup>
- With respect to absentee ballot request forms, submitted in person or by mail, that have not already been processed and/or rejected by the Secretary of State and the respective boards of elections, the following language shall be included in the notification of denial of the request for absentee voter to any nonregistered voter:
  - You may still cast a provisional ballot during in-person absentee voting period at an appropriate early voting location or the county board of elections, or on Election Day at the correct polling place for your current address.

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<sup>4</sup> Pursuant to the Court's order: "The phrase 'please click here' will be a hyperlink to the online 'Voter Toolkit' which contains an option for 'Find My Polling Location.' *Voter Toolkit*, Secretary of State, <https://www.sos.state.oh.us/SOS/Upload/sites/ballotTracking/ballotTracking.aspx?page=20547> (last visited October 18, 2016). The phrase 'Click here for a full listing of Boards of Elections' will continue to be a hyperlink to a list of the contact information of all of Ohio's 88 county boards of elections." <http://www.sos.state.oh.us/sos/elections/electionsofficials/boeDirectory.aspx#dir> (last visited October 19, 2016).

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POLITICS | Thu Jun 2, 2016 | 11:28am EDT

# Use it or lose it: Occasional Ohio voters may be shut out in November

By **Andy Sullivan** and **Grant Smith** | CINCINNATI

When Larry Harmon tried to vote on a marijuana initiative in November in his hometown of Kent, Ohio, the 59-year-old software engineer found his name had been struck from the voter rolls.

Two hours south in Zanesville, restaurant worker Chris Conrad, 37, was also told he was no longer registered.

Both men later found out why: they had not voted often enough.

As the Nov. 8 elections loom, officials in Ohio have removed tens of thousands of voters from registration lists because they have not cast a ballot since 2008.

All U.S. states periodically cleanse their voter rolls, but only a handful remove voters simply because they don't vote on a regular basis. And nowhere could the practice have a greater potential impact in the state-by-state battle for the White House than Ohio, a swing state that has backed the winner in every presidential election since 1960.

Voters of all stripes in Ohio are affected, but the policy appears to be helping Republicans in the state's largest metropolitan areas, according to a Reuters survey of voter lists. In the state's three largest counties that include Cleveland, Cincinnati and Columbus, voters have been struck from the rolls in Democratic-leaning neighborhoods at roughly twice the rate as in Republican neighborhoods.

That's because residents of relatively affluent Republican-leaning neighborhoods are more likely to vote in both congressional elections and presidential contests, historical turnouts show. Democrats

vote in both congressional elections and presidential contests, historical turnouts show. Democrats are less likely to vote in mid-term elections and thus are more at risk of falling off the rolls.

In the three biggest counties, at least 144,000 voters have been removed, the Reuters analysis found. The statewide total is unclear. Each of the state's 88 counties manages its own voter rolls, which generally are not made public.

Unlike other voting-rights disputes that have sparked protests and lawsuits, the practice doesn't appear to be driven by one specific party. Both Republican and Democratic officials in Ohio have purged inactive voters over the past 20 years.

But neighborhoods that have a high proportion of poor, African-American residents are hit hardest, the Reuters analysis found.

"It's absolutely unfair," said Donna Porter-Jones, an organizer at Amos Project, an interfaith group that aims to register 30,000 voters from some of Cincinnati's poorest neighborhoods ahead of November.

### CLEANING UP THE ROLLS



AMOS canvassing members work on voter registration at a community center in Cincinnati, Ohio, U.S., May 12, 2016.  
REUTERS/William Philpott

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Ohio Secretary of State Jon Husted, a Republican, says canceling registrations for voters who missed three straight federal elections helps keep voting rolls current. Since 2011, the state has cleared out more than 2 million records of people who have moved or died, he said.

Those who don't vote over a six-year stretch or respond to a postcard mailed to their address have only themselves to blame, he said. "If this is really important thing to you in your life, voting, you probably would have done so within a six-year period," he said in an interview.

People who don't respond to the postcard can be removed from voting lists if they sit out the next two federal elections. Many other states only remove voters from the rolls if they have died or moved to a new address.

"You shouldn't be struck of your right to vote because you skipped an election," said Kathleen Clyde, a Democratic state representative who has been fighting the practice.

Four civil liberties groups sued to end the practice last month, arguing that it violates federal law and unfairly targets low-income and minority voters.

Voting-rights advocates say they are concerned that many infrequent voters who helped drive turnout to a record in the 2008 presidential election won't be able to vote in this year's likely matchup between Democrat Hillary Clinton, vying to become the first female president, and Republican Donald Trump, the celebrity billionaire.

## PARTISAN BATTLES

The Ohio lawsuit is one of a number being fought across the country. Photo ID requirements and other efforts to tighten voting laws have spurred fierce partisan battles and protests in recent months. They follow a Supreme Court decision in 2013 that struck down parts of the Voting Rights Act, a signature achievement of the civil rights movement in the 1960s.

The Ohio dispute, by contrast, centers on a practice that has been in place for decades but is receiving new attention from civil liberties groups and Democrats ahead of November.

"We are pleased the courts are reviewing the state's actions," said Pratt Wiley, national director of voter expansion at the Democratic Party in Washington.

Republican party officials at the local and national level, as well as the Trump campaign, did not respond to requests for comment.

But Tom Fitton, the head of Judicial Watch, a conservative group that has pushed Ohio and other states to keep their voting lists up to date, described the lawsuit as a "power play" by civil liberties groups "to ensure that candidates they like are able to steal elections if necessary."

Federal law prohibits states from removing voters solely because they haven't voted, but it also requires them to keep voter lists up to date. Ohio residents who are removed from voting lists must re-register at least 30 days before an election.

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Harmon, the software engineer, backed President Barack Obama in 2008 but has sat out presidential and congressional elections since then. He says he initially thought he had done something wrong to get kicked off the voting rolls.

"I felt embarrassed and stupid at the time," said Harmon, who is involved in the Ohio lawsuit. "The more I think about it, the madder I am," he said.

### "KICKED OFF"

In Cleveland's Cuyahoga County, 5 percent of voters in neighborhoods that backed Obama by more than 60 percent in 2012 were purged last year due to inactivity, according to the Reuters analysis of the voter lists. In neighborhoods where Obama got less than 40 percent of the vote, 2.5 percent of registered voters were removed for that reason.

In Franklin County, home to the state capital Columbus, 11 percent of voters in Democratic-leaning neighborhoods have been purged since 2012 due to inactivity. Only 6 percent of voters in Republican-leaning neighborhoods have been purged.

The disparity is especially stark in Hamilton County, where affluent Republican suburbs ring Cincinnati, which has one of the highest child-poverty rates in the country.

In the heavily African-American neighborhoods near downtown, more than 10 percent of registered voters have been removed due to inactivity since 2012. In suburban Indian Hill, only 4 percent have been purged due to inactivity.

Overall, 30,000 voters have been removed due to inactivity since 2012, a larger figure than Obama's margin of victory that year.

On a recent rainy afternoon, Amos Project canvasser Marcia Mackey tried to get some of those voters back in the system. Wielding a clipboard and a smile, Mackey asked pedestrians in the Over the Rhine neighborhood north of downtown Cincinnati when they last cast a ballot. If they couldn't remember, she encouraged them to register again.

"People don't know they've been purged until they go to the election site and get turned away," Mackey said. "We need to make sure that people have voices."

(Grant Smith reported from New York. Editing by Jason Szep and Ross Colvin)



# Husted has made Ohio a leader in voter purging

Kathleen Clyde 1:04 p.m. EDT October 24, 2016



(Photo: Provided)

*State Rep. Kathleen Clyde is an attorney specializing in voting rights issues and the ranking member on the House committee that handles voting issues in Ohio.*

Ohio is a national leader – in voter purging. Illegal voter purging efforts, led by Ohio Secretary of State Jon Husted, have affected more than 2 million Ohioans. It's possible that you've been thrown off the voter rolls, and you don't even know it.

However, voters across Ohio were just handed a huge victory. On Wednesday, a federal District Court ordered that Husted remedy his illegal voter purge by allowing the purged voters to vote and counting their ballots. Husted has been violating federal law by purging registered and eligible voters for not voting in previous elections. Have you skipped an election – even one? This could be you.

This decision was a long time coming. Since 2011, when Husted took office, Ohio has purged more voters from its rolls than any other state.

More than 2 million voters have been purged in the last five years alone, 1.2 million of them for infrequent voting. That's more than just raw numbers – this purging has real-world impact. Husted's policies have led to thousands of votes by registered and eligible voters being discarded – often without the voter even knowing that his or her vote was not counted.

Thankfully, this court decision has put an end – for now – to Husted's illegal purging. Voters illegally purged by Husted over the past five years will have their votes counted during this important election. In rejecting Husted's excuses, the District Court said if he doesn't allow purged voters the ballot, he'll be in violation of federal law and will be guilty of further voter disenfranchisement.

Enough is enough.

I came into the legislature in 2011 fighting against attempts to aggressively disenfranchise Ohio's registered voters. Since that time I helped lead the opposition to legislative efforts that would increase the frequency of voter purging in Ohio to once every year, rather than once every two years. I hosted a summit here in Ohio where national experts gathered with state voting rights leaders and explained how purging voters violates federal law.

I introduced legislation, the Stop The Purge Act, that would specifically prohibit purging for infrequent voting or for moving within the state. I have offered additional legislation, HB 246, that would require that no voters be excluded from statewide absentee application mailings because of being marked "inactive" in a flawed purge process.

And since 2011, I consistently opposed Husted's numerous purging directives, pointing out, as the federal court has now held, how these directives violated federal law.

Purging voters merely because they chose not to vote in previous elections is not only illegal, it is bad policy. Our jobs as legislators and election officials should be to encourage voters to participate in the electoral process – not to penalize them when they don't. And that is why I have fought so hard for so many years against Husted's aggressive efforts to purge millions of Ohioans.

This election season, votes of registered and eligible voters who were illegally purged will be counted. That's a huge victory for Ohio voters and for democracy.

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