

Ohio Vote Count Battles Escalate Amidst New Evidence of Potential Criminal Activity

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The epic legal battle over Ohio's presidential vote count is back in the state Supreme Court, with an election challenge claiming George W. Bush was wrongly declared the winner on Nov. 2 and seeking a court-ordered reversal of that victory.

Meanwhile, efforts to recount Ohio's vote may have been fatally tainted by the Republican Party, raising questions of what the GOP has to hide, and prompting demands for criminal prosecution.

New affidavits point to possible criminal activity by top Ohio election officials, raising yet more questions about the 2004 vote. Rhonda J. Frazier, a former employee of the Ohio Secretary of State's office, has confirmed in an affidavit taken by Cynthia Butler, working with [freepress.org](#), that the Office had secret slush funds. Frazier says it also failed to comply with the requirements of "The Voting Reform Grant" that required all the voting machines in Ohio to be inventoried and tagged for security reasons.

"I was routinely told to violate the bidded contracts to order supplies from other companies for all 17 Secretary of State offices throughout the State which were cheaper vendors, leaving a cash surplus differential in the budget," Frazier states, "After complaining about the office's repeated practices of violating grants and contracts I was fired."

Secretary of State Kenneth Blackwell has come under intense fire for his role in officiating the disputed Ohio balloting and vote count. Blackwell served as co-chair of the Bush-Cheney campaign while running an election he says went "smoothly."

Blackwell's role has been central to a week that started with a bang and rapidly escalated to a dramatic last-minute filing at the state Supreme Court Friday afternoon, December 17.

On Monday, December 13, with Rev. Jesse Jackson at hand, citizen activists filed the now-famous landmark *Moss V. Bush* action demanding the Ohio Supreme Court vacate the apparent victory for George W. Bush and award the state's 20 electoral votes — and thus the presidency — to John Kerry. The filing lists a litany of problems with the November 2 balloting and vote count. The official tally showed a victory for George W. Bush of some 119,000 votes. But the filing claims the real outcome was a 134,000 vote victory for John Kerry, and it demands the Court install a slate of Democratic electors.

The filing was followed by a unique Congressional hearing staged at Columbus City Hall. Conducted by U.S. Rep. John Conyers (D-MI), the nearly four-hour gathering hosted a wide range of testimony charging manipulation, intimidation and fraud surrounding the Ohio election. Most pointed to Secretary of State Blackwell's "clear conflict of interest" as election

administrator and Bush-Cheney co-chair. Among other things, in the lead-up to Nov. 2 Blackwell circulated a taped message asking Ohio voters to approve a Constitutional amendment banning gay marriage and abolishing spousal benefits for unmarried partners. That partisan position came amid multiple orders from Blackwell to local election officials on how to conduct the actual vote count.

At noon on Monday, 20 Republican electors convened at the Ohio statehouse and certified their votes for Bush, which were then mailed to Washington. On January 6, they will be evaluated by Congress. It is now possible that for the first time since 1877, there will be a formal challenge to those electoral votes by Democratic members of Congress.

High among the charges against Blackwell was the fact that he delayed certifying the Ohio vote count to make it impossible for a meaningful recount to occur before the electors met. If this was a fair vote, wondered Rev. Jackson, "what are they hiding?"

Jackson plans to be fully visible on January 3 at a large rally in Columbus, Ohio sponsored by Rainbow/PUSH.

But far more serious charges than a mere delay surfaced at Conyers' hearing. A letter from the Shelby County Board of Elections, obtained through the Freedom of Information Act, admitted that data critical to a meaningful recount had been discarded, possibly illegally. Sworn testimony from election observers in Greene County indicated that ballots had been left loose on tables in an unlocked, unguarded building, open to manipulation and theft, prior to a recount. And in Lucas County and Hocking County, it was revealed that technicians from the Diebold and Triad companies had inexplicably taken control of voting machines and dismantled them, rendering verifiable recounts impossible.

On Wednesday, December 15, U.S. Representative John Conyers posted an affidavit from Douglas W. Jones, a professor of computer science and a voting technology consultant. In Professor Jones' opinion, the bizarre behavior by the Triad Company, which provides computer software and voting machines in 41 of Ohio's 88 counties, may have tainted the entire recount effort. A Triad employee took apart a computer used in the recounting process and inserted new parts as well as alleged modifications of the software. "As a result, the incident in Hocking County could compromise the statewide recount and undermine the public's trust in the credibility and accuracy of the recount," Jones stated in an affidavit.

As evidence of fraud, manipulation and sabotage of a recount poured in, citizen activists filed for a Temporary Restraining Order demanding the Ohio Supreme Court step in to protect ballots and voting records from further destruction.

On Thursday, Ohio Chief Justice Thomas Moyers denied the original Moss v. Bush filing, saying it had wrongly joined actions on two separate elections, the one for president and one for Chief Justice of the Ohio Supreme Court. The Supreme Court race of Moyer and Ellen Connally had been part of the filing because citizen litigators found fraud in its conduct as well.

The litigation team worked all night in order to refile the two challenges on Friday, December 17. These challenges on both the Bush-Kerry race and on the Supreme Court case were filed separately, reinstating the original thrust of Monday's action and asserting that Kerry had won the Ohio vote, as had Connally.

With court battles escalating, attempts to conduct a meaningful recount have proceeded. Democratic, Green and Libertarian party officials have helped in training volunteers to examine voter records and what to look for as the Ohio vote tally continues. Hundreds of volunteers are observing at election boards around the state trying to get a grasp on what actually happened November 2. Amy Kaplan, head of the Green Party's Franklin County recount, reported to the Free Press that two of the electronic voting machines in Franklin County had faulty cartridges that generated error messages despite being in use on Election Day.

The observers' work has been frustrated and the recount tainted by destroyed records, compromised evidence, and by private vendors who have "re-programmed" machines in both Lucas and Hocking Counties.

Despite his early concession, Kerry has now issued a letter to election boards in all 88 Ohio counties asking a series of questions about the vote count. Thus, charges that Republicans are hiding an outright theft have gained increasing media attention, as have charges that deliberate and illegal destruction of records has been rampant.

Where this will all lead remains unclear. An escalation of court battles is the only certainty. The presidential election of 2004 is by no means over.

Bob Fittrakis, Steve Rosenfeld and Harvey Wasserman are co-authors of the upcoming Ohio's Stolen Election, 2004, to be published by <http://freepress.org> , which is accepting donations for the project.

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