



Madison County Board of Elections  
117 W. High St., Suite 102  
London, OH 43140  
Fax: (740) 852-7131

September 19, 2008 – *sent via facsimile and U.S. Mail*

Dear Members of the Madison Board of Elections:

As you aware, early voting is scheduled to begin on Tuesday, September 30, 2008.

It is the position of the American Civil Liberties Union of Ohio and the national ACLU Voting Rights Project that all voters are legally entitled to request, receive, and submit an absentee ballot upon their registration.

This is consistent with the position taken by Ohio Secretary of State Jennifer Brunner in Directive 2008-63, issued August 13, 2008, which instructs boards of election to allow newly registered voters to request and receive absentee ballots. Specifically, she advised boards to issue absentee ballots to voters immediately upon their registration, during the five-day overlap between the September 30<sup>th</sup> commencement of early voting and the October 6<sup>th</sup> registration deadline.

Madison County Prosecuting Attorney Stephen Pronai has issued an opinion disagreeing with Directive 2008-63. Mr. Pronai's September 5, 2008 opinion, urged the Board of Elections to disregard Secretary Brunner's directive and not allow anyone to vote unless they have been registered for thirty days prior to requesting, receiving, or submitting a ballot.

We believe that Mr. Pronai's statement of the law is incorrect. Ohio law requires a voter to be registered for thirty days prior to the election, not prior to their requesting or casting a ballot. Furthermore, Pronai's interpretation in effect creates a durational residency requirement that violates both the Voting Rights Act and the U.S. Constitution. It also conflicts with federal statutory law under which registration deadlines are keyed to the day of the election, November 4, 2008 this year, and not to the date on which the voter requests, receives, or submits his or her ballot. Accordingly, we believe the action which the county's prosecuting attorney has advised conflicts with both federal and state law.

We intend to file suit in federal court against the Madison County Board of Elections and seek an immediate injunction to allow all voters, including the newly registered, to request and vote absentee, unless you inform us in writing, no

AMERICAN CIVIL  
LIBERTIES UNION  
OF OHIO FOUNDATION  
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CLEVELAND, OH 44103-3621  
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WWW.ACLUOHIO.ORG  
contact@acluohio.org





later than 10 a.m. on Tuesday, September 23, 2008, that you intend to follow Directive 2008-63 and that you will not follow Mr. Pronai's instruction in this matter.

Should you have any questions, please do not hesitate to contact Ms Davis at 216-472-2220.

Sincerely,

Carrie Davis,  
Staff Counsel,  
ACLU of Ohio

Meredith Bell-Platts,  
Staff Counsel,  
ACLU Voting Rights Project

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a member of  
 SHARES

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cc: Jennifer Brunner, Ohio Secretary of State  
Richard Coglianesse, Office of the Ohio Attorney General



Holmes County Board of Elections  
75 East Clinton St., Suite 108  
Millersburg, OH 44654  
Fax: (330) 674-5978

September 19, 2008 – *sent via facsimile and U.S. Mail*

Dear Members of the Holmes Board of Elections:

As you aware, early voting is scheduled to begin on Tuesday, September 30, 2008.

It is the position of the American Civil Liberties Union of Ohio and the national ACLU Voting Rights Project that all voters are legally entitled to request, receive, and submit an absentee ballot upon their registration.

This is consistent with the position taken by Ohio Secretary of State Jennifer Brunner in Directive 2008-63, issued August 13, 2008, which instructs boards of election to allow newly registered voters to request and receive absentee ballots. Specifically, she advised boards to issue absentee ballots to voters immediately upon their registration, during the five-day overlap between the September 30<sup>th</sup> commencement of early voting and the October 6<sup>th</sup> registration deadline.

Holmes County Prosecuting Attorney Steve Knowling has issued an opinion disagreeing with Directive 2008-63. Mr. Knowling's August 25, 2008 opinion directed the Board of Elections to disregard Secretary Brunner's directive and not allow anyone to vote unless they have been registered for thirty days prior to requesting, receiving, or submitting a ballot.

We believe that Mr. Knowling's statement of the law is incorrect. Ohio law requires a voter to be registered for thirty days prior to the election, not prior to their requesting or casting a ballot. Furthermore, Knowling's interpretation in effect creates a durational residency requirement that violates both the Voting Rights Act and the U.S. Constitution. It also conflicts with federal statutory law under which registration deadlines are keyed to the day of the election, November 4, 2008 this year; and not to the date on which the voter requests, receives, or submits his or her ballot. Accordingly, we believe the action which the county's prosecuting attorney has advised conflicts with both federal and state law.

We intend to file suit in federal court against the Holmes County Board of Elections and seek an immediate injunction to allow all voters, including the newly registered, to request and vote absentee, unless you inform us in writing, no

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later than 10 a.m. on Tuesday, September 23, 2008, that you intend to follow Directive 2008-63 and that you will not follow Mr. Knowling's instruction on this matter.

Should you have any questions, please do not hesitate to contact Ms Davis at 216-472-2220.

Sincerely,

Carrie Davis,  
Staff Counsel,  
ACLU of Ohio

Meredith Bell-Platts,  
Staff Counsel,  
ACLU Voting Rights Project

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A MEMBER OF  
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cc: Jennifer Brunner, Ohio Secretary of State  
Richard Coglianesse, Office of the Ohio Attorney General



Miami County Board of Elections  
Courthouse  
215 W. Main St.  
Troy, OH 45373  
Fax: (937) 440-3901

September 19, 2008 – *sent via facsimile and U.S. Mail*

Dear Members of the Miami Board of Elections:

As you aware, early voting is scheduled to begin on Tuesday, September 30, 2008.

It is the position of the American Civil Liberties Union of Ohio and the national ACLU Voting Rights Project that all voters are legally entitled to request, receive, and submit an absentee ballot upon their registration.

This is consistent with the position taken by Ohio Secretary of State Jennifer Brunner in Directive 2008-63, issued August 13, 2008, which instructs boards of election to allow newly registered voters to request and receive absentee ballots. Specifically, she advised boards to issue absentee ballots to voters immediately upon their registration, during the five-day overlap between the September 30<sup>th</sup> commencement of early voting and the October 6<sup>th</sup> registration deadline.

Miami County Prosecuting Attorney Gary Nasal has issued an opinion disagreeing with Directive 2008-63. Mr. Nasal's September 4, 2008 opinion, addressed to the Board of Elections, instructed that allowing same day or newly registered voters to immediately request, receive, or submit an absentee ballot is "illegal, inappropriate, and impermissible." Essentially, Mr. Nasal urged the Board to disregard Secretary Brunner's directive.

We believe that Mr. Nasal's statement of the law is incorrect. Ohio law requires a voter to be registered for thirty days prior to the election, not prior to their requesting or casting a ballot. Furthermore, Nasal's interpretation in effect creates a durational residency requirement that violates both the Voting Rights Act and the U.S. Constitution. It also conflicts with federal statutory law under which registration deadlines are keyed to the day of the election, November 4, 2008 this year, and not to the date on which the voter requests, receives, or submits his or her ballot. Accordingly, we believe the action which the county's prosecuting attorney has advised conflicts with both federal and state law.

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We intend to file suit in federal court against the Miami County Board of Elections and seek an immediate injunction to allow all voters, including the newly registered, to request and vote absentee, unless you inform us in writing, no later than 10 a.m. on Tuesday, September 23, 2008, that you intend to follow Directive 2008-63 and that you will not follow Mr. Nasal's instruction in this matter.

Should you have any questions, please do not hesitate to Ms Davis at 216-472-2220.

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ACLU of Ohio

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cc: Jennifer Brunner, Ohio Secretary of State  
Richard Coglianese, Office of the Ohio Attorney General