

January 17, 2005

Why the Recount Still Matters, and What's Next

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Just over four years ago, the United States Supreme Court stopped the vote counting in the State of Florida and, for the first time, selected the president of the United States. It marked a dark moment in our nation's history. Since then, people throughout this country committed to the vision of democracy pledged never to let it happen again - never again would we allow an individual to assume the power of the presidency without the proper counting of all the votes.

Yet it did happen again. You don't have to believe that a proper recount would have changed the ultimate winner in Ohio, to believe that the absence of a fair recount in Ohio is a deeply troubling sign for American voting rights. If you believe that democracy demands precision in counting - if you believe, in the words of Tom Stoppard, that "it's not the voting that's democracy, it's the counting," - then you should remain deeply concerned about the count in Ohio.

On December 13, 2004, in the state capitol of Ohio, there was a serious crime against democracy and the right to vote when Ohio Secretary of State J. Kenneth Blackwell presided over a meeting of individuals who claimed to have won the right to serve as presidential electors for the State of Ohio in the Electoral College. Mr. Blackwell and that group gathered while a recount of the votes cast in Ohio for President of the United States began. Indeed, Mr. Blackwell did everything in his power to push through that slate of electors based on an untested, initial count.

Mr. Blackwell had no right to convene a meeting of the Electoral College in Ohio while a recount was underway. And individuals who ran as candidates for presidential electors had no right to cast votes in the Electoral College in Ohio while a recount was underway. The meeting of the Electoral College in Ohio marked utter contempt for the promise of democracy and for the rule of law.

While Mr. Blackwell presided over this illegitimate gathering in Columbus, he also ignored his responsibility to ensure that the recount would be conducted in accordance with uniform standards as required by the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the US Constitution.

Guidelines were issued, but little if anything was done to see them followed, when the recount actually began on December 13.

Of the 88 counties in Ohio, only one conducted a full hand count of the votes in that county. Many did not select on a random basis, as required by Ohio law, the three percent to be hand-counted. Some counties altered ballots in order to get the three percent hand count to match the machine count. Others suspended the recount when the

three percent hand count did not match the machine count. One summoned the Triad company to bring a new machine to the board prior to resuming the recount. Another simply refused to conduct a full hand count. And in Hocking County, a technician from the Triad company visited the board of elections office prior to the start of the recount and tampered with the central tabulator machine; he advised board of elections officials on how to post a "cheat sheet" on the wall so that the three percent hand count would match the machine count.