

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

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OBAMA FOR AMERICA, <i>et al.</i> ,	:	Case No. 2:12-cv-636
	:	
Plaintiffs,	:	Judge Economus
	:	
v.	:	Magistrate Judge King
	:	
JON HUSTED, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
-----X		

PLAINTIFFS’ MOTION TO ENFORCE THE COURT’S ORDER OF AUGUST 30, 2012

Plaintiffs file this Motion to bring to the Court's attention a Directive issued yesterday by Defendant Husted in disregard of this Court's Order of August 31, 2012, and to seek full enforcement of that Order.

In its August 31, 2012 decision, this Court ordered “that in-person early voting **IS RESTORED** on the three days immediately preceding Election Day for all eligible Ohio voters”, specifically listing Saturday, November 3, 2012, Sunday, November 4, 2012, and Monday, November 5, 2012 as days that are to be restored. The Court further anticipated that Defendant Husted would direct all Ohio elections boards to maintain a “specific, consistent schedule on those three days.”

Notwithstanding the Court's injunction, on September 4, 2012, Defendant Husted issued a directive that provides that no hours will be established until after a decision on the Defendants' appeal of the Court's order, because “the constitutionality of the statute setting in-person absentee voting hours is still subject to court review and it would [] confuse voters to set hours now that the court may change later.” The directive further “strictly prohibits county

boards of elections from determining hours for the Friday, Saturday, Sunday, or Monday before the election.”

Having sought no stay, either in this Court or the Court of Appeals, the State appears to believe it can issue one on its own authority. Nowhere in this Directive does the Secretary identify the legal basis for this extraordinary action, much less how it accords with the well-established principle that “[i]t is for the court of first instance to determine the question of the validity of the law, and until its decision is reversed for error by orderly review, either by itself or by a higher court, its orders based on its decision are to be respected. . . .” *United States v. United Mine Workers of America*, 330 U.S. 258, 294 (1947). *See also North American Coal Corp. v. Local Union 2262, United Mine Workers of America*, 497 F.2d 459 (6th Cir. 1974) (injunction of court, even if invalid, still must be obeyed until and unless overturned on appeal); *Blackard v. Memphis Area Medical Center for Women, Inc.*, 262 F.3d 568 (6th Cir. 2001) (parties bound by an injunction are obligated to abide by that injunction when it is in effect, even if it is later determined to be erroneous).

Plaintiffs respectfully request that the Court act as appropriate and necessary to enforce its Order issued August 31, 2012.

Respectfully submitted,

/s/ DONALD J. McTIGUE

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Certificate of Service

I hereby certify that the foregoing was electronically filed with the U.S. District Court, Southern District of Ohio, on September 5, 2012 and served upon all parties of record via the court's electronic filing system.

/s/ Mark A. McGinnis
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