

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

OCT 26 2004

LEONARD GREEN, Clerk

MICHIGAN STATE CONFERENCE OF NAACP
BRANCHES, as an Organization and
Representative of its Members; ASSOCIATION
OF COMMUNITY ORGANIZATIONS FOR
REFORM NOW, as an Organization and
Representative of its Members; PROJECT VOTE;
BAY COUNTY DEMOCRATIC PARTY;
MICHIGAN DEMOCRATIC PARTY,

Plaintiffs-Appellees,

v.

TERRI LYNN LAND, Michigan Secretary of
State; CHRISTOPHER M. THOMAS, Michigan
Director of Elections, in their official capacities,

Defendants-Appellants,

MICHAEL F. WALSH; DANIEL C. KRUEGER;
LINDA S. COBURN; JANICE C. VEDDER;
DIANE K. MOSIER,

Amici Curiae-Appellants.

ORDER

Before: BOGGS, Chief Circuit Judge; GILMAN, Circuit Judge; WEBER, District Judge.*

In this suit brought to interpret and enforce 42 U.S.C. § 15482, a provision of the Help America Vote Act ("HAVA"), the defendants and proposed intervening defendants appeal a preliminary injunction issued by the U.S. District Court for the Eastern District of Michigan. The

*The Honorable Herman J. Weber, United States District Judge for the Southern District of Ohio, sitting by designation.

district court's injunction required Michigan state election authorities to count as valid any provisional vote cast under HAVA that was otherwise valid, but that was cast in a precinct other than that in which the voter resided, provided the voter did reside within the same voting "jurisdiction," defined by the court as the "city, village, or township" in which the voter resided.

The defendants sought a stay of that order, an expedited appeal, and consolidation of this case with *Sandusky Democratic County v. Blackwell*, Sixth Cir. Nos. 04-4265/4266. The panel to which this appeal was assigned granted that motion by order of October 23, 2004. On October 24, this panel issued a temporary stay of the district court's order, and we now turn to the merits.

Having had the benefit of briefing by those parties and amici¹ who wish to brief, the panel is of the opinion that this case is completely controlled by its decision in *Sandusky County Democratic Party v. Blackwell*, in which a written opinion was issued today. As a matter of statutory interpretation, HAVA does not require the State to count as valid votes those ballots that are cast outside of the precinct in which the voter resides.

Therefore, the district court's grant of injunctive relief is **REVERSED**.

ENTERED BY ORDER OF THE COURT


Clerk

¹All motions to file briefs as amicus curiae are granted.