

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

**King Lincoln Brownsville
Neighborhood Association, et al.**

Plaintiffs,

v.

Ohio Secretary of State Jennifer Brunner, et al.

Defendants.

Case No. 2:06-CV-00745

**Judge Marbley
Magistrate Judge Kemp**

**MOTION FOR RECONSIDERATION OF THE MAGISTRATE JUDGE'S NOVEMBER
19, 2010, OPINION AND ORDER AND REQUEST FOR AN EMERGENCY HEARING**

Secretary of State Jennifer Brunner Agreed to the Rove and Chamber Subpoenas

Plaintiffs agree with the Magistrate Judge's analysis and conclusion that, under the agreed order lifting the stay, only the judgment of the plaintiffs and Secretary of State Jennifer Brunner is required and that, read literally, the agreement of Secretary of State Jennifer Brunner is required. However, contrary to the inference drawn by Judge Kemp from defendants' counsel's filing of November 9, 2010, that Secretary of State Brunner only had "no objection" to plaintiffs' taking Rove's deposition, plaintiffs, as they asserted in their filing on November 2, 2010, also had Ohio Secretary of State Jennifer Brunner's affirmative agreement.

When Secretary of State Brunner called plaintiffs' counsel on the morning of November 1, 2010, she mentioned that Rich Coglianese was concerned about protecting J. Kenneth Blackwell's

interest in the matter. Plaintiffs' counsel took Coglianesse's filing on November 9 to be a reflection of that interest – raising objections to the discovery that Ken Blackwell would want to have raised, without denying that Secretary of State Jennifer Brunner had affirmatively given her consent directly to plaintiffs' counsel.

This same point applies to Coglianesse's suggestion that the proposed discovery against Rove and the Chamber was not based upon Michael Connell's deposition and possibly not relevant to the issues in the King Lincoln case. Those criticisms did not reflect the views of Jennifer Brunner, but rather the views of "defendants'" counsel on behalf of J. Kenneth Blackwell, an individual defendant in the case, and the State of Ohio that intervened to defend against plaintiffs' attack upon the constitutionality of the voter ID law enacted in HB 3.¹

Plaintiffs and Ohio Secretary of State Jennifer Brunner Agreed upon the Rove and Chamber Subpoenas Based upon the Connell Deposition

Seeking a deposition of another witness and document discovery from two other witnesses, based on the Connell deposition, does not mean that plaintiffs had to have discussed Rove and campaign finance issues or the Chambers' documents in that deposition. Rather, as both plaintiffs' counsel and Secretary of State Brunner understood, Rove's deposition was the next logical step in discovery based upon the conclusions drawn from the Connell deposition and its

¹U.S. District Court Judge Paul Friedman has referred the matter of the propriety of plaintiffs' subpoena to Karl Rove to this Court for guidance by an Entry dated November 24, 2010, in Misc. Case No. 10-0711 (PLF) A courtesy copy of this filing by plaintiffs is being sent by Email to Robert Luskin, Esq., Attorney for Mr. Rove.

aftermath.²

Connell prepared websites for Republican partisan organizations including the Republican National Committee, the Bush presidential campaigns, the Chamber of Commerce operations, various front groups for the Chamber of Commerce and Republican organizations.

Connell admitted under cross examination in his deposition testimony that he brought Triad into the Secretary of State's office. Triad has been implicated in the criminal manipulation of voter databases and voting processes since the 2000 Florida election and the changing out of hard drives before the recount in the Ohio 2004 presidential election. It has been maintaining the voter database for more than half of Ohio's 88 counties in the 2010 election.

Connell admitted under cross examination in his deposition testimony that he probably brought SmartTech into the Ohio Secretary of State's office. He admitted that he brought SmartTech into all of his client relationships where the client needed a server. While plaintiffs have no reason to believe that Connell was involved in the actual manipulation of vote counts, he designed the systems both in terms of websites and Internet connections between different systems through which the manipulation could be accomplished.

²Plaintiffs have sought the agreement of Mr. Connell's counsel to the release of the transcript of his deposition for filing with this court. Plaintiffs are completing a motion for filing with Judge Solomon Oliver of the U.S. District Court for the Northern District of Ohio to reopen Case No. 1:08-mc-00105-SO and consider, on an emergency basis, plaintiffs' request for the release of Mr. Connell's deposition transcript for filing in this court without restriction. Mr. Connell's counsel, James Ervin, is on the ECF service list for this case.

The whole subject of threats against Michael Connell relates to the matter of covering up or exposing of the theft of the 2004 Ohio presidential election. It appears that, instead of seeking protection from the Justice Department, the FBI, the federal court system, Connell sought protection by bringing his business under the control of another Republican organization.

The real issues in the Connell deposition for plaintiffs' counsel and for Mr. Rove as the principal perpetrator in a racketeering conspiracy to steal American elections were twofold: 1) Connell's truthfulness under cross examination, and 2) Connell's willingness or unwillingness to "take the fall" for criminal conduct of others in relationship to the 2004 Ohio election. The conclusions plaintiffs' counsel drew from that deposition were that the answer to question one was "yes" – under cross examination Michael Connell would tell the truth; and that the answer to the second question, was "no" – Michael Connell would not take the fall for the criminal conduct of others.

Those two answers from the Connell deposition made Michael Connell a threat to Karl Rove.³ Plaintiffs' attorneys are civil lawyers and this is a civil case. Plaintiffs' counsel did not bring up the idea that witnesses were in danger of intimidation or selective assassination. Plaintiffs' did assert that this case involved a racketeering conspiracy under Ohio's liberal Corrupt Practices Act, and that Rove and Donohue were engaged together in a pattern of corrupt activity aimed at control of both the federal and state court systems of the United States. Plaintiffs identified

³A Troubling Black Box Death by Scott Horton, JD, Harpers Magazine: <http://www.harpers.org/archive/2008/12/hbc-90004069>; The Intriguing Death of Top GOP Consultant Michael Connell, by Thomas B. Edsall, Huffington Post: http://www.huffingtonpost.com/2008/12/25/the-intriguing-death-of-t_n_153518.html

Michael Connell as the key witness to the full scope of this conspiracy. The following is the hyperlink to an audio video of the press conference held by plaintiffs' counsel on July 17, 2008:

<http://www.archive.org/details/ElectionFraudInOhioCourtCase>

Within days an anonymous informant to a reward tip line advised that Connell was being threatened by Rove through an intermediary Jeff Averbek, President of Smartech, that since 2006 had been known to have hosted the Ohio Secretary of State's election computer system for the 2004-2006 election cycles, along with all the major Republican and business front group campaigns, as well as the White House Email system. A later tip indicated that Connell was "in danger from Rove."

The possibility of Michael Connell's assassination is not a conspiracy theory dreamed up by plaintiffs' counsel. It is something that has been reported by multiple sources to the FBI, and to the best of plaintiffs' counsels' knowledge, is still within the jurisdiction of the FBI.⁴

Plaintiffs' Discovery Subpoenas Seek Evidence Relevant to the King Lincoln Case

As to the challenge to this discovery as not being relevant or likely to lead to the discovery of evidence relevant to the issues in the suit, this suit alleges an ongoing civil rights conspiracy.⁵

⁴If an airplane crash site is designated a crime scene by the AG of the US, the FBI conducts the investigation. If not the NTSB proceeds to determine the most likely non-criminal cause.

⁵The production sought in plaintiffs' proposed discovery is from witnesses to whom plaintiffs' counsel issued document hold notices in 2007 or on July 17, 2008 and reaffirmed on April 30, 2010.

Rove as the overall architect, and Connell as the architect of the websites and the computer system interfaces between and among all parts of this conspiracy are what makes this discovery proposed by the plaintiffs and approved by the Secretary of State Brunner relevant and likely to lead to discovery of evidence relevant to this suit.

All four phases of the ongoing civil rights conspiracy work together: 1) predominant commercial advertising concerning the candidates in favor of the Republican candidates, 2) targeted suppression of black and young voters because of their proclivity to vote for Democratic candidates, 3) professional electronically assisted hacking of the vote counts in favor of Republican candidates, 4) cover-up activity including defaming the accuracy and reliability of polls, especially exit polls, and altering polling techniques to conform to the purported legitimacy of hacked vote counts. All four phases of this ongoing civil rights conspiracy require money. Disclosure of the banker for one phase, particularly the most expensive phase, may expose the banker(s) for the others as well.

The reason for the paramount need for secrecy on the part of the Chamber of Commerce, plaintiffs' have argued and the Chamber has not denied, is that disclosure of funding sources would reveal that much of this funding is coming from those corporations who profit most from the sale of foreign manufactured goods and the US subsidiaries of foreign owned companies that seek to substitute their products for those of United States manufacturers. Disclosure of the funding sources would reveal the Chamber's activities against the general welfare of the people of the United States and against the economic welfare of the general membership of the Chamber

of Commerce.⁶

To be more specific in regard to funding, during the initial year of the civil rights conspiracy 2000, four funders at \$1 million each were identified by Jim Vandehei writing for the Wall Street Journal on September 11, 2001. They were Wal-Mart Corporation, Home Depot, Daimler Chrysler and the Council of Life Insurers. Both Wal-Mart and Home Depot concentrate upon the sale within the United States of products manufactured overseas, predominantly in China.

Daimler Chrysler Aerospace is a German corporation and is the principal shareholder in EADS, the European Aerospace Defense and Space Corporation in which the Russian government now has a 5% interest. The Council of Life Insurers could be functioning, like the Chamber, as a conduit organization. In 2003 AIG and/or its affiliated Starr Foundation, both under the leadership of Hank Greenberg made a \$17 million contribution to the US Chamber Institute for Legal Reform.

During the most recent period, particularly the 2010 election cycle there is intense competition between EADS and Boeing Corp. for the air tanker contract with the United States Air Force. The sales volume on this contract is estimated between \$50 and \$100 billion based upon projected sales to the United States Air Force alone. The outcome of this procurement may well

⁶Plaintiffs served subpoenas upon the US Chamber of Commerce and its Institute for Legal Reform on November 1, 2010. Wiley Rein communicated by Email with Plaintiffs' counsel their objections to compliance with the subpoenas. A courtesy copy of this Motion is being Emailed to Wiley Rein coincident with its electronic filing.

determine whether Boeing Corp. or EADS will be the dominant provider of airplanes in the world. As part of its marketing effort EADS has committed to building airplanes under this contract in Mobile, Alabama, that is in a right-to-work state where there would likely not be a unionized workforce.

The Need for an Emergency Hearing and Expedited Relief

At the time plaintiffs requested the Secretary of State's concurrence with their desire to conduct a discovery deposition of Karl Rove and document discovery from the Ohio and US Chambers of Commerce, that is before the November 2, 2010 election, plaintiffs did not know whether the avalanche of corporate expenditures to influence elections in the 2010 cycle would give the Republicans their desired victory without necessity of hacking the vote count. It was urgent that the press and voters know the names and amounts of contributions because that is what Ohio election law is intended to assure them of receiving.

Immediately following this election, from the initial report of the uncertified vote count, particularly in the Ohio Attorney General's race, it appears that the Ohio election may have been hacked. Once provisional votes have been counted, audits have been conducted and final results are certified, tight deadlines apply for recount requests and contests under Ohio election law.

Finally, this case was stayed based upon settlement explorations between the plaintiffs and Ohio Secretary of State Jennifer Brunner. Completion of this discovery may aid these parties in consummating a settlement of the issues between them in this case during the remaining term of

Secretary of State Jennifer Brunner through the end of December 2010.

Conclusion

Plaintiffs' proposed discovery has been approved by Ohio Secretary of State Jennifer Brunner, follows logically from and is based upon a deposition of Michael Connell in the judgment of the plaintiffs and Ohio Secretary of State Jennifer Brunner, and is likely to lead to the discovery of evidence relevant to the issues in the King Lincoln case. Therefore, in the Court's reconsideration of the Opinion and Order of Magistrate Judge Kemp, the Court should allow the proposed discovery to proceed with all deliberate speed, in view of the relevance of this discovery in this litigation and to election integrity issues in the November 2, 2010 election, and the possibility of completing settlement negotiations between the plaintiffs and Ohio Secretary of State Jennifer Brunner before the end of her term in office.

Respectfully submitted,
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CERTIFICATE OF SERVICE

A copy of the foregoing was served upon counsel for the parties and respondents through the court's electronic filing system, this 3rd day of December 2010.

/s/ Clifford O. Arnebeck, Jr.

Clifford O. Arnebeck, Jr.