

IN THE
FLORIDA SUPREME COURT

HARRY N. JACOBS, et al.,

Plaintiffs/Appellants,

vs.

CASE NO. SC00-2447

THE SEMINOLE COUNTY
CANVASSING BOARD, et al.,

Defendants/Appellees.

APPELLANT'S NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff/Appellant, Harry N. Jacobs, respectfully gives notice to the Court of the following supplemental authority.

1. Late yesterday, this Court issued its opinion on remand from the United States Supreme Court in *Palm Beach County Canvassing Board v. Harris*, Case No. SC00-2346 (Fla. Dec. 11, 2000). In that opinion, the Court emphasized, in a case involving the interpretation of the Florida Election Code, that “[w]here the language of the Code is clear and amenable to a reasonable and logical interpretation, courts are without power to diverge from the intent of the Legislature as expressed in the plain language of the Code.” Slip op. at 11. The Court went on to hold that an advisory opinion issued by the Division of Elections was erroneous “because it contravene[d] the plain meaning of section 102.166(5).” *Id.* at 12. As argued in our brief, the Circuit Court’s decision in this case likewise contravened the plain language of sections 101.62 and 102.0515.

2. Earlier in the day, during oral argument before the United States Supreme Court in *George W. Bush v. Albert Gore, Jr.*, Case No. 00-949, an appeal from this Court's ruling last week in Case No. SC00-2431, counsel for Secretary of State Katherine Harris argued that, in order to cast a legal vote, the voter is required to follow the instructions he or she is given. Counsel for Ms. Harris stated: "The fact is that a legal vote at the very basics has to at least be following the instructions that you are given . . ." Official Transcript at 29 (attached as Exhibit 1). We agree. It is undisputed that, in this case, the voters who failed to include voter registration numbers on their absentee ballot requests did not follow the instructions they were given. Under the view urged by Defendant Harris, those votes should not be counted as legal votes.

Respectfully submitted,

By: _____

GERALD F. RICHMAN

Florida Bar Number: 066457

Alan G. Greer

Florida Bar Number: 123294

John R. Whittles

Florida Bar Number: 0178802

RICHMAN, GREER, WEIL, BRUMBAUGH

MIRABITO & CHRISTENSEN, P.A.

One Clearlake Centre

250 Australian Avenue South, Suite 1504

West Palm Beach, Florida 33401

Scott E. Perwin

Pamela I. Perry

201 South Biscayne Boulevard

Miami, Florida 33131-4327

Kent Spriggs
SPRIGGS & DAVIS
324 West College Avenue
Tallahassee, Florida 32301
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of Appellant's Notice of Supplemental Authority was served this 12th day of December, 2000 to Terry Young, Esquire, LOWNDES, DROSDICK, DOSTER, KANTOR & REED, P.A., 215 S. Bola Drive, Orlando, Florida, 32801, Kenneth A. Wright, Esquire, SHUTTS & BOWEN, 300 South Orange Avenue, Suite 1000, Orlando, Florida 32801, Marvin E. Rooks, Esquire, Post Office Box 241, Winter Park, Florida 32790, Jonathan Sjostrom, Esquire, STEEL, HECTOR & DAVIS, LLP, 215 South Monroe Street, Tallahassee, Florida, 32301, Barry Richard, Esq. Greenberg Traurig, 101 East College Avenue, Tallahassee, Florida 32301, and Stuart A. Levy, Esquire, MILLER, CASSIDY, LARROCA & LEWIN, LLP, 2555 M Street NW, Washington D.C. 20003-1302.

John R. Whittles