

Electronic Voting

Journalist seeks temporary restraining orders against use of voting machines & absentee ballots Urges use of remote polling precincts & provisional ballots

PHILADELPHIA, Pa., Oct. 18, 2004—Last week, freelance journalist Lynn Landes filed two Temporary restraining orders (TRO) in federal district court in Philadelphia. Landes is one of the nation's leading journalists on voting technology and democracy issues. She is attempting to halt the use of voting machines and absentee ballots in the upcoming presidential election.

In her lawsuits, Landes says there are two legal standards for any voting process. These standards are described in the oversight function of federal observers under federal statute, Title 42 § 1973f of the United States Code, (1) " . . . *whether persons who are entitled to vote are being permitted to vote,*" and (2) " . . . *whether votes cast by persons entitled to vote are being properly tabulated.*" Landes claims that the use of absentee voting and voting machines fails to meet either standard. She says that the use of absentee ballots and voting machines is effectively unobservable and therefore denies meaningful oversight by election officials, poll watchers, federal observers, the press, and the public.

"This nation's voting system is a total sham," says Landes. "In the upcoming election, a couple of corporations (ES&S and Diebold) with strong ties to the Republican Party will count 80 percent of the vote in virtual secrecy. Democratic candidates should be in federal court now protesting this insanity. It might be too late after the election."

Landes claims that elections in America are not being properly administered under the U.S. Constitution or federal law. Direct public participation and effective oversight is impossible to all intents and purposes, she says.

"It's like holding a public meeting at City Hall and then shutting out the public. Vote fraud and system failure can easily occur and remain completely undetectable. The end result is that we have no legitimate way to prove who really wins elections in this country. And the very last thing we should do is to trust the corporate media and their polling organizations to tell us what's going on," she warns.

Originally, Landes filed two complaints in U.S. District Court for the Eastern District of Pennsylvania on July 2, 2004. However, since the presidential election was fast approaching, Landes decided to also file TROs. The District Court ruled immediately against Landes on the issue of absentee ballots. Last Friday, she filed an appeal to that decision in the Third Circuit Court of Appeals. The TRO filed against the use of voting machines has yet to be scheduled.

In her appeal to the Third Circuit, Landes suggests the establishment of remote polling precincts for absentee voters. She says that remote precincts can be set up at municipal buildings and college campuses across the country, as well as at embassies, consulates, overseas military bases, and onboard military ships. The use of a universal ballot for president and vice president would be a practical remedy for those two races. Landes sees a logistical nightmare if other races were included, however.

"If there isn't sufficient time for these remedies to be put into place, the Supreme Court should order a delay of the election for no more than 30 days," says Landes. "This is not a perfect solution, but at least it would be legal."

See Landes lawsuit filings at: <http://www.ecotalk.org/VotingSecurity.htm>

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