



True the Vote Files Lawsuit in Florida

True the Vote announced the [filing of a lawsuit](#) for public access to election records in Florida's 18th Congressional District. In a prepared statement available on the organization's website, True the Vote President Catherine Engelbrecht explained steps that have been taken by True the Vote volunteers to audit the results of the controversial contest between then-incumbent Congressman Allen West and challenger Patrick Murphy.



The lawsuit filed in U.S. District Court in Fort Pierce, Florida, is based in part on Section 8 of the National Voter Registration Act of 1993, commonly known as the Motor Voter Act. The complaint filed with the court says:

Under Section 8 of the NVRA, election officials "shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters"

The complaint alleges:

Allen West, Republican candidate for the 18th Congressional District maintained a small but steady lead on the night of November 6, 2012. Shortly after midnight, a batch of early votes from St. Lucie County was tallied, giving Democratic candidate Patrick Murphy the lead by more than 2,000 votes. When pressed about the late tallied batch of early votes, Defendant Walker noted that the tabulating machines had been unable to read the electronic memory cartridges containing the ballot counts from early voting sites, forcing poll workers to manually feed the paper ballots through the scanners at the elections office later than planned. The sudden and unanticipated lead change late in the evening, coupled with the Supervisor's admission that there had been a machine failure, created concern that some of the early vote ballots in St. Lucie County had been counted twice.

The complaint also alleges, in paragraphs 22 through 24, the following events happened, starting approximately nine minutes before the November 18 noon deadline for certifying the election results:

- "At 11:51 a.m., an attorney assisting the Defendant asked attorneys for the Democrat and Republican candidates in the 18th Congressional District what the campaigns planned to do if the county failed to meet the deadline. The Defendant could not confirm that they would in fact fail to meet the deadline, but wanted to know what the campaigns planned to do if the deadline was missed."
- "When the noon deadline came and passed on November 18, 2012, Defendant's employees became frantic, and moved the process to a back room, out of the sight of the candidate observers and the public. No observers were permitted at any point while the data was being uploaded. While the candidates assumed that the deadline had been missed, no confirmation was given."
- "Approximately at 2:00 p.m. on November 18, 2012, the attorney for the Defendant asked attorneys



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for both Republican and Democratic congressional candidates if they would consider giving the Defendant the vote totals the campaigns had calculated. The attorney stated that the Defendant wanted to see if Defendant's numbers matched the numbers the campaigns had calculated. The campaigns declined to give her their numbers, and the Canvassing Board came forward to announce the results not ten minutes later."

The lawsuit seeks access to, among other things, "Federal or Florida registration forms of all people who voted in the 2012 federal general election" and "Federal or Florida registration forms of everyone who registered to vote with Defendant after January 1, 2012."

The outcome of this lawsuit may have national repercussions in transparency disputes over the 2012 elections. Large numbers of people have reported they tried unsuccessfully to obtain access to records of the 2012 elections during voter registration, balloting, and after the election. They have been unable to access such information due to explicit denials of their requests, bureaucratic obstacles or, sometimes, election officials simply not responding to the requests.

The lack of transparency in many of the 2012 elections has also hampered individuals who have investigated what initially appeared to have been potential fraud, but where it was eventually learned that discrepancies were caused by sloppiness in procedures or errors in reporting. The problem is that they learned this only after expending considerable amounts of effort, money, and time doing so. Better transparency would go along in saving people's resources when they want to assert their right to know whether or not to have confidence in election results. It would also go a long way to prevent sloppiness from happening in the first place.

One state where elections are considerably more transparent is New Hampshire where the recount schedule was announced publicly and posted on the Internet. The recounts were open to the public. But even some New Hampshire residents are likely to see an increase in transparency if the federal court orders access to the voter registration information in *True the Vote v. Walker*. These New Hampshire residents have requested access to the same-day registration forms that were submitted this past election and have been denied by local officials who have cited a complicated and confusing portion of New Hampshire law that says:

The information contained on the checklist of a town or city, specifically, the name, domicile address, mailing address, town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, qualified voter and domicile affidavits, and application for absentee ballot shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. Notwithstanding the foregoing, qualified voter and domicile affidavits are public records subject to RSA 91-A for the sole purpose of challenging an individual registering to vote or voting, challenging ballots to be recounted, to the extent that such ballot challenges are specifically authorized by law, or determining the accuracy of any qualified voter or domicile affidavit.

Whatever happened to one of the fundamental principles of American elections: That all aspects of elections except the marking of the secret ballot shall be unrestricted public information? Public access is the best disinfectant for fraud. Unfortunately, such single-sentence provisions in election laws are being modified by so-called voter privacy provisions. Misguided people in many parts of the country are being duped into believing these so-called voter privacy provisions are somehow good for us. What's



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happening in New Hampshire should serve as an example of how dangerous this type of thinking is, as unprecedented numbers of same-day voter registrations were processed in New Hampshire this past November, and concerned citizens are being blocked from determining whether or not these voter registrations are from real people or phantoms.

Adherents to the U.S. Constitution have long contended that the Motor Voter Act was unconstitutional and should be repealed. Even non-citizens have been registered to vote, some of them multiple times. As long as the provisions of Motor Voter that have caused over-registration of voters are being aggressively enforced, so should the few safeguards that are in it.

When the Motor Voter Act was passed in 1993, American elections were generally known for their openness. The transparency requirements in the Motor Voter Act appeared at the time to be simply restating the obvious. It is a sad commentary on the state of American elections to see how much transparency has disappeared from American elections in the last 20 years: Even a notorious bill like the Motor Voter Act can be used to force more openness.

True the Vote's team of attorneys includes J. Christian Adams, a former attorney for the Voting Rights Section of Department of Justice. He is the author of the book *Injustice: Exposing the Racial Agenda of the Obama Justice Department*.

The New American has contacted the St. Lucie County Supervisor of Elections Office seeking comment, and as of press time, the phone call has not been returned.



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