

IN THE
SUPREME COURT OF FLORIDA

CASE NOS. SC00-2346, SC00-2348 & SC00-2349

PALM BEACH COUNTY CANVASSING BOARD	vs.	KATHERINE HARRIS, ETC., ET AL.
VOLUSIA COUNTY CANVASSING BOARD	vs.	MICHAEL MCDERMOTT, ET AL.
FLORIDA DEMOCRATIC PARTY	vs.	MICHAEL MCDERMOTT, ET AL.
Petitioners/Appellants		Respondents/Appellees.

NOTICE OF SUPPLEMENTAL AUTHORITY

Pursuant to Fla.R.App.P. 9.225, the Attorney General files this notice of supplemental authority to direct the Court's attention to decisions that are significant to the issues raised in the case at bar which were discovered after the filing of the Attorney General's Reply Brief.

The following cases relate to the question of whether the proper standard of review in this cause is *de novo*.

1. *Bliven v. Turville*, 100 So.2d 91 (Fla. 2d DCA 1958)(Whether certain ballots should have been counted in determining the result of an election is a

question of law);

2. *McIntyre v. Wick*, 558 N.W. 2d 347, 357 (S.D. 1996)(In proceedings to review election recounts, this Court’s scope of review is *de novo*.);

3. *Duffy v. Mortenson*, 497 N.W. 2d 437, 438 (S.D. 1993)(In proceedings to review election recounts, this Court’s scope of review is *de novo*.);

4. *Thorsness v. Daschle*, 285 N.W. 2d 590, 592 (S.D. 1979) [Thorsness II] (Review is *de novo*, since review of a ballot involves construing a document, a question of law which does not require the Court to weigh evidence.);

5. *Delahunt v. Johnston*, 671 N.E. 2d 1241, 1242 (Mass. 1996)(“Our review of a voter’s intent is a question of law that we decide *de novo*”); and

6. *Connolly v. Secretary of the Commonwealth*, 404 Mass. 556, 561, 536 N.E. 2d 1058 (1989).

7. *Operation Rescue v. Women’s Health Center*, 626 So. 2d 664 (Fla. 1993), *aff’d in part and rev’d in part on other grounds*, 512 U.S. 753 (1994)(Review of legal questions is *de novo*.).

Additionally, the following precedents of this Court relate to the question of this Court’s jurisdiction and authority to require elections officials, even through issuance of writs of mandamus, to perform their continuing ministerial duty to make a correct count and return of votes as cast and to correct mistakes in counting and

returning votes as cast:

1. *State ex rel. Knott v. Haskell*, 72 So. 651, 660-661 (Fla. 1916); and

2. *State ex rel. Collins v. Brooker*, 46 So. 2d 600 (Fla. 1950)(State

Canvassing Board was a nominal party in a mandamus action challenging, among other irregularities, the correct tabulation of absentee ballots in Hillsborough County for a Congressional election, “so that it may be required to recertify the election returns of the different candidates for Congress from the First Congressional District.”).

Indeed, the Florida Supreme Court has jurisdiction to issue writs of mandamus to require election officers to correctly and accurately count and make due return of the votes as cast. *State v. Haskell*, 72 So. 651 (Fla. 1916).

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery or fax on this 19th day of November, 2000 to the those persons whose names appear on the attached list of counsel.

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