
US District Courts Rule Exit Poll Laws Unconstitutional

Date: 11/02/06

The Associated Press, ABC, CBS, CNN, Fox News and NBC Universal were recently successful in challenging state laws restricting their ability to conduct exit polls at polling places in Ohio, Florida and Nevada. Federal district courts in each of the three states enjoined state officials from enforcing such restrictions on Election Day on First Amendment grounds. In order to provide informative and timely information to the public about voting trends and behavior, these news organizations have jointly conducted exit polls throughout the United States for many years.

On November 1, 2006, Judge Philip M. Pro, Chief United States District Judge for the District of Nevada ruled in favor of the plaintiffs, granting their motion for a preliminary injunction in time to conduct exit polls on November 7, 2006. On October 24, 2006, U.S. District Judge Paul C. Huck held that a Florida statute prohibiting anyone from asking questions of voters within 100 feet of Florida polling places was unconstitutional as applied to exit polling activities. On September 26, 2006, U.S. District Judge Michael H. Watson issued an order permanently enjoining the Secretary of State of Ohio from prohibiting exit polls within 100 feet of polling places there.

Cahill Gordon represented the plaintiff news organizations in each of these litigations, successfully arguing that restricting their newsgathering activities violates the First Amendment.

Attorney

- Brian T. Markley