

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

| Name of Case | Court | Citation | Date | Facts                                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | the alternative, a preliminary injunction. | deprived of their fundamental right to vote. The Americans with Disabilities Act did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible. |                              |             |                                       |

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|              |       |          |      |       | Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters |                              |             |                                       |

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|   |   |  |                |   | showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied. |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Hood | United States District Court for the Middle District of Florida | 310 F. Supp. 2d 1226; 2004 U.S. Dist. LEXIS 5615 | March 24, 2004 | Plaintiffs, disabled voters, and a national organization, sued defendants, the Florida Secretary of State, the Director of the Division of Elections of the Florida | The voters were visually or manually impaired. The optical scan voting system purchased by the county at issue was not readily accessible to visually or manually impaired   | No                           | N/A         | No                                    |

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|              |       |          |      | <p>Department of State, and a county supervisor of elections, under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Summary judgment was granted for the Secretary and the Director as to visually impaired voters.</p> | <p>voters. The voters were unable to vote using the system without third--party assistance. If it was feasible for the county to purchase a readily accessible system, then the voters' rights under the ADA and the RA were violated. The court found that the manually impaired voter's rights were violated. To the extent "jelly switches" and "sip and puff" devices</p> |                              |             |                                       |

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|              |       |          |      |       | <p>needed to be attached to a touch screen machine for it to be accessible, it was not feasible for the supervisor to provide such a system, since no such system had been certified at the time of the county's purchase. 28 C.F.R. § 35.160 did not require that visually or manually impaired voters be able to vote in the same or similar manner as non-disabled voters.</p> |                              |             |                                       |

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|              |       |          |      |       | <p>Visually and manually impaired voters had to be afforded an equal opportunity to participate in and enjoy the benefits of voting. The voters' "generic" discrimination claim was coterminous with their claim under 28 C.F.R. § 35.151. A declaratory judgment was entered against the supervisor to the extent another voting system would</p> |                              |             |                                       |

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|              |       |          |      |       | <p>have permitted unassisted voting. The supervisor was directed to have some voting machines permitting visually impaired voters to vote alone. The supervisor was directed to procure another system if the county's system was not certified and/or did not permit mouth stick voting. The Secretary and Director were granted judgment against the voters.</p> |                              |             |                                       |

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|-------------------|---|-----------------------------|------------------|--|---|------------------------------|-------------|---------------------------------------|
| Troiano v. Lepore | United States District Court for the Southern District of Florida | 2003 U.S. Dist. LEXIS 25850 | November 3, 2003 | Plaintiffs, disabled voters, sued defendant a state county supervisor of elections alleging discrimination pursuant to the Americans With Disability Act, 42 U.S.C.S. § 12132 et seq., § 504 of the Rehabilitation Act, 29 U.S.C.S. § 794 et seq., and declaratory relief for the discrimination. Both sides moved for summary judgment. | The complaint alleged that after the 2000 elections Palm Beach County purchased a certain number of sophisticated voting machines called the "Sequoia." According to the voters, even though such accessible machines were available, the supervisor decided not to place such accessible machines in each precinct because it would slow things down | No                           | N/A         | No                                    |

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|              |       |          |      |       | <p>too much. The court found that the voters lacked standing because they failed to show that they had suffered an injury in fact. The voters also failed to show a likely threat of a future injury because there was no reasonable grounds to believe that the audio components of the voting machines would not be provided in the future. The voters also failed to state</p> |                              |             |                                       |

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|              |       |          |      |       | <p>an injury that could be redressed by a favorable decision, because the supervisor was already using the Sequoia machines and had already trained poll workers on the use of the machines. Finally, the action was moot because the Sequoia machines had been provided and there was no reasonable expectation that the machines would not have audio</p> |                              |             |                                       |

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|                                    |   |   |                   |  | components available in the future. The supervisor's motion for summary judgment was granted. The voters' motion for summary judgment was denied.   |                              |             |                                       |
| Troiano v. Supervisor of Elections | United States Court of Appeals for the Eleventh Circuit | 382 F.3d 1276; 2004 U.S. App. LEXIS 18497 | September 1, 2004 | Plaintiff visually impaired registered voters sued defendant county election supervisor, alleging that the failure to make available audio components in voting booths | The district court granted the election supervisor summary judgment on the grounds that the voters did not have standing to assert their claims and the claims were moot. The appellate court | No                           | N/A         | No                                    |

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|              |       |          |      | <p>to assist persons who were blind or visually impaired violated state and federal law. The United States District Court for the Southern District of Florida entered summary judgment in favor of the election supervisor. The voters appealed.</p> | <p>agreed that the case was moot because the election supervisor had furnished the requested audio components and those components were to be available in all of the county's voting precincts in upcoming elections. Specifically, the election supervisor had ceased the allegedly illegal practice of limiting access to the audio components</p> |                              |             |                                       |

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|              |       |          |      |       | <p>prior to receiving notice of the litigation. Moreover, since making the decision to use audio components in every election, the election supervisor had consistently followed that policy and taken actions to implement it even prior to the litigation. Thus, the appellate court could discern no hint that she had any intention of removing the accessible</p> |                              |             |                                       |

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|  |   |   |                  |  | <p>voting machines in the future. Therefore, the voters' claims were moot, and the district court's dismissal was affirmed for lack of subject matter jurisdiction. The decision was affirmed.</p> |                              |             |                                       |
| Am. Ass'n of People with Disabilities v. Smith | United States District Court for the Middle District of Florida | 227 F. Supp. 2d 1276; 2002 U.S. Dist. LEXIS 21373 | October 16, 2002 | Plaintiff organization of people with disabilities and certain visually and manually impaired voters filed an action against defendant state and local | Individual plaintiffs were unable to vote unassisted with the equipment currently used in the county or the equipment the county had recently purchased. In order to vote,                         | No                           | N/A         | No                                    |

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|              |       |          |      | <p>election officials and members of a city council, claiming violation of the Americans with Disabilities Act, 42 U.S.C.S. § 12101 et seq., and the Rehabilitation Act of 1973, and Fla. Const. art. VI, § 1. Defendants filed motions to dismiss.</p> | <p>the impaired individuals relied on the assistance of third parties. The court held that it could not say that plaintiffs would be unable to prove any state of facts that would satisfy the ripeness and standing requirements. The issue of whether several Florida statutory sections were violative of the Florida Constitution were so intertwined with the federal</p> |                              |             |                                       |

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|              |       |          |      |       | <p>claims that to decline supplemental jurisdiction be an abuse of discretion. Those statutes which provided for assistance in voting did not violate Fla. Const. art. VI, § 1. Because plaintiffs may be able to prove that visually and manually impaired voters were being denied meaningful access to the service, program, or activity, the court could not</p> |                              |             |                                       |

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|              |       |          |      |       | <p>say with certainty that they would not be entitled to relief under any state of facts which could be proved in support of their claims. Defendant council members were entitled to absolute legislative immunity. The state officials' motion to dismiss was granted in part such that the counts were dismissed with prejudice to the extent plaintiffs asserted that</p> |                              |             |                                       |

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|              |       |          |      |       | <p>they had been excluded from or denied the benefits of a program of direct and secret voting and in part was dismissed with leave to amend. The local officials motion to dismiss was granted in part such that all counts against the city council members were dismissed.</p> |                              |             |                                       |

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| Powers v. Donahue | Supreme Court of New York, Appellate Division, First Department | 276 A.D.2d 157; 717 N.Y.S.2d 550; 2000 N.Y. App. Div. LEXIS 12644 | December 5, 2000 | Petitioner appealed an order of the supreme court, which denied his motion to direct the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to count only the absentee ballot listing correct candidates' names. | When the New York County Board of Elections learned some absentee ballots mailed to voters in one district listed the wrong candidates for state senator it sent a second set of absentee ballots to absentee voters informing them the first ballot was defective and requesting they use the second ballot. The board agreed if two ballots were received from the same voter, only the corrected ballot would be counted. | No                           | N/A         | No                                    |

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|              |       |          |      |       | <p>Appellant candidate moved in support of the board's determination. Respondent candidate opposed the application, contending that only the first ballot received should have been canvassed. The trial court denied appellant's motion, ruling that pursuant to New York law, where two ballots were received from the same voter, only the ballot with the earlier date was to be accepted. The court found the</p> |                              |             |                                       |

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|                         |                          |                  |                   |                     | local board officials should have resolved the dispute as they proposed. The order was modified and the motion granted to the extent of directing the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to accept only the corrected ballot postmarked on or before November 7, 2000, and otherwise affirmed. |                              |             |                                       |
| Goodwin v. St. Thomas-- | Territorial Court of the | 43 V.I. 89; 2000 | December 13, 2000 | Plaintiff political | Plaintiff alleged that defendants   | No                           | N/A         | No                                    |

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| St. John Bd. of Elections | Virgin Islands | V.I. LEXIS 15 |      | candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results | counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed to |                              |             |                                       |

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|              |       |          |      | tabulated without such ballots. | establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly counted one ballot where a sealed ballot |                              |             |                                       |

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|                      |                          |                 |                  |                   | <p>envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper. Request for declaratory and injunctive relief denied.</p> |                              |             |                                       |
| Townson v. Stonicher | Supreme Court of Alabama | 2005 Ala. LEXIS | December 9, 2005 | The circuit court | The voters and the incumbent all  | No                           | N/A         | No                                    |

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|              |       | 214      |      | <p>overturned the results of a mayoral election after reviewing the absentee ballots cast for said election, resulting in a loss for appellant incumbent based on the votes received from appellee voters. The incumbent appealed, and the voters cross-- appealed. In the meantime, the trial court stayed enforcement of its judgment pending</p> | <p>challenged the judgment entered by the trial court arguing that it impermissibly included or excluded certain votes. The appeals court agreed with the voters that the trial court should have excluded the votes of those voters for the incumbent who included an improper form of identification with their absentee ballots. It was undisputed that at least 30 absentee voters who voted for the incumbent provided with</p> |                              |             |                                       |

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|              |       |          |      | resolution of the appeal. | their absentee ballots a form of identification that was not proper under Alabama law. As a result, the court further agreed that the trial court erred in allowing those voters to somewhat "cure" that defect by providing a proper form of identification at the trial of the election contest, because, under those circumstances, it was difficult to conclude that those voters made an honest effort to comply with the law. Moreover, to |                              |             |                                       |

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|   |   |  |                 |   | count the votes of voters who failed to comply with the essential requirement of submitting proper identification with their absentee ballots had the effect of disenfranchising qualified electors who choose not to vote but rather than to make the effort to comply with the absentee-voting requirements. Affirmed. |                              |             |                                       |
| Gross v. Albany County Bd. of Elections | Supreme Court of New York, Appellate Division, Third Department | 10 A.D.3d 476; 781 N.Y.S.2d 172; 2004 N.Y. App. Div. LEXIS | August 23, 2004 | Appellant candidates appealed from a judgment entered by the supreme court, which partially | The candidates argued that the Board violated a federal court order regarding the election. The appellate court  | No                           | N/A         | No                                    |

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|              |       | 10360    |      | <p>granted the candidates' petition challenging the method used by respondent Albany County Board of Elections for counting absentee applications and ballots for the office of Albany County Legislator, 26th and 29th Districts, in a special general election required by the federal courts.</p> | <p>held that absentee ballots that were sent to voters for the special general election based solely on their applications for the general election were properly voided. The Board had no authority to issue the ballots without an absentee ballot application for the special general election. Two ballots were properly invalidated as the Board failed to retain the envelopes. Ballots were properly counted for voters who failed to</p> |                              |             |                                       |

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|              |       |          |      |       | <p>identify their physician on their applications. A ballot was properly counted where the Board failed to scrutinize the sufficiency of the reason for the application. A ballot containing two signatures was properly rejected. A ballot was properly rejected due to extraneous marks outside the voting square. A ballot was properly counted despite the failure of the election inspector to witness the voter's signature. A ballot was</p> |                              |             |                                       |

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|                        |                            |                                      |                |  | properly counted as the application stated the date of the voter's absence. A ballot was properly counted as the failure to date the application was cured by a time stamp. Affirmed.  |                              |             |                                       |
| Erlandson v. Kiffmeyer | Supreme Court of Minnesota | 659 N.W.2d 724; 2003 Minn. LEXIS 196 | April 17, 2003 | Petitioners, representing the Democratic--Farmer--Labor Party, brought an action against respondents, the Minnesota Secretary of State and the Hennepin County Auditor, seeking relief | The appellate court found that, while it may have seemed unfair to the replacement candidate to count votes for other candidates from regular absentee ballots on which the replacement candidate did not appear, those were properly cast ballots voting for a properly | No                           | N/A         | No                                    |

015003

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|              |       |          |      | <p>in regard to the election for United States Senator, following the death of Senator Wellstone. The issue concerned the right of absentee voters to obtain replacement ballots. Individuals intervened on behalf of the Republican Party. The instant court granted review.</p> | <p>nominated candidate. Petitioners' request that the Minnesota supreme court order that votes for United States Senator cast on regular absentee ballots not be counted was denied. A key issue was Minn. Stat. § 204B.41 (2002), which provided, in--part, that official supplemental ballots could not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were</p> |                              |             |                                       |

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|              |       |          |      |       | <p>prepared. The supreme court held that, by treating similarly-situated voters differently, § 204B.41 violated equal protection guarantees and could not even survive rational basis review. For voters who cast their regular absentee ballots for Wellstone before the vacancy occurred, but were unable to go to their polling place on election day or pick up a replacement ballot by election day, the prohibition on</p> |                              |             |                                       |

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|                     |   |  |              |  | mailing replacement ballots in § 204B.41 denied them the right to cast a meaningful vote for United States Senator. The petition of petitioners was denied in part, but granted with respect to mailing replacement ballots to all applicants for regular absentee ballots who requested a replacement ballot. |                              |             |                                       |
| People v. Deganutti | Appellate Court of Illinois, First District, Third Division | 348 Ill. App. 3d 512; 810 N.E.2d 191; 2004 Ill. App. | May 12, 2004 | Defendant appealed from a judgment of the circuit court, which convicted | Defendant went to the voters' homes and obtained their signatures on absentee ballot   | No                           | N/A         | No                                    |

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|              |       | LEXIS<br>518 |      | defendant on charges of unlawful observation of voting and on charges of absentee ballot violations in connection with the completion and mailing of the absentee ballots of two voters. | request forms. Once the ballots were mailed to the voters, defendant returned to the homes. With voter one, defendant sat on the couch with the voter and instructed which numbers to punch on the ballot. With voter two, defendant provided a list a numbers and stood nearby as voter two completed the ballots. Defendant then looked at the ballot and had voter two re--punch a number that had not |                              |             |                                       |

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|              |       |          |      |       | <p>punched cleanly. Defendant then put the ballots in the mail for the voters. On appeal, she argued insufficient evidence to sustain her convictions. The court affirmed, holding that (1) the circumstantial evidence surrounding defendant's presence as the voters completed their ballots supported the unlawful observation convictions; (2) the fact that defendant knowingly took the voters ballots</p> |                              |             |                                       |

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|  |               |                                      |                   |  | and mailed them, a violation of Illinois law supported her conviction, and (3) the fact that the statutes defendant was convicted under required only a knowing mental state rather than criminal intent did not violate substantive due process.<br>Affirmed. |                              |             |                                       |
| Jacobs v. Seminole County Canvassing Bd. | Supreme Court | 773 So. 2d 519; 2000 Fla. LEXIS 2404 | December 12, 2000 | In an election contest, the First District court of appeal certified a trial court order to be of great public importance and to require | Prior to the general election, two political parties mailed preprinted requests for absentee ballots to registered voters in Seminole County.  | No                           | N/A         | No                                    |

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Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>immediate resolution by the supreme court. The trial court denied appellants' request to invalidate absentee ballot requests in Seminole County in the 2000 presidential election.</p> | <p>Forms mailed by one party failed to include either a space for the voter identification number or the preprinted number. Representatives from that party were allowed to add voter identification numbers to request forms after they were returned, and absentee ballots were sent to the persons named on the request forms. The supreme court affirmed the trial court's refusal to invalidate the</p> |                              |             |                                       |

015010

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>ballot requests, and adopted the trial court's reasoning that the information required, which included the voter identification number, was directory rather than mandatory. The trial court properly found that the evidence did not support a finding of fraud, gross negligence, or intentional wrongdoing. Allowing one party to correct ballots did not constitute illegal disparate treatment because there was no need to correct the</p> |                              |             |                                       |

015011

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                            | Court                        | Citation   | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|------------------------------|--|------------------|--|---|------------------------------|-------------|---------------------------------------|
|   |                              |  |                  |  | other party's forms. Affirmed.  |                              |             |                                       |
| Gross v. Albany County Bd. of Elections | Court of Appeals of New York | 3 N.Y.3d 251; 819 N.E.2d 197; 785 N.Y.S.2d 729; 2004 N.Y. LEXIS 2412 | October 14, 2004 | Appellant candidates sought review from an order of the Appellate Division, which affirmed a trial court order holding that absentee ballots from a special general election were not to be canvassed because respondent Albany County Board of Elections failed to follow the set procedure for those voters. | Due to a challenge to a redistricting plan, the Board was enjoined from conducting primary and general elections for certain county districts. A special primary election was directed, with a special general election to be held "expeditiously thereafter." Absentee ballot requests for the first special election were based on prior requests, but new requests had to be | No                           | N/A         | No                                    |

015012

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>made for the general election. However, the Board forwarded absentee ballots for that election as well, based on the prior requests. Candidates in two close races thereafter challenged those absentee ballots, as they violated the procedure that was to be followed. The trial court held that the ballots should not be canvassed, which decision was affirmed on appeal. On further review due to dissenting opinions, the</p> |                              |             |                                       |

015013

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>court found that the ballots were in violation of the federal court order that directed the procedure to be followed, as well as in violation of New York election law. The court concluded that the Board's error was not technical, ministerial, or inconsequential because it was central to the substantive process, and the voters who used absentee ballots were not determined to be "duly qualified electors." Affirmed.</p> |                              |             |                                       |

015014

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case  | Court                         | Citation                                       | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|-------------------------------|--|---------------|---|--|------------------------------|-------------|---------------------------------------|
| In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election | Supreme Court of Pennsylvania | 577 Pa. 231; 843 A.2d 1223; 2004 Pa. LEXIS 431 | March 8, 2004 | A county elections board voided certain absentee ballots cast in the November 4, 2003, general election. The court of common pleas held that absentee ballots delivered by third persons were valid and should be counted. The commonwealth court affirmed the trial court's decision. The state supreme court granted allocatur. Appellants and appellees were certain | The absentee ballots at issue were hand-delivered to the county elections board by third persons on behalf of non--disabled voters. On appeal, the issue was whether non--disabled absentee voters could have third persons hand--deliver their ballots to the elections board where the board indicated that the practice was permitted. The state supreme court concluded that the "in person" delivery requirement was mandatory, and | No                           | N/A         | No                                    |

015018

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | candidates and voters. | that absentee ballots delivered in violation of the provision were invalid, notwithstanding the board's erroneous instructions to the contrary. Under the statute's plain meaning, a non-disabled absentee voter had two choices: send the ballot by mail, or deliver it in person. Third-person hand-delivery of absentee ballots was not permitted. To ignore the law's clear instructions regarding in-person delivery |                              |             |                                       |

015016

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case     | Court                 | Citation           | Date              | Facts                | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|-----------------------|--------------------|-------------------|----------------------|---|------------------------------|-------------|---------------------------------------|
|                  |                       |                    |                   |                      | <p>would undermine the statute's very purpose as a safeguard against fraud. The state supreme court concluded that its precedent was clear, and it could not simply ignore substantive provisions of the Pennsylvania Election Code. The judgment of the Commonwealth Court was reversed in so far as it held that certain absentee ballots delivered on behalf of non-disabled absentee voters were valid.</p> |                              |             |                                       |
| In re Canvass of | Commonwealth Court of | 839 A.2d 451; 2003 | December 22, 2003 | The Allegheny County | On appeal, the issue was whether  | No                           | N/A         | No                                    |

015017

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                         | Court        | Citation             | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------------------------|--------------|----------------------|------|---|--|------------------------------|-------------|---------------------------------------|
| Absentee Ballots of November 4, 2003 | Pennsylvania | Pa. Commw. LEXIS 963 |      | Elections Board did not allow 74 challenged third--party hand--delivered absentee ballots to be counted in the statewide general election. The court of common pleas of Allegheny County reversed the Board's decision and allowed the 74 ballots to be counted. Appellant objecting candidates appealed the trial court's order. | non-disabled voters who voted by absentee ballots and had those ballots delivered by third parties to county election boards could have their ballots counted in the statewide general election. First, the appellate court concluded that political bodies had standing to appeal. Also, the trial court did not err by counting the 74 ballots because absentee voters could not be held responsible for following the statutory |                              |             |                                       |

015013

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>requirements of Pennsylvania election law where the Board knowingly failed to abide by the statutory language regarding the delivery of absentee ballots, changed its policy to require voters to abide by the language, and then changed its policy back to its original stance that voters did not have to abide by the statutory language, thereby misleading absentee voters regarding delivery requirements.</p> |                              |             |                                       |

015013

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                  | Court  | Citation                    | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------------|--|-----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|                               |  |                             |                  |  | Under the circumstances, it was more important to protect the interest of the voters by not disenfranchising them than to adhere to the strict language of the statute. However, one ballot was not counted because it was not delivered to the Board. Affirmed with the exception that one voter's ballot was stricken. |                              |             |                                       |
| United States v. Pennsylvania | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21167 | October 20, 2004 | Plaintiff United States sued defendant Commonwealth of | The testimony of the two witnesses offered by the United States did not support its  | No                           | N/A         | No                                    |

015020

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Pennsylvania, governor, and state secretary, claiming that overseas voters would be disenfranchised if they used absentee ballots that included the names of two presidential candidates who had been removed from the final certified ballot and seeking injunctive relief to address the practical implications of the final certification of the slate of candidates so</p> | <p>contention that voters protected by the Uniformed and Overseas Citizens Absentee Voting Act would be disenfranchised absent immediate injunctive relief because neither witness testified that any absentee ballots issued to UOCAVA voters were legally incorrect or otherwise invalid. Moreover, there was no evidence that any UOCAVA voter had complained or otherwise expressed concern regarding their ability or</p> |                              |             |                                       |

015021

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                      | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------------------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | late in the election year. | right to vote. The fact that some UOCAVA voters received ballots including the names of two candidates who were not on the final certified ballot did not ipso facto support a finding that Pennsylvania was in violation of UOCAVA, especially since the United States failed to establish that the ballot defect undermined the right of UOCAVA voters to cast their ballots. Moreover, Pennsylvania had |                              |             |                                       |

015022

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                              | Court  | Citation   | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|--|--|------------------|---|---|------------------------------|-------------|---------------------------------------|
|   |  |  |                  |   | adduced substantial evidence that the requested injunctive relief, issuing new ballots, would have harmed the Pennsylvania election system and the public by undermining the integrity and efficiency of Pennsylvania's elections and increasing election costs. Motion for injunctive relief denied. |                              |             |                                       |
| Hoblock v. Albany County Bd. of Elections | United States District Court for the Northern District of New York | 341 F. Supp. 2d 169; 2004 U.S. Dist. LEXIS 21326 | October 25, 2004 | Plaintiffs, candidates and voters, sued defendant, the Albany County, New York, | An election for members of the Albany County Legislature had been enjoined, and special   | No                           | N/A         | No                                    |

015023

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Board of Elections, under § 1983, claiming that the Board violated plaintiffs' Fourteenth Amendment rights by refusing to tally the voters' absentee ballots. Plaintiffs moved for a preliminary injunction.</p> | <p>primary and general elections were ordered. The order stated that the process for obtaining and counting absentee ballots for the general election would follow New York election law, which required voters to request absentee ballots. However, the Board issued absentee ballots for the general election to all persons who had applied for an absentee ballot for the cancelled election. The voters used absentee ballots</p> |                              |             |                                       |

015024

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>to vote; their ballots were later invalidated. A state court determined that automatically sending absentee ballots to those who had not filed an application violated the constitution of New York. The district court found that the candidates' claims could have been asserted in state court and were barred by res judicata, but the voters were not parties to the state court action. The candidates were not entitled to joinder and had</p> |                              |             |                                       |

015025

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>not filed a motion to intervene. The voters established a likelihood of success on the merits, as the Board effectively took away their right to vote by issuing absentee ballots and then refusing to count them. The voters' claims involved more than just an "unintended irregularity." The candidates' claims were dismissed, and their request for joinder or to intervene was denied. Plaintiffs' motion for a preliminary injunction preventing the</p> |                              |             |                                       |

015020

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case      | Court  | Citation                                  | Date             | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------|--|---|------------------|--|---|------------------------------|-------------|---------------------------------------|
|                   |  |   |                  |  | Board from certifying winners of the election was granted.  |                              |             |                                       |
| Griffin v. Roupas | United States Court of Appeals for the Seventh Circuit | 385 F.3d 1128; 2004 U.S. App. LEXIS 21476 | October 15, 2004 | In a suit brought by plaintiff working mothers against defendants, members of the Illinois State Board of Elections, alleging that the United States Constitution required Illinois to allow them to vote by absentee ballot, the mothers appealed from a decision of the United States District | The mothers contended that, because it was a hardship for them to vote in person on election day, the U.S. Constitution required Illinois to allow them to vote by absentee ballot. The district court dismissed the mothers' complaint. On appeal, the court held that the district court's ruling was correct, because, although it was possible that the | No                           | N/A         | No                                    |

015027

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Court for the Northern District of Illinois, Eastern Division, which dismissed their complaint for failure to state a claim.</p> | <p>problems created by absentee voting might be outweighed by the harm to voters who would lose their vote if they were unable to vote by absentee ballot, the striking of the balance between discouraging fraud and encouraging voter turnout was a legislative judgment with which the court would not interfere unless strongly convinced that such judgment was grossly awry. The court further held that Illinois</p> |                              |             |                                       |

015028

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>law did not deny the mothers equal protection of the laws, because the hardships that prevented voting in person did not bear more heavily on working mothers than other classes in the community. Finally, the court held that, although the length and complexity of the Illinois ballot supported an argument for allowing people to vote by mail, such argument had nothing to do with the problems faced by working mothers. It</p> |                              |             |                                       |

015028

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case     | Court  | Citation                    | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--|-----------------------------|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                  |  |                             |                  |   | applied to everyone. Affirmed.   |                              |             |                                       |
| Reitz v. Rendell | United States District Court for the Middle District of Pennsylvania | 2004 U.S. Dist. LEXIS 21813 | October 29, 2004 | Plaintiff service members filed an action against defendant state officials under the Uniformed and Overseas Citizens Absentee Voting Act, alleging that they and similarly situated service members would be disenfranchised because they did not receive their absentee ballots in time. The parties entered into a | The court issued an order to assure that service members and other similarly situated service members who were protected by the UOCAVA would not be disenfranchised. The court ordered the Secretary of the Commonwealth of Pennsylvania to take all reasonable steps necessary to direct the county boards of elections to accept as timely received absentee | No                           | N/A         | No                                    |

015030

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | voluntary agreement and submitted it to the court for approval. | ballots cast by service members and other overseas voters as defined by UOCAVA, so long as the ballots were received by November 10, 2004. The ballots were to be considered solely for purposes of the federal offices that were included on the ballots. The court held that the ballot needed to be cast no later than November 2, 2004 to be counted. The court did not make any findings of liability against |                              |             |                                       |

015033

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                               | Court   | Citation  | Date             | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--|---|---|------------------|---|---|------------------------------|-------------|---------------------------------------|
|  |   |   |                  |   | the Governor or the Secretary. The court entered an order, pursuant to a stipulation between the parties, that granted injunctive relief to the service members.  |                              |             |                                       |
| Bush v. Hillsborough County Canvassing Bd. | United States District Court for the Northern District of Florida | 123 F. Supp. 2d 1305; 2000 U.S. Dist. LEXIS 19265 | December 8, 2000 | The matter came before the court on plaintiffs' complaint for declaratory and injunctive relief alleging that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based | Plaintiff presidential and vice--presidential candidates and state political party contended that defendant county canvassing boards rejected overseas absentee state ballots and federal write--in ballots based on criteria inconsistent with the Uniformed | No                           | N/A         | No                                    |

015032

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>on criteria inconsistent with federal law, and requesting that the ballots be declared valid and that they should be counted.</p> | <p>and Overseas Citizens Absentee Voting Act. Because the state accepted overseas absentee state ballots and federal write-in ballots up to 10 days after the election, the State needed to access that the ballot in fact came from overseas. However, federal law provided the method to establish that fact by requiring the overseas absentee voter to sign an oath that the ballot was mailed from outside the United States and requiring the state</p> |                              |             |                                       |

015030

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>election officials to examine the voter's declarations. The court further noted that federal law required the user of a federal write--in ballot to timely apply for a regular state absentee ballot, not that the state receive the application, and that again federal law, by requiring the voter using a federal write--in ballot to swear that he or she had made timely application, had provided the proper method of proof. Plaintiffs withdrew as moot</p> |                              |             |                                       |

015034

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court         | Citation | Date      | Facts           | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------|----------|-----------|-----------------|---|------------------------------|-------------|---------------------------------------|
|              |               |          |           |                 | <p>their request for injunctive relief and the court granted in part and denied in part plaintiffs' request for declaratory relief, and declared valid all federal write--in ballots that were signed pursuant to the oath provided therein but rejected solely because the ballot envelope did not have an APO, FPO, or foreign postmark, or solely because there was no record of an application for a state absentee ballot.</p> |                              |             |                                       |
| Kolb v.      | Supreme Court | 270      | March 17, | Both petitioner | Both petitioner   | No                           | N/A         | No                                    |

015035

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court  | Citation   | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|--|--|------|---|---|------------------------------|-------------|---------------------------------------|
| Casella      | of New York, Appellate Division, Fourth Department | A.D.2d 964; 705 N.Y.S.2d 746; 2000 N.Y. App. Div. LEXIS 3483 | 2000 | and respondent appealed from order of supreme court, determining which absentee and other paper ballots would be counted in a special legislative election. | and respondent, presumably representing different candidates, challenged the validity of particular paper ballots, mostly absentee, in a special legislative election. The court affirmed most of the trial court's findings, but modified its order to invalidate ballots improperly marked outside the voting square--ballots where the signature on the envelope differed substantially from the voter |                              |             |                                       |

015030

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | registration card signature----and ballots where voters neglected to supply statutorily required information on the envelopes. However, the court, seeking to avoid disenfranchising voters where permissible, held that ballots were not invalid where applications substantially complied with statute, there was no objection to the ballots themselves, and there was no evidence of fraud. Where absentee |                              |             |                                       |

015037

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case    | Court                        | Citation  | Date          | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-----------------|------------------------------|---|---------------|---|--|------------------------------|-------------|---------------------------------------|
|                 |                              |   |               |   | ballot envelopes contained extra ballots, the ballots were to be placed in a ballot box so that procedures applicable when excess ballots are placed in a ballot box could be followed. Order modified.                            |                              |             |                                       |
| People v. Woods | Court of Appeals of Michigan | 241 Mich. App. 545; 616 N.W.2d 211; 2000 Mich. App. LEXIS 156 | June 27, 2000 | Defendant filed an interlocutory appeal of the decision by the circuit court, which denied defendant's request for a jury instruction on entrapment by estoppel, but stayed the proceedings to allow defendant to | Defendant distributed and collected absentee ballots in an election. Because both defendant and his brother were candidates on the ballot, defendant's assistance was illegal under Michigan law. Bound over for trial on election | No                           | N/A         | No                                    |

015038

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>pursue the interlocutory appeal, in a criminal action alleging violations of election laws.</p> | <p>fraud charges, defendant requested a jury instruction on entrapment by estoppel, which was denied. On interlocutory appeal, the appellate court reversed and remanded for an entrapment hearing, holding that defendant should be given the opportunity to present evidence that he unwittingly committed the unlawful acts in reasonable reliance upon the word of the township clerk. The necessary</p> |                              |             |                                       |

015039

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | elements of the entrapment defense were: (1) a government official (2) told the defendant that certain criminal conduct was legal; (3) the defendant actually relied on the official's statements; (4) the defendant's reliance was in good faith and reasonable in light of the official's identity, the point of law represented, and the substance of the official's statement; and (5) the prosecution would be so unfair as to |                              |             |                                       |

015040

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                                  | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|   |   |   |                  |   | violate the defendant's right to due process. Denial of jury instruction was reversed because the trial court did not hold an entrapment hearing; remanded for an entrapment hearing where defendant could present elements of the entrapment by estoppel defense. |                              |             |                                       |
| Harris v. Florida Elections Canvassing Comm'n | United States District Court for the Northern District of Florida | 122 F. Supp. 2d 1317; 2000 U.S. Dist. LEXIS 17875 | December 9, 2000 | Plaintiffs challenged the counting of overseas absentee ballots received after 7 p.m. on election day, alleging the | The court found Congress did not intend 3 U.S.C.S. § 1 to impose irrational scheduling rules on state and local canvassing officials, and did  | No                           | N/A         | No                                    |

015041

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                                    | Court   | Citation                    | Date             | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|-----------------------------|------------------|--|--|------------------------------|-------------|---------------------------------------|
|   |   |                             |                  | ballots violated Florida law.  | not intend to disenfranchise overseas voters. The court held the state statute was required to yield to the Florida Administrative Code, which required the 10-day extension in the receipt of overseas absentee ballots in federal elections because the rule was promulgated to satisfy a consent decree entered by the state in 1982. |                              |             |                                       |
| Weldon v. Berks County Dep't of Election Servs. | United States District Court for the Eastern District of Pennsylvania | 2004 U.S. Dist. LEXIS 21948 | November 1, 2004 | Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary | The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to   | No                           | N/A         | No                                    |

015042

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|--|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state, county, or city correctional facility.</p> | <p>determine whether any of the straining order denied. CASE SUMMARY: PROCEDURAL POSTURE: Plaintiffs, a congressman and a state representative, filed a motion seeking a preliminary injunction or temporary restraining order that would prohibit defendant county department of election services from delivering to local election districts absentee ballots received from any state,</p> |                              |             |                                       |

015043

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | county, or city correctional facility as provided in Pa. Stat. Ann. tit. 25, § 3416.6 and Pa. Stat. Ann. tit. 25, § 3416.8.<br><b>OVERVIEW:</b><br>The congressman and representative sought to have the absentee ballots at issue set aside until a hearing could be held to determine whether any of the ballots were delivered to the county board of elections by a third party in violation of Pennsylvania law, whether any of the ballots were |                              |             |                                       |

015044

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | submitted by convicted incarcerated felons in violation of Pennsylvania law, and whether any of the ballots were submitted by qualified voters who were improperly assisted without the proper declaration required by Pennsylvania law. The court concluded that an ex parte temporary restraining order was not warranted because there were potential jurisdictional issues, substantial questions |                              |             |                                       |

015045

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case           | Court  | Citation                                 | Date              | Facts  | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|-------------------|--|---|------------------------------|-------------|---------------------------------------|
|                        |  |  |                   |  | concerning the alleged violations, and the complaint did not allege that the department acted or threatened to act in an unlawful manner. The court denied the ex parte motion for a temporary restraining order. The court set a hearing on the motion for preliminary injunction. |                              |             |                                       |
| Qualkinbush v. Skubisz | Court of Appeals of Illinois, First District | 822 N.E.2d 38; 2004 Ill. App. LEXIS 1546 | December 28, 2004 | Respondent appealed from an order of the circuit court certifying mayoral election results for a city in which the court | Respondent first claimed the trial court erred in denying his motion to dismiss with respect to 38 votes the Election Code was preempted by and   | No                           | N/A         | No                                    |

015046

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts                      | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|----------------------------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | declared petitioner mayor. | violated the Voting Rights Act and the Americans with Disabilities Act of 1990 since it restricted the individuals with whom an absentee voter could entrust their ballot for mailing. The appeals court found the trial court did not err in denying the motion to dismiss, as Illinois election law prevented a candidate or his or her agent from asserting undue influence upon a disabled voter and from manipulating that |                              |             |                                       |

015047

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>voter into voting for the candidate or the agent's candidate, and was designed to protect the rights of disabled voters.</p> <p>Respondent had not established that the federal legislature intended to preempt the rights of state legislatures to restrict absentee voting, and, particularly, who could return absentee ballots.</p> <p>The Election Code did not violate equal protection principles, as the burden placed</p> |                              |             |                                       |

870910

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case        | Court  | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---------------------|--|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                     |  |   |                  |   | upon absentee voters by the restriction on who could mail an absentee ballot was slight and nondiscriminatory and substantially contributed to the integrity of the election process. Affirmed.                                |                              |             |                                       |
| Panio v. Sunderland | Supreme Court of New York, Appellate Division, Second Department | 14 A.D.3d 627; 790 N.Y.S.2d 136; 2005 N.Y. App. Div. LEXIS 3433 | January 25, 2005 | In proceedings filed pursuant to New York election law to determine the validity of certain absentee and affidavit ballots tendered for the office of 35th District Senator, appellants, a chairperson of | The question presented was whether the county election board should count the six categories of ballots that were in dispute. After a review of the evidence presented, the appeals court modified the trial court's order by: | No                           | N/A         | No                                    |

015049

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>the county Republican committee and the Republican candidate, both sought review of an order by the supreme court to count or not count certain ballots. Respondent Democratic candidate cross-- appealed.</p> | <p>(1) deleting an order directing the county elections board (board) to count 160 affidavit ballots tendered by voters who appeared at the correct polling place but the wrong election district, as there were meaningful distinctions between those voters who went to the wrong polling place and those voters who went to the correct polling place but the wrong election district; (2) directing that the board not count</p> |                              |             |                                       |

015050

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>10 affidavit ballots tendered in the wrong election district because of a map error, as there was no evidence that the voters in this category relied on the maps when they went to the wrong election districts; and (3) directing the board to count 45 absentee ballots tendered by poll workers, as it appeared that the workers substantially complied with the statute by providing a written statement that was the functional</p> |                              |             |                                       |

015051

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case                                | Court   | Citation   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|---|---|--|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|   |   |  |                   |   | equivalent of an application for a special ballot. Order modified and judgment affirmed.  |                              |             |                                       |
| Pierce v. Allegheny County Bd. of Elections | United States District Court for the Western District of Pennsylvania | 324 F. Supp. 2d 684; 2003 U.S. Dist. LEXIS 25569 | November 13, 2003 | Plaintiff voters sought to enjoin defendant election board from allowing three different procedures for third--party absentee ballot delivery, require the set aside of all absentee third--party delivered ballots in connection with the November 2003 election, prohibit those | Intervenor political committees also moved to dismiss for lack of standing, lack of subject matter jurisdiction, and failure to state a claim, as well as abstention. Inter alia, the court found that abstention was appropriate under the Pullman doctrine because: (1) construction of Pennsylvania election law was not clear | No                           | N/A         | No                                    |

015052

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>ballots from being delivered to local election districts after having been commingled with other absentee ballots, and convert a temporary restraining order to an injunction.</p> | <p>regarding whether the absentee ballot provision requiring hand--delivery to be "in person" was mandatory or directory; (2) the construction of the provision by state courts as mandatory or directory could obviate the need to determine whether there had been a Fourteenth Amendment equal protection violation; and (3) erroneous construction of the provision could disrupt very important state voting rights policies.</p> |                              |             |                                       |

015053

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>However, the court had a continuing duty to consider the motion for temporary restraining order/preliminary injunction despite abstention. The court issued a limited preliminary injunction whereby the 937 hand--delivered absentee ballots at issue were set aside as "challenged" ballots subject to the election code challenge procedure. Any equal protection issues could be heard in state</p> |                              |             |                                       |

015054

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case       | Court   | Citation  | Date             | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------------|---|---|------------------|---|--|------------------------------|-------------|---------------------------------------|
|                    |   |   |                  |   | court by virtue of the state court's concurrent jurisdiction.  |                              |             |                                       |
| Friedman v. Snipes | United States District Court for the Southern District of Florida | 345 F. Supp. 2d 1356; 2004 U.S. Dist. LEXIS 23739 | November 9, 2004 | Plaintiff registered voters sued defendant state and county election officials under § 1983 for alleged violations of their rights under 42 U.S.C.S. § 1971(a)(2)(B) of the Civil Rights Act, and the First and Fourteenth Amendments to the United States Constitution. The voters | The voters claimed they timely requested absentee ballots but (1) never received the requested ballot or (2) received a ballot when it was too late for them to submit the absentee ballot. The court held that 42 U.S.C.S. § 1971(a)(2)(B) was not intended to apply to the counting of ballots by those already deemed qualified to vote. The plain meaning of § | No                           | N/A         | No                                    |

015055

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>moved for a temporary restraining order (TRO) and/or preliminary injunction. The court granted the TRO and held a hearing on the preliminary injunction.</p> | <p>1971(a)(2)(B) did not support the voters' claim that it should cover an error or omission on any record or paper or any error or omission in the treatment, handling, or counting of any record or paper. Further, because Florida election law only related to the mechanics of the electoral process, the correct standard to be applied here was whether Florida's important regulatory interests justified the restrictions imposed on their</p> |                              |             |                                       |

015056

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>First and Fourteenth Amendment rights. The State's interests in ensuring a fair and honest election and counting votes within a reasonable time justified the light imposition on voting rights. The deadline for returning ballots did not disenfranchise a class of voters. Rather, it imposed a time deadline by which voters had to return their votes. So there was no equal protection violation.</p> |                              |             |                                       |

015057

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

| Name of Case | Court | Citation | Date | Facts | Holding                        | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--------------------------------|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | Preliminary injunction denied. |                              |             |                                       |

015058

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case            | Court  | Citation                                | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|-------------------------|--|---|---------------|---|---|------------------------------|-------------|---------------------------------------|
| United States v. Madden | United States Court of Appeals for the Sixth Circuit | 403 F.3d 347; 2005 U.S. App. LEXIS 5326 | April 4, 2005 | Defendant appealed his conviction for violating the federal vote--buying statute. He also appealed the sentence imposed by the United States District Court for the Eastern District of Kentucky at Pikeville. The district court applied the U.S. Sentencing Guidelines Manual (Guidelines) § 3B1.1(c) supervisory--role | Defendant paid three people to vote for a local candidate in a primary election. The same ballot contained candidates for the U.S. Senate. While he waived his right to appeal his conviction, he nonetheless asserted two arguments in seeking to avoid the waiver. He first posited that the vote buying statute prohibited only buying votes for federal candidates----a prohibition not | No                           | N/A         | No                                    |

015059

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | enhancement and increased defendant's base offense level by two levels. | violated by his conduct. In the alternative, he stated if the statute did criminalize buying votes for state or local candidates, then the statute was unconstitutional. Both arguments failed. Defendant argued that applying the supervisory--role enhancement constituted impermissible double counting because the supervision he exercised was no more than necessary to |                              |             |                                       |

015060

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>establish a vote-buying offense. That argument also failed. Defendant next argued that the district court erred by applying the vulnerable-victim enhancement under U.S. Sentencing Guidelines Manual § 3A1.1(b)(1). He acknowledged that he knew the mentally ill people who sold their votes were vulnerable, but maintained they were not victims because they received \$50 for</p> |                              |             |                                       |

015061

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case           | Court  | Citation                                 | Date         | Facts  | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|--------------|--|--|------------------------------|-------------|---------------------------------------|
|                        |  |  |              |  | <p>their votes. The vote sellers were not victims for Guidelines purposes. The district court erred. Defendant's appeal of conviction was dismissed. Defendant's sentence was vacated, and the case was remanded for resentencing.</p> |                              |             |                                       |
| United States v. Slone | United States Court of Appeals for the Sixth Circuit | 411 F.3d 643; 2005 U.S. App. LEXIS 10137 | June 3, 2005 | Defendant pled guilty to vote buying in a federal election. The United States District Court for the Eastern District of | Defendant offered to pay voters for voting in a primary election. Defendant claimed that the vote buying statute did not apply to him  | No                           | N/A         | No                                    |

015062

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>Kentucky sentenced defendant to 10 months in custody and recommended that the sentence be served at an institution that could accommodate defendant's medical needs. Defendant appealed his conviction and sentence.</p> | <p>because his conduct related solely to a candidate for a county office. Alternatively, defendant asserted that the statute was unconstitutional because it exceeded Congress' enumerated powers. Finally, defendant argued that the district court erred when it failed to consider his medical condition as a ground for a downward departure at sentencing. The</p> |                              |             |                                       |

015063

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>appellate court found that the vote buying statute applied to all elections in which a federal candidate was on the ballot, and the government need not prove that defendant intended to affect the federal component of the election by his corrupt practices. The facts admitted by defendant at his guilty-plea hearing established all of the essential elements of an</p> |                              |             |                                       |

015064

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | offense. The Elections Clause and the Necessary and Proper Clause combined to provide Congress with the power to regulate mixed federal and state elections even when federal candidates were running unopposed. There was no error in the district court's decision on departure under U.S. Sentencing Guidelines Manual § 5H1.4. Defendant's conviction and |                              |             |                                       |

015065

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case           | Court  | Citation                                       | Date          | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------------|--|--|---------------|---|---|------------------------------|-------------|---------------------------------------|
|                        |  |  |               |   | sentence were affirmed.   |                              |             |                                       |
| United States v. Smith | United States Court of Appeals for the Sixth Circuit | 139 Fed. Appx. 681; 2005 U.S. App. LEXIS 14855 | July 18, 2005 | Defendants were convicted of vote buying and conspiracy to buy votes. The United States District Court for the Eastern District of Kentucky entered judgment on the jury verdict and sentenced defendants. Defendants appealed. | One of the defendants was a state representative who decided to run for an elected position. Defendants worked together and with others to buy votes. During defendants' trial, in addition to testimony regarding vote buying, evidence was introduced that two witnesses had been threatened. The appellate court found that defendants | No                           | N/A         | No                                    |

015066

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>failed to show evidence of prejudice with regard to denial of the motion for severance. Threat evidence was not excludable under Fed. R. Evid. 404(b) because it was admissible to show consciousness of guilt without any inference as to the character of defendants. Admission of witnesses' testimony was proper because each witness testified that he or she was approached by a</p> |                              |             |                                       |

015067

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>member of the conspiracy and offered money for his or her vote. The remaining incarcerated defendant's challenges to his sentence had merit because individuals who sold their votes were not "victims" for the purposes of U.S. Sentencing Guidelines Manual § 3A1.1. Furthermore, application of U.S. Sentencing Guidelines Manual § 3B1.1(b) violated</p> |                              |             |                                       |

015068

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case     | Court              | Citation             | Date           | Facts               | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|------------------|--------------------|----------------------|----------------|---------------------|---|------------------------------|-------------|---------------------------------------|
|                  |                    |                      |                |                     | defendant's Sixth Amendment rights because it was based on facts that defendant did not admit or proved to the jury beyond a reasonable doubt. Defendants' convictions were affirmed. The remaining incarcerated defendant's sentence was vacated and his case was remanded for resentencing in accordance with Booker. |                              |             |                                       |
| Nugent v. Phelps | Court of Appeal of | 816 So. 2d 349; 2002 | April 23, 2002 | Plaintiff incumbent | The incumbent argued that: (1)  | No                           | N/A         | No                                    |

015069

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court                     | Citation            | Date | Facts   | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|---------------------------|---------------------|------|---|--|------------------------------|-------------|---------------------------------------|
|              | Louisiana, Second Circuit | La. App. LEXIS 1138 |      | police chief sued defendant challenger, the winning candidate, to have the election nullified and a new election held based on numerous irregularities and unlawful activities by the challenger and his supporters. The challenger won the election by a margin of four votes. At the end of the incumbent's | the number of persons who were bribed for their votes by the challenger's worker was sufficient to change the outcome of the election; (2) the trial judge failed to inform potential witnesses that they could be given immunity from prosecution for bribery of voters if they came forth with truthful testimony; (3) the votes of three of his ardent supporters |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|---|---|------------------------------|-------------|---------------------------------------|
|              |       |          |      | <p>case, the district court for the dismissed his suit. The incumbent appealed.</p> | <p>should have been counted because they were incarcerated for the sole purpose of keeping them from campaigning and voting; and (4) the district attorney, a strong supporter of the challenger, abused his power when he subpoenaed the incumbent to appear before the grand jury a week preceding the election. The appellate court held no more than two votes would be</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case | Court | Citation | Date | Facts | Holding  | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|--------------|-------|----------|------|-------|--|------------------------------|-------------|---------------------------------------|
|              |       |          |      |       | <p>subtracted, a difference that would be insufficient to change the election result or make it impossible to determine. The appellate court found the trial judge read the immunity portion of the statute to the potential witnesses. The appellate court found the arrests of the three supporters were the result of grand jury indictments, and there was no manifest error in holding that the</p> |                              |             |                                       |

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Vote Buying Cases

| Name of Case   | Court                           | Citation                   | Date              | Facts   | Holding   | Statutory Basis (if of Note) | Other Notes | Should the Case be Researched Further |
|----------------|---------------------------------|----------------------------|-------------------|---|---|------------------------------|-------------|---------------------------------------|
|                |                                 |                            |                   |   | incumbent failed to prove a scheme by the district attorney. The judgment of the trial court was affirmed.  |                              |             |                                       |
| Eason v. State | Court of Appeals of Mississippi | 2005 Miss. App. LEXIS 1017 | December 13, 2005 | Defendant appealed a decision of circuit court convicting him of one count of conspiracy to commit voter fraud and eight counts of voter fraud. | Defendant was helping with his cousin's campaign in a run--off election for county supervisor. Together, they drove around town, picking up various people who were either at congregating spots or their homes. Defendant would drive the voters to the clerk's office | No                           | N/A         | No                                    |