

Suit Arising Under State Implementation of the Help America Vote Act Remanded to State Court

Ohio ex rel. Mahal v. Brunner
(George C. Smith, S.D. Ohio 2:08-cv-983)

A state's secretary of state removed a mandamus action filed with the state's supreme court concerning the state's compliance with the Help America Vote Act (HAVA). The district court immediately remanded the case, because the mandamus action sought enforcement of the state's HAVA-implementing legislation, which meant that the case arose under state law.

Subject: Registration procedures. *Topics:* Matters for state courts; removal; Help America Vote Act (HAVA).

On Friday, October 17, 2008, an Ohio voter filed a mandamus action with Ohio's supreme court complaining that Ohio's secretary of state was not complying with the Help America Vote Act (HAVA)¹ by adequately maintaining a statewide voter-registration database.² On Monday, the secretary of state removed the action to the U.S. District Court for the Southern District of Ohio, which assigned the case to Judge George C. Smith.³

Judge Smith remanded the case on the day that it was removed.⁴ He determined that it was a case arising under state law because the mandamus petition sought enforcement of Ohio's HAVA-implementing legislation.⁵

1. Pub. L. No. 107-252, 116 Stat. 1666 (2002), *as amended*, 52 U.S.C. §§ 20901–21145. See generally Marie Leary & Robert Timothy Reagan, The Help America Vote Act (Federal Judicial Center 2012); Symposium, *HAVA @ 10*, 12 Election L.J. 111 (2013).

2. Mandamus Petition, State *ex rel.* Mahal v. Brunner, No. 08-2027 (S.D. Ohio Oct. 17, 2008), *filed as* Complaint, Ohio *ex rel.* Mahal v. Brunner, No. 2:08-cv-983 (S.D. Ohio Oct. 20, 2008), D.E. 4.

3. Notice of Removal, *Mahal*, No. 2:08-cv-983 (S.D. Ohio Oct. 20, 2008), D.E. 2.

Judge Smith died on April 15, 2020. Federal Judicial Center Biographical Directory of Article III Federal Judges, www.fjc.gov/history/judges.

4. Order, *Mahal*, No. 2:08-cv-983 (S.D. Ohio Oct. 20, 2008), D.E. 5, 2008 WL 4647701.

5. *Id.*