

STATE OF MINNESOTA
IN SUPREME COURT

A08-2169

Norm Coleman, et al.,

Petitioners,

vs.

Mark Ritchie, Minnesota Secretary of State,
the Minnesota State Canvassing Board,
Isanti County Canvassing Board, et al.,

Respondents.

O R D E R

Petitioners Norm Coleman, et al., have filed a petition and an amended petition under Minn. Stat. § 204B.44 (2006) concerning the election for United States Senator from Minnesota held on November 4, 2008, in which petitioners ask this court to (1) order county election officials and county canvassing boards to take no additional action related to rejected absentee ballots until further order of this court; (2) direct all respondents that no rejected absentee ballots be counted in the pending administrative recount and that all issues related to such ballots are to be raised, if any party so chooses, in an election contest under Minn. Stat. ch. 209 (2006); (3) order that all rejected absentee ballot envelopes and corresponding ballots be preserved and kept segregated in a manner permitting the ballot to be linked to its envelope in the future in the event of an election

contest; or, (4) in the alternative, designate procedures specified in the petition to be followed if county canvassing boards are allowed or directed to open and count previously rejected absentee ballots.

Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Petitioners and the named respondents shall serve all documents filed in this matter on counsel for the Al Franken for Senate Committee and on all county auditors, or their counsel, who would be subject to an order for any of the relief requested by petitioners. County auditors not named in the petition may be served by e-mail unless they or their counsel notify all named parties in writing that service by facsimile is preferred. Any county auditor or their counsel may notify the parties and this court by e-mail that they do not wish to receive further service in this matter. E-mail notice to the court should be sent to: mjcappellateclerkofcourt@courts.state.mn.us.

2. Respondents named in the petition, the Al Franken for Senate Committee, and any county auditor, election official, or county canvassing board may file with the Clerk of Appellate Courts and serve on petitioners and all other parties and county auditors any written response to the petition and any supporting materials not later than 12:00 noon, Tuesday, December 16, 2008.

3. In his response to the petition, the Secretary of State shall inform the court of the final date by which a original certificate of election must be delivered to the secretary of the United States Senate for the person elected on November 4 to take office.

The Secretary of State shall append to his response a sample or samples of absentee ballot envelopes that will illustrate for the court the format and location, not the substance, of the material that would be reviewed to determine whether an absentee ballot had been rejected improperly. In addition, the Secretary of State or the State Canvassing Board shall provide a record or whatever documentation is available to inform the court of the action taken at the Board's December 12, 2008 meeting with respect to rejected absentee ballots.

4. Petitioners may serve and file with the Clerk of Appellate Courts a reply memorandum no later than 4:30 p.m., Tuesday, December 16, 2008.

5. The court will hear argument on this matter commencing at 1:00 p.m., Wednesday, December 17, 2008, in Courtroom 300, Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King, Jr., Boulevard, Saint Paul. One hour will be allotted for argument, and the parties will be advised in advance of the order of argument and the allocation of time.

6. Parties and participants shall file an original and eight copies of any written submission to the court, in the form provided in Minn. R. Civ. App. P. 132.02, except that text and footnotes shall appear in at least 13-point type or its equivalent.

7. Service by mail is permissible if a complete copy of the material is also transmitted electronically by the deadlines imposed herein, by e-mail or facsimile, to all parties and participants required to be served. Each party and participant shall notify the

Clerk of Appellate Courts and opposing counsel of an e-mail address or facsimile number to which documents may be transmitted.

8. Filing by mail is permissible if a complete copy of the material is also transmitted by facsimile to the Clerk of Appellate Courts by the deadlines imposed herein. The facsimile number for the Clerk of Appellate Courts is 651-297-4149.

9. Without taking a position regarding the merits of the petition or the request for an order for interim relief pending a final decision of this court, any county election official or canvassing board that opens any previously rejected absentee ballots prior to a ruling by this court on petitioners' request for interim relief shall implement a system by which a reviewing authority may identify and locate the specific ballot that was removed from a particular set of return and ballot envelopes.

Dated: December 15, 2008

BY THE COURT:

/s/

Alan C. Page
Associate Justice

MAGNUSON, C.J., and ANDERSON, G. Barry, J., took no part in the consideration or decision of this matter.