

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

December 22, 2004

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### MOTION AND PROCEDURAL RULINGS

#### **2004-2088. Moss v. Bush.**

On Petition to Contest Election. This cause originated in this court on the filing of a petition to contest an election under R.C. 3515.08. Upon review of contestors' motion for emergency expedited hearing and emergency expedited relief to prevent spoliation of evidence and to preserve documentary and electronic evidence, and in view of R.C. 3599.34, which precludes the destruction of certain election records until the time has expired for using them as evidence in a contest of election, I conclude that the interests of justice do not warrant consideration of contestors' motion prior to expiration of time for contestees to appear in opposition. S.Ct.Prac.R. XIV(4)(C). Accordingly,

IT IS ORDERED that consideration of contestors' motion be, and hereby is, deferred until the expiration of time set by S.Ct.Prac.R. XIV(4)(B) for the filing of a memorandum in opposition, or until such a memorandum is filed, whichever occurs first.

IT IS FURTHER ORDERED that other motions which have been, or may be, filed will be considered pursuant to S.Ct.Prac.R. XIV.

IT IS FURTHER ORDERED, pursuant to the authority granted me by R.C. 3515.11, that contestors shall file on or before December 28, 2004, a written memorandum of law addressing the following two questions:

- (1) Whether this election contest is moot based on the fact that it was filed subsequent to the "safe harbor" date established by 3 U.S.C. §§ 5 and 7? This date was December 7, 2004 for the November 2, 2004 presidential election.
- (2) January 6, 2005 is the date established by 3 U.S.C. §15 for Congress to review the votes of the electors and formally declare the winner of the presidential election. What would be the legal

significance of the passage of that date relative to the contestors' petition?

The contestees may file a written memorandum in response, addressing the same two questions, on or before January 3, 2005. Each memorandum shall be limited to 25 pages in length and shall otherwise comply with all applicable requirements of the Rules of Practice of the Supreme Court of Ohio.

Moyer, C.J., in Chambers.