

SUPREME COURT OF LOUISIANA

NO. 99-C-3605

DAVID G. ADKINS

versus

**LESTER SHIELDS “BUDDY” HUCKABAY, III, SHERIFF;
W. FOX MCKEITHEN, HONORABLE SECRETARY OF STATE;
THE HONORABLE JERRY FOWLER, COMMISSION OF ELECTIONS**

KIMBALL, J., Dissenting

I agree with the sentiments expressed in Justice Lemmon’s concurring opinion that hand delivery of absentee ballots by a registrar of voters should not automatically invalidate an otherwise validly executed ballot. I dissent, however, because I also find that the votes of Ms. Elvie Robinson and Mrs. Claude Pate were executed in substantial compliance with the Election Code. In my view, the controversy surrounding their votes was caused by an erroneous interpretation of the Election Code by the registrar of voters. In the absence of fraud, an error on the part of the registrar should not cause Mrs. Pate or Ms. Robinson, a homebound voter, to suffer the loss of having their otherwise valid votes not counted. The trial court specifically found there was no fraud in this election and, in my opinion, the requirement of substantial compliance has been met. I would therefore affirm the decision of the court of appeal and allow this election to stand.