

Challenge to Weighted Voting in Party-Endorsement Procedures

Kehoe v. Casadei

(*Thomas J. McAvoy, N.D.N.Y. 6:11-cv-408*)

Members of a city’s party committee filed a federal complaint challenging the elimination of weighted voting, which weighted members’ votes for endorsements by the number of party members each represented. The district judge issued a temporary restraining order against the change, and the case settled two years later with a return to weighted voting.

Subject: Voting procedures. *Topics:* Party procedures; class action; attorney fees.

Five days before an April 18, 2011, meeting of Rome, New York’s Republican Committee, as the committee began its candidate-endorsement process, two members of the committee filed a federal class-action complaint challenging April 4 changes to the committee’s bylaws.¹ The plaintiffs objected to “the elimination of weighted voting, the elimination of the use of proxies and the use of secret ballots for the endorsement of candidates.”² “Under the weighted voting system, the voting power of a committee member is weighted in accordance with the number of registered Republicans in their respective election district.”³

On April 15, Judge Thomas J. McAvoy issued a temporary restraining order enjoining the committee’s screening or endorsing candidates pending an April 22 hearing.⁴ He forgave the plaintiffs’ *ex parte* application for relief, but ordered immediate service.⁵ At the request of counsel for the defendants—the committee and its chair—the hearing was rescheduled for May 9.⁶

Counsel for the defendants notified the court on April 28 that they did not oppose the plaintiffs’ injunction motion and they intended a rescission of the bylaws change.⁷ On September 6, Judge McAvoy noted the absence of a filed settlement agreement and issued the preliminary injunction.⁸ On October 20, he denied the defendants’ motion to dismiss the complaint “on the ground that the endorsement of candidates by the [committee] is not an electoral function.”⁹

1. Complaint, *Kehoe v. Casadei*, No. 6:11-cv-408 (N.D.N.Y. Apr. 13, 2011), D.E. 1; Opinion, *id.* (Apr. 15, 2011), D.E. 6 [hereinafter Temporary-Restraining-Order Opinion].

2. Complaint, *supra* note 1, at 3–4.

3. Temporary-Restraining-Order Opinion, *supra* note 1, at 3 n.1.

4. *Id.* at 5.

5. *Id.* at 5–6.

6. Docket Sheet, *Kehoe*, No. 6:11-cv-408 (N.D.N.Y. Apr. 13, 2011); Minutes, *id.* (Apr. 22, 2011), D.E. 9.

7. Letter, *id.* (Apr. 28, 2011), D.E. 10.

8. Letter, *id.* (Sept. 6, 2011), D.E. 17.

9. Opinion, *id.* (Oct. 20, 2011), D.E. 26, 2011 WL 5008044.

Two years later, the parties filed a settlement agreement: “the Rome Republican Committee endorsement of Republican city-wide candidates for elections shall be done by weighted secret ballots without the benefit of proxies.”¹⁰

10. Settlement Agreement, *id.* (Oct. 28, 2013), D.E. 59 (noting also the payment of \$2,000 to the plaintiffs); Judgment, *id.* (June 27, 2013), D.E. 53; *see* Amended Complaint, *id.* (Dec. 19, 2012), D.E. 43.