Challenge to Removal from Ballot

Singleton v. Alabama Democratic Party
(Mark E. Fuller, M.D. Ala. 2:04-cv-1027)

One week before the 2004 general election, a Democratic candidate for trial judge in Alabama's district courts filed a federal action to have her name restored to the ballot.[1] The candidate's name was removed as a result of state court action arising from a challenge based on her contributing $150 to the Republican incumbent.[2] The federal complaint, which also included two voters as plaintiffs, included an application for a temporary restraining order against proceeding with the election for the office.[3] Judge Mark E. Fuller denied the application the day it was filed, because the plaintiffs had not provided notice to the defendants.[4]

On October 28, after the plaintiffs had provided the defendants with notice, Judge Fuller held a telephone conference.[5] Again, on the day before the election, Judge Fuller denied the candidate immediate injunctive relief, because she had not filed the action to enjoin the election until after absentee voting had begun.[6]

A week after the election, the candidate moved for a temporary restraining order against certification of the election,[7] which Judge Fuller denied on the following day.[8] On March 30, 2005, after full briefing, Judge Fuller dismissed the case.[9]

Judge Fuller considered very carefully whether the case should be heard by a three-judge court.[10] The plaintiffs' claim that the procedure for removing her from the ballot had not been precleared pursuant to section 5 of the Voting Rights Act,[11] however, was rebutted by undisputed evidence to the contrary,[12] so a three-

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1. Complaint, Singleton v. Alabama Democratic Party, No. 2:04-cv-1027 (M.D. Ala. Oct. 26, 2004), D.E. 1.

2. Opinion at 3–10, *id.* (Mar. 30, 2005), D.E. 30 [hereinafter Mar. 30, 2005, Opinion]; Order at 1, *id.* (Nov. 1, 2004), D.E. 11 [hereinafter Nov. 1, 2004, Order]; *see* Robert K. Gordon, *Democrats Disqualify Judicial Candidate*, Birmingham News, Sept. 22, 2004.

3. Complaint, *supra* note 1.

4. Order, *Singleton*, No. 2:04-cv-1027 (M.D. Ala. Oct. 26, 2004), D.E. 2.

Tim Reagan interviewed Judge Fuller for this report by telephone on May 30, 2012.

5. Nov. 1, 2004, Order, *supra* note 2, at 2.

The election at issue was for an office in Jefferson County, Complaint, *supra* note 1, which is approximately 100 miles north of Judge Fuller's court. Interview with Hon. Mark E. Fuller, May 31, 2012.

6. Nov. 1, 2004, Order, *supra* note 2, at 2–3.

7. Temporary Restraining Order Motion, *Singleton*, No. 2:04-cv-1027 (M.D. Ala. Nov. 9, 2004), D.E. 13.

8. Order, *id.* (Nov. 10, 2004), D.E. 14.

9. Mar. 30, 2005, Opinion, *supra* note 2.

10. Interview with Hon. Mark E. Fuller, May 31, 2012.

11. *See* Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437, § 5, 439, *as amended*, 42 U.S.C. § 1973c (2010) (requiring preclearance of changes to voting procedures in jurisdictions with a certified history of discrimination and requiring that preclearance disputes be heard by a three-judge court).

12. Mar. 30, 2005, Opinion, *supra* note 2, at 18.

judge court was not needed.[13] Judge Fuller also carefully considered application of the *Rooker-Feldman* doctrine,[14] which states that among federal courts only the Supreme Court has appellate jurisdiction over state court proceedings.[15]

On April 13, 2006, the court of appeals affirmed Judge Fuller's dismissal.[16]

13. *Id.* at 17.

14. Interview with Hon. Mark E. Fuller, May 31, 2012; Mar. 30, 2005, Opinion, *supra* note 2, at 11–13.

15. District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); *see* Martin A. Schwartz & Kathryn R. Urbonya, Section 1983 Litigation 14–17 (Federal Judicial Center 2d ed. 2008).

16. Order, Singleton v. Alabama Democratic Party, No. 05-13045 (11th Cir. Apr. 13, 2006), *available at* 2006 WL 952335.