

Improper Support for School Board Incumbents

Jacob v. Board of Directors
(*G. Thomas Eisele, E.D. Ark. 4:06-cv-1007*)

Two African-American voters filed a federal complaint on August 17, 2006, in the Eastern District of Arkansas, claiming that two white incumbent Little Rock school board members running to retain their seats in a September 19 election were improperly allowed, “to the exclusion of other candidates, to appear before school employees such as teachers and non certified staff meeting to attend workshops and meetings as a condition of employment.”¹ The complaint also mentioned the election commission’s refusal to establish early voting sites in addition to the county courthouse.²

The Pulaski County Election Commission, a defendant, filed an answer and a motion to dismiss the action on Friday, August 25.³ The plaintiffs filed a motion for a preliminary injunction on Monday.⁴ On Tuesday, Judge G. Thomas Eisele issued a four-page letter to the attorneys asking them to address specific questions at a Wednesday afternoon telephone conference.⁵ After hearing from the parties at the telephone conference, Judge Eisele scheduled a hearing for Thursday morning.⁶

On Thursday, African-American candidates for the two races in question filed pro se motions to intervene,⁷ which Judge Eisele granted, thereby curing the standing defect of voters challenging the treatment of candidates.⁸

On Friday, Judge Eisele denied the plaintiffs a preliminary injunction, stating that a written opinion would follow.⁹ Judge Eisele concluded in an opinion issued later that day that the plaintiffs had presented no evidence of the alleged “conspiratorial conduct by the Defendants to advance the incumbent candidates.”¹⁰ As to the issue of additional early voting locations, “mindful of its importance,” Judge Eisele concluded, “Plaintiffs have failed to present any evidence that the failure to open additional early voting sites results in the protected class having less opportunity to vote than other members of the electorate.”¹¹

1. Complaint at 4–5, *Jacob v. Board of Dirs.*, No. 4:06-cv-1007 (E.D. Ark. Aug. 17, 2006), D.E. 1.

2. *Id.* at 3.

3. Motion to Dismiss, *id.* (Aug. 25, 2006), D.E. 4; Answer, *id.* (Aug. 25, 2006), D.E. 3.

4. Preliminary Injunction Motion, *id.* (Aug. 28, 2006), D.E. 7.

5. Letter Order, *id.* (Aug. 29, 2006), D.E. 10.

6. Docket Sheet, *id.* (Aug. 17, 2006); *see* Minutes, *id.* (Aug. 31, 2006, filed Sept. 1, 2006), D.E. 26.

7. Motions to Intervene, *id.* (Aug. 31, 2006), D.E. 16 and 18.

8. Opinion at 3, 22, *id.* (Sept. 1, 2006), D.E. 28 [hereinafter Sept. 1, 2006, Opinion].

9. Letter Order, *id.* (Sept. 1, 2006), D.E. 22.

10. Sept. 1, 2006, Opinion, *supra* note 8, at 6.

11. *Id.* at 16.

On September 28, Judge Eisele denied a second motion for a preliminary injunction establishing additional early voting sites for an October 10 runoff election.¹²

In the event, both intervenors were elected.¹³ On a finding that the plaintiffs did not wish to pursue the case further, Judge Eisele dismissed the action on December 15.¹⁴

12. Opinion, *Jacob*, No. 4:06-cv-1007 (E.D. Ark. Sept. 28, 2006), D.E. 40, available at [2006 WL 2792172](#).

13. See *Little Rock School Board Has First Black Majority*, N.Y. Times, Oct. 13, 2006, at A23; Jennifer Barnett Reed, *A Change of Leadership*, Ark. Times, Nov. 30, 2006, at 13.

14. Order, *Jacob*, No. 4:06-cv-1007 (E.D. Ark. Dec. 15, 2006), D.E. 46; see Order to Show Cause, *id.* (Dec. 5, 2006), D.E. 44.