

## Malapportioned City Commission Districts

*Wright v. City of Albany*  
(*W. Louis Sands, M.D. Ga. 1:03-cv-148*)

On September 24, 2003, five voters filed a federal complaint in the Middle District of Georgia, seeking to enjoin the November 4 elections to the City of Albany’s board of commissioners because the commission districts were malapportioned.<sup>1</sup> Five days later, the plaintiffs filed a motion for a preliminary injunction.<sup>2</sup>

On October 3, Judge W. Louis Sands set the matter for hearing on October 6.<sup>3</sup> On October 6, a mayoral candidate sought to intervene as a plaintiff to protect his interest in the mayoral election’s going forward.<sup>4</sup> Judge Sands granted intervention.<sup>5</sup>

Judge Sands held hearings on October 6 and 9.<sup>6</sup> On October 9, the parties stipulated that redistricting after the 2000 census had been denied section 5 preclearance by the Justice Department on September 23, 2002, and the Department posed questions on August 25, 2003, regarding a revised districting plan.<sup>7</sup>

On October 16, Judge Sands enjoined the upcoming election until proper district lines could be drawn.<sup>8</sup> He did not grant an exception for the position of mayor, because the mayor is also a voting member of the malapportioned commission.<sup>9</sup>

On December 24, Judge Sands approved a new districting plan drawn up, at the plaintiffs’ request, by the Director of the Georgia General Assembly’s Legislative Reapportionment Services Office, adjusted to ensure that both of an incumbent’s residences were in the incumbent’s district.<sup>10</sup> Judge Sands ordered that a

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1. Complaint, [Wright v. City of Albany](#), No. 1:03-cv-148 (M.D. Ga. Sept. 24, 2003), D.E. 1.

2. Preliminary Injunction Motion, *id.* (Sept. 29, 2003), D.E. 2.

3. Order, *id.* (Oct. 3, 2003), D.E. 3.

4. Intervention Motion, *id.* (Oct. 6, 2003), D.E. 4.

5. Minutes, *id.* (Oct. 9, 2003), D.E. 28.

6. *Id.*

7. Stipulation, [Wright](#), No. 1:03-cv-148 (M.D. Ga. Oct. 9, 2003), D.E. 27; *see* Voting Rights Act of 1965, Pub. L. No. 89-110, § 5, 79 Stat. 437, 439, *as amended*, 42 U.S.C. § 1973c (2012) (requiring preclearance of changes to voting procedures in jurisdictions with a certified history of discrimination).

On June 25, 2013, the Supreme Court declined to hold section 5 unconstitutional, but the Court did hold unconstitutional the criteria for which jurisdictions require section 5 preclearance. [Shelby Cnty. v. Holder](#), 570 U.S. \_\_\_, 133 S. Ct. 2612 (2013); *see* Robert Barnes, *Court Blocks Key Part of Voting Rights Act*, Wash. Post, June 26, 2013, at A1; Adam Liptak, *Justices Void Oversight of States, Issue at Heart of Voting Rights Act*, N.Y. Times, June 26, 2013, at A1.

8. Injunction, [Wright](#), No. 1:03-cv-148 (M.D. Ga. Oct. 16, 2003), D.E. 26.

9. *Id.* at 6–9.

10. [Wright v. City of Albany](#), 306 F. Supp. 2d 1228 (M.D. Ga. 2003).

special election for the mayor and the three expired commission seats be held on February 10, 2004.<sup>11</sup>

In response to an election-day motion for relief from election problems at some polls,<sup>12</sup> Judge Sands held a 12:30 p.m. hearing<sup>13</sup> and ordered one polling place to remain open until 9:00 p.m.<sup>14</sup> The intervenor who was a candidate for mayor won his election.<sup>15</sup>

On August 19, Judge Sands awarded the plaintiffs \$35,647.75 in attorney fees and expenses.<sup>16</sup>

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11. *Id.* at 1240.

12. Emergency Motion, *Wright*, No. 1:03-cv-148 (M.D. Ga. Feb. 10, 2004), D.E. 68.

13. Order, *id.* (Feb. 10, 2004), D.E. 69.

14. Order, *id.* (Feb. 12, 2004), D.E. 73; Minutes, *id.* (Feb. 10, 2004), D.E. 70.

15. See Bill Torpy, *Albany Elects First Black Mayor*, Atlanta J. & Const., Feb. 13, 2004, at D1.

16. Order, *Wright*, No. 1:03-cv-148 (M.D. Ga. Aug. 19, 2004), D.E. 78; see Receipt, *id.* (Sept. 28, 2004), D.E. 80.