

Disqualifying Inactive Voters from Candidacy Petitions

*Cunningham v. Chicago Board of Election
Commissioners (James B. Moran, N.D. Ill. 1:03-cv-1160)*

On February 18, 2003, eight voters and five political officials filed a federal complaint in the Northern District of Illinois challenging the disqualification of two candidates for a February 25 election for Chicago's city clerk and Fourth Ward alderman.¹ The complaint alleged improper disqualification of petition signatures by inactive voters.² With their complaint, the plaintiffs filed a motion for a preliminary injunction.³

The political plaintiffs were Jesse Jackson, as president of Rainbow Push, and four legislators for legislative districts including the residences of the voter plaintiffs, who were suing on behalf of their "fiduciary responsibility to ensure enforcement of federal and state voting laws and ensuring equal treatment under the law": three members of the U.S. Congress and one member of Illinois's senate.⁴ The plaintiffs named as defendants the Chicago Board of Election Commissioners and its members.⁵

On February 19, Judge James B. Moran took the plaintiffs' motion under advisement and ordered the plaintiffs to respond by the following day to the defendants' motion to dismiss the action.⁶ On February 21, Judge Moran denied the plaintiffs preliminary relief on concluding that they had not shown that their preferred candidates would be on the ballot but for the complaint's issue respecting inactive voters.⁷

On April 3, Judge Moran dismissed the action for lack of prosecution.⁸

On April 30, six of the original voter plaintiffs plus eight others filed another federal complaint charging that the policy of disqualifying candidacy petition sig-

1. [Complaint](#), *Cunningham v. Chi. Bd. of Election Comm'rs*, No. 1:03-cv-1160 (N.D. Ill. Feb. 18, 2003), D.E. 1 [hereinafter *Cunningham Complaint*]; see Dave Newbart, *Lawsuit Aims to Block Vote Over City Clerk Ballot*, *Chi. Sun Times*, Feb. 19, 2003, at 16; Fran Spielman, *Clerk Candidate, Former Alderman Off the Ballot*, *Chi. Sun Times*, Feb. 13, 2003, at 7 (reporting that inactive voters are voters who have not voted in the last two elections); *Suit Seeks to Delay Election*, *Chi. Trib.*, Feb. 19, 2003, at 5.

2. [Cunningham Complaint](#), *supra* note 1, at 2–5.

3. [Preliminary Injunction Motion](#), *Cunningham*, No. 1:03-cv-1160 (N.D. Ill. Feb. 18, 2003), D.E. 2.

4. [Cunningham Complaint](#), *supra* note 1, at 6–7 (describing plaintiffs Jesse Jackson, Jr., Bobby Rush, Danny K. Davis, and James T. Meeks).

5. [Cunningham Complaint](#), *supra* note 1, at 7–8.

6. [Minutes](#), *Cunningham*, No. 1:03-cv-1160 (N.D. Ill. Feb. 19, 2003), D.E. 5.

Judge Moran died on April 21, 2009. Federal Judicial Center Biographical Directory of Federal Judges, <http://www.fjc.gov/history/home.nsf/page/judges.html>.

7. [Minutes](#), *Cunningham*, No. 1:03-cv-1160 (N.D. Ill. Feb. 21, 2003), D.E. 7, available at 2003 WL 444023.

8. [Minutes](#), *id.* (Apr. 3, 2003), D.E. 8.

natures by inactive voters has a disparate impact on African-American voters.⁹ Judge George W. Lindberg approved a stipulated dismissal of the action on September 9.¹⁰

9. [Complaint](#), Peery v. Bd. of Election Comm'rs, No. 1:03-cv-2917 (N.D. Ill. Apr. 30, 2003), D.E. 1.

10. [Minutes](#), Peery, No. 1:03-cv-2917 (N.D. Ill. Apr. 30, 2003), D.E. 10.