

Limiting Poll Watchers to Counties of Residence

Republican Party of Pennsylvania v. Cortés
(*Gerald J. Pappert, E.D. Pa. 2:16-cv-5524*)

A political party and eight voters filed a federal complaint in the Eastern District of Pennsylvania on October 21, 2016, two and one-half weeks before the presidential election, alleging that “the Election Code illegally and arbitrarily restricts poll watchers from serving only in the county of their residence.”¹ With their complaint, the plaintiffs filed a motion for a temporary restraining order and a permanent injunction.²

The court set the case for conference on the afternoon of October 24 before Judge Gerald J. Pappert.³ Following the telephone conference, Judge Pappert set the case for hearing on October 28.⁴ On the day of the hearing, “a coalition of Latino community-based organizations serving Philadelphia” moved to intervene as a defendant.⁵

Judge Pappert denied the plaintiffs immediate relief on November 3.⁶ “States have the power to regulate elections.”⁷ There was a rational basis for the requirement: “In short, Pennsylvania opted to design a county-by-county system of elections; in doing so, it ensured as much coherency in this patchwork system as possible.”⁸

Finding that the plaintiffs unreasonably delayed in bringing the action, Judge Pappert observed, “There is good reason to avoid last-minute intervention in a state’s election process.”⁹

Judge Pappert accepted the plaintiffs’ voluntary dismissal on January 27, 2017.¹⁰

1. Complaint, *Republican Party of Pa. v. Cortés*, No. 2:16-cv-5524 (E.D. Pa. Oct. 21, 2016), D.E. 1.

2. Motion, *id.* (Oct. 21, 2016), D.E. 2.

3. Notice, *id.* (Oct. 24, 2016), D.E. 4.

4. Order, *id.* (Oct. 28, 2016), D.E. 5.

5. Intervention Motion, *id.* (Oct. 28, 2016), D.E. 14.

6. *Republican Party of Pa. v. Cortés*, ___ F. Supp. 3d ___, 2016 WL 6525409 (E.D. Pa. 2016) (opinion filed at E.D. Pa. No. 2:16-cv-5524, D.E. 21).

7. *Id.* at ___ (p.1 of filed opinion).

8. *Id.* at ___ (p.14 of filed opinion).

9. *Id.* at ___ (pp.2, 6 of filed opinion).

10. Opinion, *Republican Party of Pa.*, No. 2:16-cv-5524 (E.D. Pa. Jan. 27, 2017), D.E. 27, 2017 WL 386603.