

Validity of Ballot Application Signatures

Stockman v. Williams

(Lee Yeakel and Sam Sparks, W.D. Tex. 1:06-cv-742)

On Tuesday, September 19, 2006, Steve Stockman filed a federal action in Austin against Texas's secretary of state, seeking an order to place Stockman's name on the ballot as an independent candidate for Texas District 22's member of Congress.¹

The Western District of Texas assigned the case to Judge Sam Sparks, but Judge Sparks was away that week.² Judge Lee Yeakel was and is the other active district judge in Austin; Judges Sparks and Yeakel coordinate their travel schedules to avoid occasions when they are both out of town at the same time.³ Judge Yeakel offered to either preside over initial proceedings or take assignment of the case.⁴ Judge Sparks chose to retain the case, over which he would preside when he returned.⁵ Judge Yeakel relied on Judge Sparks' law clerks for preliminary matters.⁶

Judge Yeakel held a hearing on Stockman's motion for a temporary restraining order on the case's second day.⁷

... I have checked with Judge Sparks' calendar and Judge Sparks could entertain a hearing on a temporary injunction on September the 28th in the afternoon, which is not exactly a long way away. My experience in private practice, and it hasn't changed much since I have been on this Court, is that it is often better to get the lawyers together and encourage them to get everything put together before a temporary injunction hearing, because then both sides have a better opportunity to present all of their exhibits and you have a better record and you've got a record that one side or the other can appeal from, and it's a pretty expeditious way to do it that way.⁸

After the hearing, the secretary moved to dismiss the action.⁹ On the third day, Judge Yeakel denied the temporary restraining order because Stockman had not included all necessary parties as defendants and because the issuing of absentee ballots was only days away.¹⁰

I am concerned that the election directors and the clerks are not parties to this action because I have a real question, regardless of whether they from time to time take advice from the Secretary of State as to whether the granting of injunctive relief as prayed for

1. [Complaint](#), *Stockman v. Williams*, No. 1:06-cv-742 (W.D. Tex. Sept. 19, 2006), D.E. 1; [see Amended Complaint](#), *id.* (Sept. 19, 2006), D.E. 13.

2. Transcript, *id.* (Sept. 20, 2006, filed Sept. 27, 2006), D.E. 17 [hereinafter Sept. 20, 2006, Transcript].

Tim Reagan interviewed Judge Sparks for this report by telephone on Sept. 19, 2012.

3. Interview with Hon. Sam Sparks, Sept. 19, 2012.

Tim Reagan interviewed Judge Yeakel for this report by telephone on Sept. 12, 2012.

4. Interview with Hon. Lee Yeakel, Sept. 12, 2012.

5. *Id.*

6. *Id.*

7. [Docket Sheet](#), *Stockman*, No. 1:06-cv-742 (W.D. Tex. Sept. 19, 2006).

8. Sept. 20, 2006, Transcript, *supra* note 2, at 2-3.

9. [Motion to Dismiss](#), *Stockman*, No. 1:06-cv-742 (W.D. Tex. Sept. 20, 2006), D.E. 9.

10. [Order](#), *id.* (Sept. 21, 2006), D.E. 12.

against the Secretary of State in any way affects the actions of the election directors and the county clerks in the four counties in which they are relocated. I concede that it is easier if you only have one party, but these are the persons who actually are in charge of mailing out the ballots and taking care of the administrative acts of obtaining the ballots and sending them out.

I have concern about what we have referred to as the laches argument. I am bothered by the fact that we are here at a time when I am told that the clerks and elections directors must take action by Saturday to send the mail-out ballots to servicemen, when in fact the disagreement between Mr. Stockman and the Secretary of State was apparently known as early as June the 22nd.¹¹

Judge Sparks held another hearing one week later.¹² Judge Sparks determined that the case was filed too late to obtain the desired relief.¹³

It's too late for any injunction from this judge. That doesn't mean that I'm satisfied with what I'm doing. I don't think I'm ever satisfied in elections squabbles because I think, you know, the Secretary of State is to serve the people, and whether that occurred in this case or not, I don't know. I wouldn't mind having a week to find out. But I'm not going to set aside the election and—not set aside the election but set aside the election process under these circumstances. The harm it would cause is far more than the benefit in the event I had an evidentiary hearing and determined that you were correct.¹⁴

Judge Sparks issued an order on October 2 stating that injunctive relief could seriously disrupt the coming election and the ballot application signature requirements imposed by Texas were not unreasonable.¹⁵ On October 26, the court of appeals summarily affirmed.¹⁶

On January 19, 2007, Judge Sparks dismissed the action.¹⁷

11. Sept. 20, 2006, Transcript, *supra* note 2, at 39–40.

12. Transcript, *Stockman*, No. 1:06-cv-742 (W.D. Tex. Sept. 28, 2006, filed Oct. 11, 2006), D.E. 34 [hereinafter Sept. 28, 2006, Transcript]; [Docket Sheet](#), *supra* note 7.

13. Sept. 28, 2006, Transcript, *supra* note 12, at 74 (“what I can find very clearly is that this lawsuit should have been filed in June”).

14. *Id.* at 75.

15. [Order](#), *Stockman*, No. 1:06-cv-742 (W.D. Tex. Sept. 19, 2006), D.E. 31.

16. [Opinion](#), *Stockman v. Williams*, No. 06-51346 (5th Cir. Oct. 26, 2006).

17. [Judgment](#), *Stockman*, No. 1:06-cv-742 (W.D. Tex. Jan. 19, 2007), D.E. 59.