

## Preference for Faction Loyalists as Party Poll Workers

*Espada v. Rosado (John S. Martin, S.D.N.Y. 1:00-cv-6469)*

A federal complaint alleged that poll-worker appointments by a political party for a primary election were unconstitutionally targeted to one faction within the party. The district judge denied as immediate relief appointment of three of the plaintiffs as poll workers, because they had already been appointed. The judge denied the defendants' motion for sanctions on a finding that the complaint, which had been dismissed voluntarily, included non-frivolous constitutional claims.

*Subject:* Voting procedures. *Topics:* Party procedures; primary election; attorney fees.

On August 29, 2000, five plaintiffs filed a federal complaint in the Southern District of New York alleging that the appointment of Democratic election inspectors and poll workers for the September 12 primary election in Bronx County unconstitutionally favored members of a faction within the party.<sup>1</sup> “Plaintiffs sought immediate injunctive relief replacing 880 poll-workers who were scheduled to work in the upcoming primary election, and appointing [three of the plaintiffs] as election inspectors.”<sup>2</sup>

On September 7, Judge John S. Martin denied the plaintiffs immediate relief because two of the plaintiffs had been appointed poll workers four days before they filed the complaint, and a third plaintiff's appointment was delayed pending training and became effective before the case was heard.<sup>3</sup> Because constitutional questions remained, Judge Martin did not dismiss the action.<sup>4</sup>

Following the defendants' filing a motion for sanctions, the plaintiffs dismissed the action voluntarily.<sup>5</sup> Judge Martin, who had earlier denied a motion to dismiss the complaint, agreed with the plaintiffs that the action was not frivolous.<sup>6</sup>

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1. *Espada v. Rosado*, No. 1:00-cv-6469, 2001 WL 1020549 (S.D.N.Y. Sept. 5, 2001); Docket Sheet, *Espada v. Rosado*, No. 1:00-cv-6469 (S.D.N.Y. Aug. 29, 2000) (D.E. 1).

2. *Espada*, 2001 WL 1020549, at \*1.

3. *Id.* at \*1, \*3; Docket Sheet, *supra* note 1 (D.E. 17).

Judge Martin retired on September 30, 2003. Federal Judicial Center Biographical Directory of Article III Federal Judges, [www.fjc.gov/history/judges](http://www.fjc.gov/history/judges).

4. *Espada*, 2001 WL 1020549, at \*1, \*3.

5. *Id.* at \*1; Docket Sheet, *supra* note 1 (D.E. 18 to 21).

6. *Id.* at \*3–\*4.