

Including a Nickname on the Ballot

House v. Alabama Republican Party
(*R. David Proctor, N.D. Ala. 2:04-cv-703*)

Chris “The Teacher” House filed a pro se federal complaint in the Northern District of Alabama on April 6, 2004, complaining that the Republican Party was not including his nickname on the June 1 primary ballot for election to the state board of education.¹ Among the claims was that because the party had listed his nickname before, its refusal to do so amounted to an election change requiring preclearance pursuant to section 5 of the Voting Rights Act.² With his complaint, which he styled as a petition for a writ of mandamus,³ the plaintiff filed a motion for a temporary restraining order.⁴

At Judge R. David Proctor’s request, the circuit’s chief judge appointed a three-judge court to hear the complaint.⁵ On April 13, Judge Proctor ordered a chambers conference for April 16 and an evidentiary hearing for April 21, and he ordered the parties to meet to discuss stipulations.⁶ Judge Proctor wanted to make sure that proceedings would permit the matter to be resolved in time for the printing of the ballots.⁷

On April 16, the Justice Department declared that it had no objection to the exclusion of nicknames on the primary ballot.⁸ Following telephone conferences on April 19 with Judge Proctor on behalf of the three-judge court, the section 5 claim was dismissed without prejudice.⁹

On April 21, Judge Proctor enjoined printing of the primary ballots until further order.¹⁰ Following an April 22 hearing, Judge Proctor dismissed the plain-

1. [Complaint](#), *House v. Ala. Republican Party*, No. 2:04-cv-703 (N.D. Ala. Apr. 6, 2004), D.E. 1.

2. *Id.* at 1, 3–6, 10; *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 and requiring that preclearance disputes be heard by a three-judge court).

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.

3. [Complaint](#), *supra* note 1.

4. [Temporary Restraining Order Motion](#), *House*, No. 2:04-cv-703 (N.D. Ala. Apr. 6, 2004), D.E. 2.

5. [Order](#), *id.* (Apr. 12, 2004), D.E. 6.

Tim Reagan interviewed Judge Proctor for this report by telephone on May 13, 2013.

6. [Order](#), *House*, No. 2:04-cv-703 (N.D. Ala. Apr. 13, 2004), D.E. 7.

7. Interview with Hon. R. David Proctor, May 13, 2013.

8. [Stipulations](#), *House*, No. 2:04-cv-703 (N.D. Ala. Apr. 19, 2004), D.E. 12.

9. [Order](#), *id.* (Apr. 19, 2004), D.E. 10.

10. [Order](#), *id.* (Apr. 21, 2004), D.E. 13; *see* Val Walton, *Judges to Decide if Candidate’s Nickname Should Be on Ballot*, Birmingham News, Apr. 22, 2004, at 2.

tiff's remaining federal due process claim with prejudice and dismissed the plaintiff's state claims without prejudice.¹¹

11. [Order](#), *House*, No. 2:04-cv-703 (N.D. Ala. Apr. 23, 2004), D.E. 23; *see* Val Walton, *Judge Rules Against "The Teacher" on Ballot*, *Birmingham News*, Apr. 23, 2004, at 5 (reporting that Judge Proctor "found, among other things, that Chris House did not present sufficient evidence to show that he is commonly known in the community as 'The Teacher.'").