

Voter Registration for Disabled Students

National Coalition for Students with Disabilities

Education and Legal Defense Fund v. Bush

(Robert L. Hinkle, N.D. Fla. 4:00-cv-442)

A November 27, 2000, federal complaint filed in the Northern District of Florida's Tallahassee courthouse alleged that Florida failed to provide voter registration services to disabled students, as required by the National Voter Registration Act (NVRA),¹ for the 2000 general election.² Two days later, the plaintiffs sought a restraining order against, among other things, certification of Florida's election results until the plaintiffs and persons like them could register and vote in the election.³

Judge Robert L. Hinkle denied the immediate relief:

They apparently have filed their motion ex parte, without notice to any defendant. . . . The assertion that the court should take action affecting the 2000 presidential election (or any other election) without so much as giving notice to any adversary is plainly unfounded.

. . . For purposes of plaintiffs' motion for a temporary restraining order, I conclude that, if plaintiffs failed to register because of violations of the law, the time to seek any redress affecting the 2000 election was prior to that election.⁴

On February 20, 2001, Judge Hinkle held that disabled students who did not register to vote for the 2000 general election and an organization promoting the interests of persons with disabilities had standing to pursue an action against Florida election officials for failure to facilitate voter registration for persons with disabilities, as required by the NVRA.⁵

1. "The National Voter Registration Act plainly authorizes declaratory and injunctive relief in a private enforcement action such as the case at bar."⁶
2. "[Q]ualified immunity would not shield the defendants from liability from damages for violating these clear and express provisions of the

1. Pub. L. No. 103-31, 107 Stat. 77 (1993), *as amended*, 42 U.S.C. §§ 1973gg to 1973gg-10 (2012).

2. [Complaint](#), *Nat'l Coal. for Students with Disabilities Educ. & Legal Def. Fund v. Bush*, No. 4:00-cv-442 (N.D. Fla. Nov. 27, 2000), D.E. 1; [Nat'l Coal. for Students with Disabilities Educ. & Legal Def. Fund v. Bush](#), 173 F. Supp. 2d 1272, 1274 (N.D. Fla. 2001); *see Amended Complaint*, *Nat'l Coal. for Students with Disabilities Educ. & Legal Def. Fund*, No. 4:00-cv-442 (N.D. Fla. Dec. 1, 2000), D.E. 6.

3. [Temporary Restraining Order Motion](#), *Nat'l Coal. for Students with Disabilities Educ. & Legal Def. Fund*, No. 4:00-cv-442 (N.D. Fla. Nov. 29, 2000), D.E. 4; [Nat'l Coal. for Students with Disabilities Educ. & Legal Def. Fund](#), 173 F. Supp. 2d at 1274.

4. [Order](#) at 2-3, *Nat'l Coal. for Students with Disabilities Educ. & Legal Def. Fund*, No. 4:00-cv-442 (N.D. Fla. Nov. 29, 2000), D.E. 5; *see Nat'l Coal. for Students with Disabilities Educ. & Legal Def. Fund*, 173 F. Supp. 2d at 1274.

5. [Nat'l Coal. for Students with Disabilities Educ. & Legal Def. Fund v. Bush](#), 170 F. Supp. 2d 1205 (N.D. Fla. 2001).

6. [Nat'l Coal. for Students with Disabilities Educ. & Legal Def. Fund](#), 170 F. Supp. 2d at 1208.

Act, assuming a private right of action for damages exists”⁷ In their motion to dismiss the action, the defendants failed to raise the issue of whether section 1983 or some other authority afforded the plaintiffs a damages action to enforce the NVRA.⁸

In May 2001, the action settled; Florida officials agreed that they would inform various Florida agencies and contractors about “obligations under Federal and Florida law pertaining to voter registration for persons with disabilities.”⁹

While the parties litigated the matter of attorney fees,¹⁰ it came to the court’s attention that the plaintiffs’ attorney did not know whether either individual plaintiff was a resident of Florida, entitled to vote in Florida, or registered to vote in Florida.¹¹ Moreover, the plaintiffs’ attorney had also named one of the Florida plaintiffs in an action brought in the District of Maryland.¹² Although this called into question the court’s jurisdiction to hear the action, Judge Hinkle determined that the organizational plaintiff was able to contract with the defendants for a settlement of the action.¹³ Judge Hinkle awarded the plaintiffs zero attorney fees.¹⁴

7. *Id.* at 1209.

8. *Id.* at 1208 n.1.

9. [Settlement Order](#), *Nat’l Coal. for Students with Disabilities Educ. & Legal Def. Fund*, No. 4:00-cv-442 (N.D. Fla. May 30, 2001), D.E. 106; [Notice of Settlement](#), *id.* (May 3, 2001), D.E. 97; *Nat’l Coal. for Students with Disabilities Educ. & Legal Def. Fund*, 173 F. Supp. 2d at 1275.

10. *See Nat’l Coal. for Students with Disabilities Educ. & Legal Def. Fund*, 173 F. Supp. 2d 1272 (deciding that the plaintiffs were entitled to an award of fees).

11. [Attorney Fees Order](#) at 9–11, *Nat’l Coal. for Students with Disabilities Educ. & Legal Def. Fund*, No. 4:00-cv-442 (N.D. Fla. Mar. 31, 2003), D.E. 180.

12. *Id.* at 10; *see Nat’l Coal. for Students with Disabilities Educ. & Legal Def. Fund v. Scales*, 150 F. Supp. 2d 845, 847–48 (D. Md. 2001).

13. [Attorney Fees Order](#), *supra* note 11, at 20–23.

14. *Id.* at 16–18 (“Nobody was required to change any practice with respect to registration of voters. . . . Plaintiffs also have been unable to identify any . . . person who has registered to vote as a result of the Settlement Agreement and judgment enforcing it.”), *aff’d*, 90 F. App’x 383 (11th Cir. 2003) (table).