

Direct-Mail Campaigning to Absentee Voters

Sheldon v. Grimes (David L. Bunning, E.D. Ky. 2:14-cv-60)

A primary-election candidate filed a federal complaint to obtain mailing addresses for persons who had been sent absentee ballots so that she could target her campaign to them. The district judge declined to invalidate the state law that protected the voters' temporary mailing addresses from the candidate.

Subject: Campaign activities. *Topics:* Campaign materials; absentee ballots; primary election.

A candidate in a May 20, 2014, primary election for state senate filed a federal complaint in the Eastern District of Kentucky on April 3 challenging the constitutionality of local election officials' refusal, pursuant to a new statute, to provide the candidate with mailing addresses for voters who had requested absentee ballots so that the candidate could inform the voters "about her background as a veteran, mother, and lifelong Republican."¹ With her complaint, the candidate filed a motion for a temporary restraining order.²

On April 4, Judge David L. Bunning set a telephonic status conference for April 7.³ At the conference, he ordered briefing, including on legislative history, to be completed on April 16.⁴ At an April 18 teleconference, he set the case for hearing on April 28.⁵

At the April 28 hearing, he denied the candidate immediate relief,⁶ and he issued an opinion with his reasons on May 1.⁷ "At the heart of this case lies one simple question: Under the First Amendment, does the government have a duty to disclose information to candidates in order to facilitate their campaign efforts? The Court thinks not."⁸

Following additional briefing, Judge Bunning granted the defendants' motion to dismiss the case on August 26.⁹ An appeal was dismissed as settled on November 13.¹⁰

1. Complaint, *Sheldon v. Grimes*, No. 2:14-cv-60 (E.D. Ky. Apr. 3, 2014), D.E. 1; *see* Amended Complaint, *id.* (Apr. 11, 2014), D.E. 13.

2. Temporary-Restraining-Order Motion, *id.* (Apr. 3, 2014), D.E. 5.

3. Order, *id.* (Apr. 4, 2014), D.E. 7.

4. Order, *id.* (Apr. 7, 2014), D.E. 8.

5. Order, *id.* (Apr. 18, 2014), D.E. 23; *see* Order, *id.* (Apr. 16, 2014), D.E. 21 (setting a teleconference for April 18, 2014).

6. Minutes, *id.* (Apr. 28, 2014), D.E. 25.

7. *Sheldon v. Grimes*, 18 F. Supp. 3d 854 (E.D. Ky. 2014).

8. *Id.* at 856.

9. Opinion, *Sheldon*, No. 2:14-cv-60 (E.D. Ky. Aug. 26, 2014), D.E. 46.

10. Order, *Sheldon v. Kentucky*, No. 14-6192 (6th Cir. Nov. 13, 2014), D.E. 13.