

## Voter Intimidation by Stealth

### *New Jersey Democratic State Committee v. New Jersey Oath Keepers (Jose L. Linares, D.N.J. 2:16-cv-8230)*

Four days before a general election, a party committee filed a federal complaint to enjoin voter intimidation allegedly encouraged by a website that urged “incognito intelligence gathering” on election day. The district court “fail[ed] to see how Defendant’s members could intimidate voters who are not even aware of their presence.”

*Subject:* Polling-place activities. *Topic:* Campaign materials.

On the Friday before the 2016 general election, a party committee filed a federal complaint in the District of New Jersey to enjoin planned voter intimidation, citing as evidence of the plan a website posting:

Calling all Oath Keepers members! We need you to help prevent criminal vote fraud and attempted criminal voter intimidation on election day, 2016. Therefore, we call on you to form up incognito intelligence gathering and crime spotting teams and go out into the public on election day, dressed to blend in with the public, without any Oath Keepers hat or T shirt on, and with video, still camera, and notepad in hand, to look for and document suspected criminal vote fraud or intimidation activities, by any individuals, groups, or parties, and then report those incidents to your local police.<sup>1</sup>

With its complaint, the committee filed a motion for temporary restraints and injunctive relief.<sup>2</sup>

On Monday, Judge Jose L. Linares denied the committee relief.<sup>3</sup> “Plaintiff has not explained how compliance with the above directive is likely to result in voter intimidation.”<sup>4</sup> “[T]he Court fails to see how Defendant’s members could intimidate voters who are not even aware of their presence.”<sup>5</sup>

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1. Complaint, N.J. Democratic State Comm. v. N.J. Oath Keepers, No. 2:16-cv-8230 (D.N.J. Nov. 4, 2016), D.E. 4; see Matthew McGrath, *GOP Denies Dems’ Voter Intimidation Claim*, Bergen Cty. Record, Nov. 5, 2016, at A3.

2. Motion, *N.J. Democratic State Comm.*, No. 2:16-cv-8230 (D.N.J. Nov. 4, 2016), D.E. 2.

3. Opinion, *id.* (Nov. 7, 2016), D.E. 4; see Kim Lueddeke, *Judge Won’t Bar Oath Keepers from Watching Polls*, Bergen Cty. Record, Nov. 8, 2016, at A6.

Judge Linares retired on May 16, 2019. Federal Judicial Center Biographical Directory of Article III Federal Judges, [www.fjc.gov/history/judges](http://www.fjc.gov/history/judges).

4. Opinion, *supra* note 3, at 3.

5. *Id.* at 4.