

At-Large Election to Districts in Memphis

Operation Rainbow-Push v. Shelby County Election Commission (Jon P. McCalla, W.D. Tenn. 2:06-cv-2451)

A municipality removed a state-court action challenging an election to a commission because the members were to be selected from districts but elected at large. Observing the potential impact on candidates for other offices in the election, the district judge denied the plaintiffs immediate relief.

Subject: District lines. *Topics:* Enjoining elections; section 2 discrimination; equal protection; intervention; removal.

On July 21, 2006, Memphis, its city council, and the county election commission removed an action filed on July 18 in the county chancery court seeking to void an election to Memphis’s charter commission because the members were to be selected from districts but elected at large.¹ Because the election was scheduled for August 3, the plaintiffs—two Memphis residents and an organization—moved on July 24 for an emergency hearing.²

Judge Jon P. McCalla held a hearing on July 24 and ordered additional briefing by July 28, following the plaintiffs’ amending their complaint.³ Judge McCalla allowed another party to intervene in opposition to the plaintiffs.⁴

Noting that “enjoining the election for Charter Commission would effectively enjoin the entire election, and would require all of the candidates, including those for County Mayor, Sheriff, Attorney General, United States Senate and House of Representatives, to continue their campaigns until the election was allowed to proceed,” Judge McCalla denied the plaintiffs immediate relief.⁵ “Plaintiffs have put forward no evidence to demonstrate that the White majority votes sufficiently as a bloc to defeat the black minority’s preferred candidate.”⁶

1. Notice of Removal, *Operation Rainbow-Push, Inc. v. Shelby Cty. Election Comm’n*, No. 2:06-cv-2451 (W.D. Tenn. July 21, 2006), D.E. 1; see Petition for Writ of Mandamus and Action for Declaratory Judgment, *Operation Rainbow-Push, Inc. v. Shelby Cty. Election Comm’n*, No. CH-06-1403 (Tenn. Chancery Ct. Shelby Cty. 13th Dist. July 18, 2006), *attached as Ex. 2*, Notice of Removal, *supra*; see also Lawrence Buser, *Rainbow-Push Sues Over Charter Election*, Memphis Commercial Appeal, July 20, 2006, at B4.

2. Motion, *Operation Rainbow-Push, Inc.*, No. 2:06-cv-2451 (W.D. Tenn. July 24, 2006), D.E. 2.

“Voters were able to vote in advance from July 14 through July 28, 2006.” Opinion at 2, *id.* (Aug. 1, 2006), D.E. 15, 2006 WL 2435081.

3. Order, *id.* (July 25, 2006), D.E. 4 [hereinafter July 25, 2006, Order]; see Amended Complaint, *id.* (July 25, 2006), D.E. 5.

4. July 25, 2006, Order, *supra* note 3; see Intervenor’s Motion to Dismiss, *Operation Rainbow-Push, Inc.*, No. 2:06-cv-2451 (W.D. Tenn. July 27, 2006), D.E. 6.

5. Opinion, *supra* note 2.

6. *Id.* at 9.

On December 22, Judge McCalla dismissed the action because the plaintiffs had not responded to pending dismissal motions.⁷

7. Order, *Operation Rainbow-Push, Inc.*, No. 2:06-cv-2451 (W.D. Tenn. Dec. 22, 2006), D.E. 21; see Order to Show Cause, *id.* (Dec. 8, 2006), D.E. 20.