

Unsuccessful Complaint That Municipal Officers Were Too Incompetent to Oversee an Election

Underwood v. Gulley

(Madeline Hughes Haikala, N.D. Ala. 2:18-cv-1310)

A federal judge denied plaintiffs a preliminary injunction against municipal officers’ overseeing an election scheduled days later. Although there was evidence of improper activity in the past, the evidence was not strong enough to show that the court’s interference with the upcoming election was justified.

Subject: Voting procedures. *Topics:* Enjoining elections; case assignment.

Six individuals filed a federal complaint in the Northern District of Alabama on Thursday, August 16, 2018, against officials of the City of Bessemer—including the mayor and city-council members—who the complaint alleged “should be viewed as unfit to oversee another municipal election.”¹ Among the relief sought was “a preliminary injunction to enjoin each Defendant from having any other role in the upcoming August 2018 elections outside of being allowed to cast a vote or run as a candidate.”² On the day that the case was filed, the court reassigned it from Magistrate Judge John H. England III to District Judge Madeline Hughes Haikala.³

On Friday, Judge Haikala set the case for a telephone conference that afternoon,⁴ and she held a hearing on Monday.⁵ Four days later, she denied the plaintiffs immediate relief.⁶

[T]he plaintiffs have offered evidence that suggests that there may have been some voter intimidation during the 2014 municipal election in Bessemer and that election officials may have tampered with absentee ballots and ballots cast on the day of the election. If ultimately proven on a full record, these would be serious election violations.⁷

But “on the record before it, the Court . . . cannot conclude that there is a substantial likelihood that the plaintiffs will succeed in proving a constitutional violation or a violation of the Voting Rights Act with respect to the August 28, 2018 election.”⁸ Moreover: “Delaying next week’s election to accommodate new officials would impose significant logistical and financial challenges.”⁹

1. Complaint at 2, *Underwood v. Gulley*, No. 2:18-cv-1310 (N.D. Ala. Aug. 16, 2018), D.E. 1.

2. *Id.* at 11; *see* Preliminary-Injunction Motion, *id.* (Aug. 16, 2018), D.E. 2.

3. Reassignment Notice, *id.* (Aug. 16, 2018), D.E. 4.

4. Docket Sheet, *id.* (Aug. 16, 2018).

5. *Id.*

6. Opinion, *id.* (Aug. 24, 2018), D.E. 17, 2018 WL 4052174.

7. *Id.* at 3 (citation omitted).

8. *Id.* at 4.

9. *Id.* at 6.

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Several months after the election, Judge Haikala dismissed the case as moot without opposition from the plaintiffs.¹⁰

10. Order, *id.* (Feb. 12, 2019), D.E. 21.