

## Adequate Polling-Place Resources

*Virginia State Conference of NAACP Branches v. Kaine*  
(Richard L. Williams and Dennis W. Dohnal,  
*E.D. Va. 3:08-cv-692*)

Eight days before the 2008 general election, voters filed a federal complaint charging Virginia with unequal allocation of polling-place resources. A magistrate judge held a settlement conference on the case's third day, after which the plaintiffs decided to withdraw their motion for a preliminary injunction. Two days later, the plaintiffs again sought a preliminary injunction, which the district judge denied on the day before the election. Instead, the judge ordered the posting of notices about curbside voting and that anyone in line at closing time would be able to vote.

*Subject:* Voting procedures. *Topics:* Equal protection; polling hours; intervention; case assignment.

Eight days before the 2008 general election, the Virginia NAACP and three voters filed a federal complaint in the Eastern District of Virginia's Richmond courthouse against Commonwealth of Virginia election officials, charging Virginia with allocating polling-place resources improperly.<sup>1</sup> On the following day, the plaintiffs filed a motion for a preliminary injunction.<sup>2</sup> Local Republican Party organizations moved to intervene on the third day.<sup>3</sup>

The court assigned the case to Judge Richard L. Williams, and it was his practice to refer civil cases to Magistrate Judge Dennis W. Dohnal for preliminary matters and settlement discussions.<sup>4</sup> Judge Dohnal held a settlement conference on the case's third day, October 29.<sup>5</sup> As a result of assurances that the plaintiffs received at the settlement conference, they decided to withdraw their motion for a preliminary injunction.<sup>6</sup> On the case's fifth day, however,

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1. Complaint, *Va. State Conference of NAACP Branches v. Kaine*, No. 3:08-cv-692 (E.D. Va. Oct. 27, 2008), D.E. 1; see Rob Johnson & Michael Sluss, *Concerns Dog Prep for Voting*, *Roanoke Times-Dispatch*, Oct. 29, 2008, at B1; Tyler Whitley & Olympia Meola, *Voter-Protection Group Sues on NAACP's Behalf*, Oct. 28, 2008, at A6.

2. Preliminary-Injunction Motion, *Va. State Conference of NAACP Branches*, No. 3:08-cv-692 (E.D. Va. Oct. 28, 2008), D.E. 4.

3. Intervention Motion, *id.* (Oct. 29, 2008), D.E. 7.

4. Interview with Dennis W. Dohnal, Oct. 26, 2012.

Tim Reagan interviewed retired Judge Dohnal for this report by telephone.

Tim Reagan interviewed retired Judge Dohnal for this report by telephone. Judge Dohnal retired in 2011 and died on May 10, 2015. Judicial Milestones, [www.uscourts.gov/judicial-milestones/dennis-w-dohnal](http://www.uscourts.gov/judicial-milestones/dennis-w-dohnal); see Ellen Robertson, *Service Will Be Tuesday for Dennis W. Dohnal, Former Judge, Mediator*, *Richmond Times-Dispatch*, May 15, 2015, at 5B. Judge Williams died on February 19, 2011. Federal Judicial Center Biographical Directory of Article III Federal Judges, [www.fjc.gov/history/judges](http://www.fjc.gov/history/judges).

5. Docket Sheet, *Va. State Conference of NAACP Branches*, No. 3:08-cv-692 (E.D. Va. Oct. 27, 2008).

6. Order, *id.* (Oct. 30, 2008), D.E. 13; Motion, *id.* (Oct. 30, 2008), D.E. 12; see Tyler Whitley, *NAACP Drops Voting Lawsuit*, *Richmond Times-Dispatch*, Oct. 31, 2008, at A8.

the plaintiffs again sought a preliminary injunction.<sup>7</sup> Judge Williams set a hearing on the motion for the next court day, the day before election day.<sup>8</sup>

At the hearing, Judge Williams granted intervention<sup>9</sup> and denied injunction.<sup>10</sup> He ordered Virginia to post by that evening the availability of curbside voting and the fact that any voter in line by 7:00 p.m. would be allowed to vote.<sup>11</sup> “Additional dissemination of this information will reduce confusion and help ensure as many Virginians as possible can vote in this election.”<sup>12</sup>

The plaintiffs dismissed their action voluntarily on November 17.<sup>13</sup>

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7. Preliminary-Injunction Motion, *Va. State Conference of NAACP Branches*, No. 3:08-cv-692 (E.D. Va. Oct. 31, 2008), D.E. 17.

8. Order, *id.* (Oct. 31, 2008), D.E. 19.

9. Intervention Order, *id.* (Nov. 3, 2008), D.E. 44; Minutes, *id.* (Nov. 3, 2008), D.E. 43.

10. Injunction Denial, *id.* (Nov. 3, 2008), D.E. 45; Minutes, *supra* note 9.

11. Injunction Denial, *supra* note 10; Minutes, *supra* note 9.

12. Injunction Denial, *supra* note 10.

13. Order, *Va. State Conference of NAACP Branches*, No. 3:08-cv-692 (E.D. Va. Nov. 18, 2008), D.E. 51.