

Redistricting Clayton County's Board of Education

Adamson v. Clayton County Elections and Registration Board (Charles A. Pannell, Jr., N.D. Ga. 1:12-cv-1665)

A May 11, 2012, federal complaint alleged malapportionment for a county board of education's district lines, because the lines had not been redrawn after the 2010 census. On the first day of the qualifying period for the primary election, the district judge heard the case and enjoined election procedures until the district lines could be redrawn. With the assistance of the state's reapportionment office, the judge adopted a new districting map in June. There was no primary election that year; all candidates ran in the general election. The court assessed half of the expert's fees to each side.

Subject: District lines. *Topics:* Malapportionment; enjoining elections; case assignment.

Six of Clayton County's nine board-of-education members filed a federal complaint on May 11, 2012, alleging that the board's district lines were unconstitutionally unequal because they had not been redrawn after the 2010 census.¹ District populations ranged from 21,551 to 37,680.² The complaint observed that qualifying for the July 31 primary election would begin on May 23.³

Senior Judge J. Owen Forrester recused himself, and the court reassigned the case to Judge Charles A. Pannell, Jr.⁴ Judge Pannell held a telephone conference with the parties on May 22.⁵ On May 23, the plaintiffs filed a motion for a temporary restraining order and a preliminary injunction against using the malapportioned districts.⁶ Judge Pannell granted the motion at an in-court hearing that day.⁷ His injunction, among other things, put the qualifying period on hold.⁸

1. Complaint, *Anderson v. Clayton Cty. Elections & Registration Bd.*, No. 1:12-cv-1665 (N.D. Ga. May 11, 2012), D.E. 1; *Adamson v. Clayton Cty. Elections & Registration Bd.*, 876 F. Supp. 2d 1347, 1349 (N.D. Ga. 2012).

2. *Adamson*, 876 F. Supp. 2d at 1349.

3. Complaint, *supra* note 1, at 11.

4. Reassignment Order, *Anderson*, No. 1:12-cv-1665 (N.D. Ga. May 22, 2012), D.E. 8.

Tim Reagan interviewed Judge Pannell for this report by telephone on February 5, 2013. Judge Forrester died on July 1, 2014. Federal Judicial Center Biographical Directory of Article III Federal Judges, www.fjc.gov/history/judges.

5. Minutes, *Anderson*, No. 1:12-cv-1665 (N.D. Ga. May 22, 2010), D.E. 10.

6. Motion, *id.* (May 23, 2012), D.E. 12; *see* Opinion at 2, *Adamson v. Clayton Cty. Elections & Registration Bd.*, *id.* (May 23, 2012), D.E. 15 ("Counsel for all parties stipulated that a [temporary restraining order] and preliminary injunction was appropriate in this case, and counsel for the defendants waived the right to respond in writing to the motion and further waived any additional notice of the hearing."); *see also id.* at 1 n.1 (noting that the lead plaintiff's last name was Adamson and not Anderson).

7. Opinion, *supra* note 6; Minutes, *Anderson*, No. 1:12-cv-1665 (N.D. Ga. May 23, 2012),

On June 7, Judge Pannell appointed the legislative and congressional reapportionment office of Georgia's general assembly as an adviser to help him draw district lines.⁹ "Communications between the court and the independent technical advisor may be ex parte and shall be considered part of the judicial deliberative process and therefore shall not be subject to disclosure or subpoena except by court order."¹⁰

Judge Pannell was able to near completion of a draft map after a few hours' work with the expert.¹¹ The expert then made additional refinements to the draft map.¹² Because the school-board members had overlapping terms, Judge Pannell tried to ensure that incumbents would remain in their districts.¹³

On June 15, Judge Pannell filed a proposed map; proposed district populations deviated from the ideal size of 28,824 by 137 persons (0.48%) or fewer.¹⁴ At a June 28 hearing, he adopted his map.¹⁵ There would be no primary election; all candidates would run in the general election.¹⁶ This plan obviated the need for an expensive special election later.¹⁷

On August 1, Judge Pannell ordered each side to pay its own attorney fees and half of the expert's fees of \$3,062.50; Judge Pannell awarded costs to the plaintiffs.¹⁸

D.E. 14; see Curt Yeomans, *Federal Judge: Stop Clayton BOE Elections Immediately*, Clayton News Daily, May 24, 2012 (reporting also, "The school board approved a new map, which they argued was based on 2010 Census data, in January and they then submitted it to the Clayton County Legislative Delegation for legislative approval. It was never brought forth as a piece of legislation, however.").

8. Opinion, *supra* note 6, at 5.

9. Appointment Order, *Adamson*, No. 1:12-cv-1665 (N.D. Ga. June 7, 2012), D.E. 23; *Adamson v. Clayton Cty. Elections & Registration Bd.*, 876 F. Supp. 2d 1347, 1353 (N.D. Ga. 2012).

10. Appointment Order, *supra* note 9, at 2.

11. Interview with Hon. Charles A. Pannell, Jr., Feb. 5, 2013.

12. *Id.*

13. *Id.*

14. Order, *Adamson*, No. 1:12-cv-1665 (N.D. Ga. June 15, 2012), D.E. 29; *Adamson*, 876 F. Supp. 2d at 1355; see Curt Yeomans, *New BOE Map Drawn by Federal Judge*, Clayton News Daily, June 19, 2012.

15. *Adamson*, 876 F. Supp. 2d 1347; Minutes, *Anderson v. Clayton Cty. Elections & Registration Bd.*, No. 1:12-cv-1665 (N.D. Ga. June 28, 2012), D.E. 33; see Curt Yeomans, *School Board Elections Get Green Light*, Clayton News Daily, June 28, 2012.

16. *Adamson*, 876 F. Supp. 2d at 1359.

17. Interview with Hon. Charles A. Pannell, Jr., Feb. 5, 2013.

18. Order, *Adamson*, No. 1:12-cv-1665 (N.D. Ga. Aug. 1, 2012), D.E. 36.