

Wearing Campaign Buttons at the Polls

*American Federation of State, County
and Municipal Employees v. Land*

(Patrick J. Duggan, E.D. Mich. 2:08-cv-14370)

A federal complaint sought relief from proscriptions on wearing campaign buttons or shirts at the general-election polls in 2008. The district court held the restriction on speech to be reasonable, and an appeal was dismissed voluntarily.

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

On October 15, 2008, a labor union and two of its members filed a federal complaint in the Eastern District of Michigan seeking relief from an interpretation of Michigan’s election law that would prohibit the wearing of campaign buttons or shirts while voting in the November 4 general election.¹ The plaintiffs moved for expedited consideration.²

Judge Patrick J. Duggan heard the case on October 27 and denied the plaintiffs relief on the following day.³ Observing that “a regulation affecting protected speech in a nonpublic forum need only be reasonable and viewpoint neutral to pass constitutional muster,” Judge Duggan found “the directive reasonable in light of the purpose of the forum and the surrounding circumstances.”⁴

The plaintiffs moved on October 31 for an expedited appeal.⁵ That day, the court of appeals issued a schedule specifying the completion of briefing by November 1.⁶ Later that day, however, the court reconsidered and ordered the appeal heard in the normal course.⁷ The court granted a voluntary dismissal of the appeal on November 18.⁸

1. Complaint, *Am. Fed’n of State, Cty. & Mun. Emps. v. Land*, No. 2:08-cv-14370 (E.D. Mich. Oct. 15, 2008), D.E. 1; *Am. Fed’n of State, Cty. & Mun. Emps. v. Land*, 583 F. Supp. 2d 840, 843 (E.D. Mich. 2008); see *Union Files Suit Over Campaign Gear*, Detroit Free Press, Oct. 16, 2008, at B3.

2. Motion, *Am. Fed’n of State, Cty. & Mun. Emps.*, No. 2:08-cv-14370 (E.D. Mich. Oct. 15, 2008), D.E. 3; *Am. Fed’n of State, Cty. & Mun. Emps.*, 583 F. Supp. 2d at 843.

3. *Am. Fed’n of State, Cty. & Mun. Emps.*, 583 F. Supp. 2d 840; Docket Sheet, *Am. Fed’n of State, Cty. & Mun. Emps.*, No. 2:08-cv-14370 (E.D. Mich. Oct. 15, 2008).

Judge Duggan died on March 18, 2020. Federal Judicial Center Biographical Directory of Article III Federal Judges, www.fjc.gov/history/judges.

4. *Am. Fed’n of State, Cty. & Mun. Emps.*, 583 F. Supp. 2d at 847, 849.

5. Motion, *Am. Fed’n of State, Cty. & Mun. Emps. v. Land*, No. 08-2388 (6th Cir. Oct. 31, 2008), D.E. 5.

6. Briefing Schedule, *id.* (Oct. 31, 2008), D.E. 16.

7. Order, *id.* (Oct. 31, 2008), D.E. 21.

8. Order, *id.* (Nov. 18, 2008), D.E. 27.