

Discriminatory Voter Challengers

Curington v. Richardson

(*Charles R. Simpson III, W.D. Ky. 3:03-cv-665*)

On the Friday before a general election, a federal complaint alleged that a political party was going to selectively position voter challengers in predominantly African American precincts. On Monday, a state judge denied immediate relief in a related state-court action, and the federal plaintiffs made a tactical decision to withdraw their request in federal court for immediate relief. A year and a half later, the parties settled the case.

Subject: Polling-place activities. *Topics:* Registration challenges; equal protection; matters for state courts.

On Friday, October 31, 2003, five voters filed a class-action federal complaint in the Western District of Kentucky’s Louisville courthouse, alleging that the Jefferson County Republican Party planned to selectively position voter challengers in 59 predominantly African American precincts on the following Tuesday’s general-election day.¹ The court assigned the case to Judge Charles R. Simpson III.²

On Monday, the plaintiffs filed a motion for a temporary restraining order.³ That day, however, the plaintiffs’ ACLU attorney informed Judge Simpson that he was not prepared to pursue the motion after all.⁴ The *Louisville Courier-Journal* reported that the attorney said that “passing up the opportunity for a hearing was a tactical maneuver intended to have a judge decide the case on its merits.”⁵ Also on that Monday, a state-court judge denied immediate relief in an action filed in state court.⁶

On November 26, Judge Simpson referred the case to a magistrate judge for pretrial matters.⁷ Following orderly pretrial proceedings,⁸ the parties announced a settlement on April 13, 2005.⁹ Judge Simpson dismissed the action on May 9.¹⁰

1. Complaint, *Curington v. Richardson*, No. 3:03-cv-665 (W.D. Ky. Oct. 31, 2003), D.E. 1; see Gregory A. Hall, *ACLU Files Suit to Block GOP Poll Challengers*, *Louisville Courier-J.*, Nov. 1, 2003, at A1.

2. Assignment Notice, *Curington*, No. 3:03-cv-665 (W.D. Ky. Oct. 31, 2003), D.E. 2.

3. Temporary-Restraining-Order Motion, *id.* (Nov. 3, 2003), D.E. 3; see also Amendments to Complaint, *id.* (Nov. 3, 2003), D.E. 4.

4. Order, *id.* (Nov. 3, 2003), D.E. 5.

5. Joseph Gerth & Sheldon S. Shafer, *Judge Allows Vote Challengers*, *Louisville Courier-J.*, Nov. 4, 2003, at A1.

6. See *id.*

7. Order, *Curington*, No. 3:03-cv-665 (W.D. Ky. Nov. 26, 2003), D.E. 9.

8. *E.g.*, Order, *id.* (Apr. 27, 2004), D.E. 12 (specifying minutes of a telephonic status conference).

9. Agreed Motion to Dismiss, *id.* (Apr. 13, 2005), D.E. 16.

10. Order, *id.* (May 9, 2005), D.E. 17.