

Seeking Two Nominations at the Same Time

Avila v. Sandoval (John W. Darrah, N.D. Ill. 1:02-cv-1222)

A candidate for member of a water-reclamation-district commission filed a federal complaint seeking to have his opponent removed from the primary-election ballot because the opponent was also seeking a nomination for the state senate. The district judge granted the plaintiff immediate relief, and the opponent withdrew from the commission race.

Subject: Getting on the ballot. *Topics:* Getting on the ballot; primary election; absentee ballots.

Frank Avila, a candidate for the Democratic nomination for member of the Metropolitan Water Reclamation District of Greater Chicago's commission, filed a federal complaint on February 20, 2002, seeking to have his opponent Martin Sandoval removed from the March 19 ballot because Sandoval was also running for the Democratic nomination for Illinois's senate.¹ With his complaint, Avila filed a motion for a temporary restraining order or a preliminary injunction.²

Judge John W. Darrah heard the matter on February 26 and granted Avila immediate relief:

Plaintiff's emergency motion for a [temporary restraining order] is granted. Court suspends absentee ballot voting by the City of Chicago Board of Elections and David Orr, Cook County Clerk until Monday March 4, 2002 at 9:00 a.m. pending a hearing on the merits of this case. Absentee ballot voting in the City of Chicago and Suburban Cook County is suspended. The Court orders a mandatory injunction for the City of Chicago Board of Election Commissioners and David Orr, Clerk, Cook County to purchase "No Candidate" stickers to be put over the name of Martin Sandoval pending the outcome of hearing on Monday, March 4, 2002.³

Pursuant to this order, Sandoval withdrew from the commission race.⁴

Avila and Sandoval, both now running unopposed, won their nomination contests.⁵ On September 3, Judge Darrah dismissed the action as moot.⁶

1. Complaint, *Avila v. Sandoval*, No. 1:02-cv-1222 (N.D. Ill. Feb. 20, 2002), D.E. 1.

2. Motion, *id.* (Feb. 20, 2002), D.E. 4.

3. Minutes, *id.* (Feb. 26, 2002), D.E. 6.

Judge Darrah died on March 23, 2017. Federal Judicial Center Biographical Directory of Article III Federal Judges, www.fjc.gov/history/judges.

4. Opinion at 3–4, *Avila*, No. 1:02-cv-1222 (N.D. Ill. Sept. 3, 2002), D.E. 15; *see Cook Absentee Ballots Cleared to Mail*, Chi. Trib., Mar. 1, 2002, at 6; Lucio Guerrero, *Senate Candidate Must Drop 2nd Race*, Chi. Sun-Times, Mar. 1, 2002, at 10.

5. Opinion, *supra* note 4, at 4.

6. *Id.* at 5.