

Enjoining a Referendum on a Property Transfer

Petitioners Alliance v. City Council

(Sharon Lovelace Blackburn, N.D. Ala. 2:01-cv-497)

On the day before a special election, five voters filed a federal complaint seeking to enjoin transfer of assets in frustration of a ballot question, which was a referendum on the city's transfer of assets to a water-and-sewer board. The judge denied immediate injunctive relief and, in time, granted the defendants a dismissal because the plaintiffs had not alleged infringement of the right to vote.

Subject: Ballot measures. *Topic:* Ballot measure.

On the day before a February 27, 2001, special election in Birmingham, Alabama, following unsuccessful litigation in state courts, five voters filed a federal complaint in the Northern District of Alabama seeking to enjoin transfer of assets in frustration of a ballot question, which was a referendum on the city's transfer of assets to a water-and-sewer board.¹ (The board had transferred the assets to the city in 1998.²) With their complaint, the voters filed a motion for a temporary restraining order.³

Judge Sharon Lovelace Blackburn denied the plaintiffs immediate injunctive relief that same day.⁴ On the following day, citizens voted to overturn the transfer.⁵

On March 15, 2002, Judge Blackburn granted the defendants a dismissal because the plaintiffs had not alleged infringement of the right to vote.⁶

1. Complaint, *Petitioners Alliance v. City Council*, No. 2:01-cv-497 (N.D. Ala. Feb. 26, 2001), D.E. 1.

2. Opinion at 2, *id.* (Mar. 15, 2002), D.E. 8; see Chris Scribner, *Underlying Referendum Issue: Kincaid vs. Council*, Birmingham News, Jan. 16, 2001, at 1.

3. Temporary-Restraining-Order Motion, *Petitioners Alliance*, No. 2:01-cv-497 (N.D. Ala. Feb. 26, 2001), D.E. 2.

4. Order, *id.* (Feb. 26, 2001), D.E. 3; see Chris Scribner, *Election On, Doesn't Count "Irrelevant" Vote*, Birmingham News, Feb. 27, 2001, at 1.

5. Opinion, *supra* note 2, at 4; see Chris Scribner & Benjamin Niolet, *Vote Goes Big for Referendum*, Birmingham News, Feb. 28, 2001, at 1 (reporting a vote of 13,923 to 3,340).

6. Opinion, *supra* note 2.