

Spanish-Language Ballots in Philadelphia

United States v. City of Philadelphia
(Petrese B. Tucker, E.D. Pa. 2:06-cv-4592)

Twenty-five days before the November 2006 general election, the Justice Department filed a civil complaint against Philadelphia for failure to provide Spanish-language election resources in violation of sections 203 and 208 of the Voting Rights Act. Twelve days later, the Justice Department moved for a temporary restraining order or a preliminary injunction enforcing the Voting Rights Act and appointing federal election observers. The court declined to order federal observers because of the government's weak case dilatorily brought.

Subject: Voting procedures. *Topics:* Ballot language; laches; three-judge court.

Twenty-five days before the November 2006 general election, the Justice Department filed a civil complaint against Philadelphia for failure to provide Spanish-language election resources in violation of sections 203 and 208 of the Voting Rights Act.¹

Pursuant to section 203(b), the Director of the Census made the unreviewable determination that Philadelphia County was among the political subdivisions in the U.S. whose citizens were more than 5% Spanish speakers.² Section 203, therefore, required the county to provide election materials in Spanish.³ Section 208 entitled a voter who could not read or write to assistance from a person of the voter's choice.⁴ The circuit's chief judge appointed a three-judge district court to hear the section 203 claims, as required by section 204.⁵

On October 20, one week after the complaint was filed, Judge Petrese B. Tucker set a status conference for October 24.⁶ On October 25, the Justice Department moved for a temporary restraining order or a preliminary injunction enforcing the Voting Rights Act and appointing federal election observers.⁷ Circuit Judge D. Brooks Smith and District Judges Tucker and Harvey Bartle III heard the motion on Friday, November 3.⁸ That day, they de-

1. Complaint, *United States v. City of Philadelphia*, No. 2:06-cv-4592 (E.D. Pa. Oct. 13, 2006), D.E. 1; *see* Amended Complaint, *id.* (Apr. 26, 2007), D.E. 35.

2. 67 Fed. Reg. 48,871, 48,875 (July 26, 2002).

3. Voting Rights Act § 203, Pub. L. No. 94-73, 89 Stat. 400, 402 (1975), *as amended*, 52 U.S.C. § 10503.

4. *Id.* § 208, Pub. L. No. 97-205, 96 Stat. 131, 134 (1982), 52 U.S.C. § 10508.

5. Designation, *City of Philadelphia*, No. 2:06-cv-4592 (E.D. Pa. Oct. 20, 2006), D.E. 5; *see* Voting Rights Act § 203, *as amended*, 52 U.S.C. § 10504.

6. Order, *City of Philadelphia*, No. 2:06-cv-4592 (E.D. Pa. Oct. 20, 2006), D.E. 7.

7. Motion, *id.* (Oct. 25, 2006), D.E. 9; *see* Marcia Gelbart, *Phila. Opposes U.S. Observers at Polls*, *Phila. Inquirer*, Oct. 27, 2006, at B1.

8. *See* Notice, *City of Philadelphia*, No. 2:06-cv-4592 (E.D. Pa. Nov. 2, 2006), D.E. 19.

nied the motion,⁹ and they issued an opinion supporting their decision on election day.¹⁰

The court declined to order federal observers because of the government's weak case dilatorily brought.¹¹ On June 1, 2007, Judge Tucker approved a stipulated dismissal of the case.¹²

9. Order, *id.* (Nov. 3, 2006), D.E. 25.

10. Opinion, *id.* (Nov. 8, 2006), D.E. 27, 2006 WL 3922115.

11. *Id.*

12. Order, *City of Philadelphia*, No. 2:06-cv-4592 (E.D. Pa. June 1, 2007), D.E. 37.