

Disqualifying Inactive Voters from Candidacy Petitions

Cunningham v. Chicago Board of Election Commissioners
(James B. Moran, N.D. Ill. 1:03-cv-1160)

A February 18, 2003, federal complaint alleged improper disqualification of candidates because of petition signatures by inactive voters. On February 21, the district judge denied the plaintiffs immediate relief because they had not shown that their preferred candidates would be on the ballot but for the disqualification of signatures by inactive voters. The issue was resolved by stipulation in a subsequent case.

Subject: Getting on the ballot. *Topic:* Getting on the ballot.

On February 18, 2003, eight voters and five political officials filed a federal complaint in the Northern District of Illinois challenging the disqualification of two candidates for a February 25 election for Chicago's city clerk and fourth ward alderman.¹ The complaint alleged improper disqualification of petition signatures by inactive voters.² With their complaint, the plaintiffs filed a motion for a preliminary injunction.³

The political plaintiffs were Jesse Jackson, as president of Rainbow Push, and four legislators for legislative districts including the residences of the voter plaintiffs, who were suing on behalf of their "fiduciary responsibility to ensure enforcement of federal and state voting laws and ensuring equal treatment under the law": three members of the U.S. Congress and one member of Illinois's senate.⁴ The plaintiffs named as defendants Chicago's board of election commissioners and its members.⁵

On February 19, Judge James B. Moran took the plaintiffs' motion under advisement and ordered the plaintiffs to respond by the following day to the defendants' motion to dismiss the action.⁶ On February 21, Judge Moran denied the plaintiffs preliminary relief on concluding that they had not shown

1. Complaint, *Cunningham v. Chi. Bd. of Election Comm'rs*, No. 1:03-cv-1160 (N.D. Ill. Feb. 18, 2003), D.E. 1 [hereinafter *Cunningham* Complaint]; see Dave Newbart, *Lawsuit Aims to Block Vote Over City Clerk Ballot*, Chi. Sun-Times, Feb. 19, 2003, at 16; Fran Spielman, *Clerk Candidate, Former Alderman Off the Ballot*, Chi. Sun-Times, Feb. 13, 2003, at 7 (reporting that inactive voters were voters who had not voted in the previous two elections); *Suit Seeks to Delay Election*, Chi. Trib., Feb. 19, 2003, at 5.

2. *Cunningham* Complaint, *supra* note 1, at 2–5.

3. Preliminary-Injunction Motion, *Cunningham*, No. 1:03-cv-1160 (N.D. Ill. Feb. 18, 2003), D.E. 2.

4. *Cunningham* Complaint, *supra* note 1, at 6–7 (describing plaintiffs Jesse Jackson, Jr., Bobby Rush, Danny K. Davis, and James T. Meeks).

5. *Cunningham* Complaint, *supra* note 1, at 7–8.

6. Minutes, *Cunningham*, No. 1:03-cv-1160 (N.D. Ill. Feb. 19, 2003), D.E. 5.

Judge Moran died on April 21, 2009. Federal Judicial Center Biographical Directory of Article III Federal Judges [hereinafter FJC Biographical Directory], www.fjc.gov/history/judges.

that their preferred candidates would be on the ballot but for the complaint's issue respecting inactive voters.⁷

On April 3, Judge Moran dismissed the action for lack of prosecution.⁸

On April 30, six of the original voter plaintiffs plus eight others filed another federal complaint charging that the policy of disqualifying candidacy petition signatures by inactive voters had a disparate impact on African American voters.⁹ Judge George W. Lindberg approved a stipulated dismissal of the action on September 9.¹⁰

7. Minutes, *Cunningham*, No. 1:03-cv-1160 (N.D. Ill. Feb. 21, 2003), D.E. 7, 2003 WL 444023.

8. Minutes, *id.* (Apr. 3, 2003), D.E. 8.

9. Complaint, *Peery v. Bd. of Election Comm'rs*, No. 1:03-cv-2917 (N.D. Ill. Apr. 30, 2003), D.E. 1.

10. Minutes, *Peery*, No. 1:03-cv-2917 (N.D. Ill. Apr. 30, 2003), D.E. 10.

Judge Lindberg died on March 19, 2010. FJC Biographical Directory, *supra* note 6.