

## Moving a Town's Only Polling Place Outside of Town to Accommodate Civic-Center Construction

*LULAC Kansas v. Cox*  
(*Daniel D. Crabtree, D. Kan. 2:18-cv-2572*)

A district judge denied an emergency injunction against moving a town's sole polling place to a location outside of town after the judge heard testimony that voters would be provided with transportation to the new location.

*Subject:* Voting procedures. *Topics:* Poll locations; recusal; case assignment.

Eleven days before the November 6, 2018, general election, a civil-rights organization and a voter filed a federal complaint in the District of Kansas's Kansas City courthouse against the Ford County clerk, challenging her decision to move Dodge City's sole voting location to a place outside the city and alleging that this would have a disproportionate impact on Hispanic voters.<sup>1</sup> With their complaint, the plaintiffs filed a motion for a temporary restraining order requiring the clerk to add a polling place within the city.<sup>2</sup>

The reason for the move was planned construction near the civic center.<sup>3</sup>

On the day that the case was filed, Judge John W. Lungstrum recused himself from hearing the case, so the court reassigned it to Judge Daniel D. Crabtree.<sup>4</sup> Three days later, the county clerk moved for a transfer of the case to the closer Wichita courthouse.<sup>5</sup> On Monday, October 29, Judge Crabtree had a telephone conference with the parties,<sup>6</sup> and he held a hearing on November 1.<sup>7</sup> He began,

Let me just give you an overview of what my availability is and isn't. I have a person over on the Kansas City criminal docket who arguably is eligible for release from federal custody today, and his sentencing hearing is set at 1:30. And so I plan to be there for that sentencing hearing. I've set aside the time that I have available. I do want to travel over there in compliance with the traffic laws.<sup>8</sup>

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1. Complaint, *LULAC Kan. v. Cox*, No. 2:18-cv-2572 (D. Kan. Oct. 26, 2018), D.E. 1; *Rangel-Lopez v. Cox*, 344 F. Supp. 3d 1285, 1287 (D. Kan. 2018); see Amended Complaint, *LULAC Kan.*, No. 2:18-cv-2572 (D. Kan. Oct. 28, 2018), D.E. 7.

2. Temporary-Restraining-Order Motion, *LULAC Kan.*, No. 2:18-cv-2572 (D. Kan. Oct. 26, 2018), D.E. 4; *Rangel-Lopez*, 344 F. Supp. 3d at 1287.

3. *Rangel-Lopez*, 344 F. Supp. 3d at 1287.

4. Docket Sheet, *LULAC Kan.*, No. 2:18-cv-2572 (D. Kan. Oct. 26, 2018) (D.E. 6).

5. Transfer Motion, *id.* (Oct. 29, 2018), D.E. 13.

6. Minutes, *id.* (Oct. 29, 2018), D.E. 15.

7. Minutes, *id.* (Nov. 1, 2018), D.E. 21.

8. Transcript at 5, *id.* (Oct. 29, 2018, filed Nov. 2, 2018), D.E. 23.

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At the hearing, the county clerk testified that notices in English and in Spanish notified voters that the county would provide door-to-door transportation to the new polling place, that notices of the move would be posted at the old polling place, and that transportation would be provided to voters from there to the new polling place.<sup>9</sup>

On the day of the hearing, Judge Crabtree declined for two main reasons to order that the civic-center polling place be reopened: (1) it would not be in the public interest to change the polling location so close to the election, and (2) the plaintiffs had not demonstrated a constitutional violation.<sup>10</sup> But Judge Crabtree was troubled by evidence of the county clerk's possibly dismissive responses to efforts by the ACLU to facilitate voter participation.<sup>11</sup>

Judge Crabtree granted a voluntary dismissal of the action on January 30, 2019.<sup>12</sup>

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9. *Rangel-Lopez v. Cox*, 344 F. Supp. 3d 1285, 1288 (D. Kan. 2018).

10. *Id.* at 1290–91.

11. *Id.* at 1288–89, 1291; see Amy Gardner, *Fears for Ballot Integrity and Access Are Growing*, Wash. Post, Nov. 5, 2018, at A1.

12. Dismissal Order, *LULAC Kan.*, No. 2:18-cv-2572 (D. Kan. Jan. 30, 2019), D.E. 39.