

Malapportioned City Commission Districts

Wright v. City of Albany
(*W. Louis Sands, M.D. Ga. 1:03-cv-148*)

The district court enjoined the November 2003 election for Albany, Georgia's board of commissioners on a September 24 federal complaint that the commission districts were malapportioned. District lines reflecting the 2000 census had not yet received preclearance pursuant to section 5 of the Voting Rights Act. The judge permitted a mayoral candidate, elected at large, to intervene in an unsuccessful attempt to protect the mayoral election's going forward as planned. With the assistance of the state legislature's reapportionment services office, the judge drew district lines and set an election for February 10, 2004. On the day of the election, the judge kept the polls open until 9:00 p.m. because of problems at some polls. The plaintiffs recovered \$35,647.75 in attorney fees and expenses.

Subject: District lines. *Topics:* Malapportionment; enjoining elections; section 5 preclearance; intervention; polling hours; attorney fees.

On September 24, 2003, five voters filed a federal complaint in the Middle District of Georgia seeking to enjoin the November 4 elections to the City of Albany's board of commissioners because the commission districts were malapportioned.¹ Five days later, the plaintiffs filed a motion for a preliminary injunction.²

On October 3, Judge W. Louis Sands set the matter for hearing on October 6.³ On October 6, a mayoral candidate sought to intervene as a plaintiff to protect his interest in the mayoral election's going forward.⁴ Judge Sands granted intervention.⁵

Judge Sands held hearings on October 6 and 9.⁶ On October 9, the parties stipulated that redistricting after the 2000 census had been denied section 5 preclearance by the Justice Department on September 23, 2002, and the department posed questions on August 25, 2003, regarding a revised districting plan.⁷

1. Complaint, *Wright v. City of Albany*, No. 1:03-cv-148 (M.D. Ga. Sept. 24, 2003), D.E. 1.

2. Preliminary-Injunction Motion, *id.* (Sept. 29, 2003), D.E. 2.

3. Order, *id.* (Oct. 3, 2003), D.E. 3.

4. Intervention Motion, *id.* (Oct. 6, 2003), D.E. 4.

5. Minutes, *id.* (Oct. 9, 2003), D.E. 28.

6. *Id.*

7. Stipulation, *Wright*, No. 1:03-cv-148 (M.D. Ga. Oct. 9, 2003), D.E. 27; see Voting Rights Act of 1965, Pub. L. No. 89-110, § 5, 79 Stat. 437, 439, *as amended*, 52 U.S.C. § 10304 (requiring preclearance of changes to voting procedures in jurisdictions with a certified history of discrimination).

On June 25, 2013, the Supreme Court declined to hold section 5 unconstitutional, but the Court did hold unconstitutional the criteria for which jurisdictions require section 5 pre-

On October 16, Judge Sands enjoined the upcoming election until proper district lines could be drawn.⁸ He did not grant an exception for the position of mayor, because the mayor was also a voting member of the malapportioned commission.⁹

On December 24, Judge Sands approved a new districting plan drawn up, at the plaintiffs' request, by the director of the legislative reapportionment services office for Georgia's general assembly, adjusted to ensure that both of an incumbent's residences were in the incumbent's district.¹⁰ Judge Sands ordered that a special election for the mayor and the three expired commission seats be held on February 10, 2004.¹¹

In response to an election-day motion for relief from election problems at some polls,¹² Judge Sands held a 12:30 p.m. hearing¹³ and ordered one polling place to remain open until 9:00 p.m.¹⁴ The intervenor who was a candidate for mayor won his election.¹⁵

On August 19, Judge Sands awarded the plaintiffs \$35,647.75 in attorney fees and expenses.¹⁶

clearance. *Shelby County v. Holder*, 570 U.S. 529 (2013).

8. Injunction, *Wright*, No. 1:03-cv-148 (M.D. Ga. Oct. 16, 2003), D.E. 26.

9. *Id.* at 6–9.

10. *Wright v. City of Albany*, 306 F. Supp. 2d 1228 (M.D. Ga. 2003).

11. *Id.* at 1240.

12. Emergency Motion, *Wright*, No. 1:03-cv-148 (M.D. Ga. Feb. 10, 2004), D.E. 68.

13. Order, *id.* (Feb. 10, 2004), D.E. 69.

14. Order, *id.* (Feb. 12, 2004), D.E. 73; Minutes, *id.* (Feb. 10, 2004), D.E. 70.

15. See Bill Torpy, *Albany Elects First Black Mayor*, Atlanta J.-Const., Feb. 13, 2004, at D1.

16. Order, *id.* (Aug. 19, 2004), D.E. 78; see Receipt, *id.* (Sept. 28, 2004), D.E. 80.