

Nullifying University Students’ Voter Registrations

Copeland v. Priest

(George Howard, Jr., E.D. Ark. 4:02-cv-675)

An October 25, 2002, federal complaint sought the restoration of voter registrations for students and other persons living in university housing. The first judge assigned recused himself because he was out of town, and the second judge recused himself because one plaintiff’s father was the governor, whose opponent the judge’s wife supported. A third judge granted the plaintiffs relief, finding that the state judge’s order nullifying registrations improperly created “an irrebuttable presumption that would-be voters who live at a university address and are not members of the staff at a university are not residents.” The court awarded the plaintiffs \$28,221.92 in attorney fees and costs.

Subject: Nullifying registrations. *Topics:* Student registration; registration challenges; intervention; matters for state courts; case assignment; attorney fees.

Four students at Ouachita Baptist University and another student’s wife filed a federal class-action complaint in the Eastern District of Arkansas on October 25, 2002, to restore to the voting rolls students and other persons living in university housing.¹ With their complaint, the plaintiffs filed a motion for a temporary restraining order.²

The court assigned the case to Judge G. Thomas Eisele, but because Judge Eisele was to be out of town for two weeks, he recused himself, and the court assigned the case to Judge William R. Wilson, Jr.³ Judge Wilson, now known as Judge Billy Roy Wilson, also recused himself because one of the plaintiffs was Governor Huckabee’s daughter; the court reassigned the case to Judge George Howard, Jr.⁴

1. Complaint, *Copeland v. Priest*, No. 4:02-cv-675 (E.D. Ark. Oct. 25, 2002), D.E. 1; *see Ruling Bars Student Voters, Suit Charges*, St. Louis Post-Dispatch, Oct. 26, 2002, at 26; *Suit Claims Campus Local Voting Address*, Akron Beacon J., Oct. 28, 2002, at A3.

2. Temporary-Restraining-Order Motion, *Copeland*, No. 4:02-cv-675 (E.D. Ark. Oct. 25, 2002), D.E. 2.

3. Transfer Order, *id.* (Oct. 25, 2002), D.E. 5.

Judge Eisele died on November 26, 2017. Federal Judicial Center Biographical Directory of Article III Federal Judges [hereinafter FJC Biographical Directory], www.fjc.gov/history/judges.

4. Transfer Order, *Copeland*, No. 4:02-cv-675 (E.D. Ark. Oct. 28, 2002), D.E. 6; *see Court Asked to Shun Student Suit*, Memphis Commercial Appeal, Oct. 29, 2002, at B6 [hereinafter *Asked to Shun*] (“U.S. Dist. Judge Bill Wilson withdrew from hearing the case because his wife contributed to and is active in the campaign of Jimmie Lou Fisher, Huckabee’s Democratic challenger in the Nov. 5 general election.”).

Judge Howard died on April 21, 2007. FJC Biographical Directory, *supra* note 3.

On October 28, another voter filed a motion to intervene, opposing the complaint as the person whose state-court action resulted in the order creating the plaintiffs' grievance.⁵ An amended complaint filed that day added the governor as a defendant.⁶ The parties filed a joint stipulation of facts on the following day.⁷

On October 30, Judge Howard issued a temporary restraining order requiring election officials to restore voter registrations purged as a result of the state judge's order.⁸ Noting that no defendant opposed the plaintiffs' complaint, Judge Howard concluded that the state judge's order improperly "creates an irrebuttable presumption that would-be voters who live at a university address and are not members of the staff at a university are not residents of Clark County and are therefore ineligible to vote in Clark County."⁹

Judge Howard denied the motion to intervene for procedural defects.¹⁰ On November 21, 2003, Judge Howard awarded the plaintiffs \$28,221.92 in attorney fees and costs.¹¹

5. Intervention Motion, *Copeland*, No. 4:02-cv-675 (E.D. Ark. Oct. 28, 2002), D.E. 11; see Motion That the Court Abstain from These Proceedings or, Alternatively, Motion to Dismiss for Improper Venue, *id.* (Oct. 28, 2002), D.E. 8; see also *Asked to Shun*, *supra* note 4.

6. Amended Complaint, *Copeland*, No. 4:02-cv-675 (E.D. Ark. Oct. 28, 2002), D.E. 14; see Adam Liptak, *With Suit, Governor's Daughter Gets a Spotlight*, N.Y. Times, Nov. 1, 2002, at A28.

7. Stipulation, *Copeland*, No. 4:02-cv-675 (E.D. Ark. Oct. 29, 2002), D.E. 15.

8. Temporary Restraining Order at 11, *id.* (Oct. 30, 2002), D.E. 18; see Liptak, *supra* note 6.

An appeal was dismissed as settled. Docket Sheet, *Copeland v. Williams*, No. 03-3956 (8th Cir. May 27, 2003).

9. Temporary Restraining Order, *supra* note 8, at 10.

10. *Id.* at 4-6.

11. Order, *Copeland*, No. 4:02-cv-675 (E.D. Ark. Nov. 21, 2003), D.E. 57.