

Limiting Poll Watchers to Counties of Residence

Republican Party of Pennsylvania v. Cortés
(Gerald J. Pappert, E.D. Pa. 2:16-cv-5524)

Two and one-half weeks before a presidential election, a federal lawsuit challenged a state statute that required poll watchers to serve only in their counties of residence. Five days before the election, the district judge denied the plaintiffs immediate relief because the requirement had a rational basis and because the last-minute filing was not justified.

Subject: Voting procedures. *Topics:* Laches; intervention.

A political party and eight voters filed a federal complaint in the Eastern District of Pennsylvania on October 21, 2016, two and one-half weeks before the presidential election, challenging a requirement that poll watchers serve only in the county of their residence.¹ With their complaint, the plaintiffs filed a motion for a temporary restraining order and a permanent injunction.²

The court set the case for conference on the afternoon of October 24 before Judge Gerald J. Pappert.³ Following the telephone conference, Judge Pappert set the case for hearing on October 28.⁴ On the day of the hearing, “a coalition of Latino community-based organizations serving Philadelphia” moved to intervene as a defendant.⁵

Judge Pappert denied the plaintiffs immediate relief on November 3.⁶ “States have the power to regulate elections.”⁷ There was a rational basis for the requirement: “In short, Pennsylvania opted to design a county-by-county system of elections; in doing so, it ensured as much coherency in this patchwork system as possible.”⁸

Finding that the plaintiffs unreasonably delayed bringing the action, Judge Pappert observed, “There is good reason to avoid last-minute intervention in a state’s election process.”⁹

He accepted the plaintiffs’ voluntary dismissal on January 27, 2017.¹⁰

1. Complaint, *Republican Party of Pa. v. Cortés*, No. 2:16-cv-5524 (E.D. Pa. Oct. 21, 2016), D.E. 1.

2. Motion, *id.* (Oct. 21, 2016), D.E. 2.

3. Notice, *id.* (Oct. 24, 2016), D.E. 4.

4. Order, *id.* (Oct. 28, 2016), D.E. 5.

5. Intervention Motion, *id.* (Oct. 28, 2016), D.E. 14.

6. *Republican Party of Pa. v. Cortés*, 218 F. Supp. 3d 396 (E.D. Pa. 2016).

7. *Id.* at 401.

8. *Id.* at 409.

9. *Id.* at 404.

10. Opinion, *Republican Party of Pa.*, No. 2:16-cv-5524 (E.D. Pa. Jan. 27, 2017), D.E. 27, 2017 WL 386603.