

Improper Support for School-Board Incumbents

Jacob v. Board of Directors

(*G. Thomas Eisele, E.D. Ark. 4:06-cv-1007*)

A federal complaint alleged that incumbent school-board candidates, and not other candidates, were improperly allowed to appear before school-district staff meetings. Just over two weeks later, the district judge denied the plaintiffs immediate relief on a finding that the school board had not conspired to advance the incumbents' candidacies. The incumbents were defeated in the election.

Subject: Campaign activities. *Topics:* Early voting; intervention; equal protection.

Two African American voters filed a federal complaint on August 17, 2006, in the Eastern District of Arkansas, claiming that two White incumbent Little Rock school-board members running to retain their seats in a September 19 election were improperly allowed, “to the exclusion of other candidates, to appear before school employees such as teachers and non certified staff meeting to attend workshops and meetings as a condition of employment.”¹ The complaint also mentioned the election commission’s refusal to establish early voting sites in addition to the county courthouse.²

Pulaski County’s election commission, a defendant, filed an answer and a motion to dismiss the action on Friday, August 25.³ The plaintiffs filed a motion for a preliminary injunction on Monday.⁴ On Tuesday, Judge G. Thomas Eisele issued a four-page letter to the attorneys asking them to address specific questions at a Wednesday afternoon telephone conference.⁵ After hearing from the parties at the telephone conference, Judge Eisele scheduled a hearing for Thursday morning.⁶

On Thursday, African American candidates for the two races in question filed pro se motions to intervene,⁷ which Judge Eisele granted, thereby curing the standing defect of voters challenging the treatment of candidates.⁸

On Friday, Judge Eisele denied the plaintiffs a preliminary injunction, stating that a written opinion would follow.⁹ He concluded in an opinion issued later that day that the plaintiffs had presented no evidence of the alleged

1. Complaint at 4–5, *Jacob v. Bd. of Dirs.*, No. 4:06-cv-1007 (E.D. Ark. Aug. 17, 2006), D.E. 1.

2. *Id.* at 3.

3. Motion to Dismiss, *id.* (Aug. 25, 2006), D.E. 4; Answer, *id.* (Aug. 25, 2006), D.E. 3.

4. Preliminary-Injunction Motion, *id.* (Aug. 28, 2006), D.E. 7.

5. Letter Order, *id.* (Aug. 29, 2006), D.E. 10.

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

6. Docket Sheet, *Jacob*, No. 4:06-cv-1007 (E.D. Ark. Aug. 17, 2006); *see* Minutes, *id.* (Aug. 31, 2006, filed Sept. 1, 2006), D.E. 26.

7. Motions to Intervene, *id.* (Aug. 31, 2006), D.E. 16, 18.

8. Opinion at 3, 22, *id.* (Sept. 1, 2006), D.E. 28 [hereinafter Sept. 1, 2006, Opinion].

9. Letter Order, *id.* (Sept. 1, 2006), D.E. 22.

“conspiratorial conduct by the Defendants to advance the incumbent candidates.”¹⁰ As to the issue of additional early voting locations, “mindful of its importance,” Judge Eisele concluded, “Plaintiffs have failed to present any evidence that the failure to open additional early voting sites results in the protected class having less opportunity to vote than other members of the electorate.”¹¹

On September 28, Judge Eisele denied a second motion for a preliminary injunction establishing additional early voting sites for an October 10 runoff election.¹²

In the event, both intervenors were elected.¹³ On a finding that the plaintiffs did not wish to pursue the case further, Judge Eisele dismissed the action on December 15.¹⁴

10. Sept. 1, 2006, Opinion, *supra* note 8, at 6.

11. *Id.* at 16.

12. Opinion, *Jacob*, No. 4:06-cv-1007 (E.D. Ark. Sept. 28, 2006), D.E. 40, 2006 WL 2792172.

13. See *Little Rock School Board Has First Black Majority*, N.Y. Times, Oct. 13, 2006, at A23; Jennifer Barnett Reed, *A Change of Leadership*, Ark. Times, Nov. 30, 2006, at 13.

14. Order, *Jacob*, No. 4:06-cv-1007 (E.D. Ark. Dec. 15, 2006), D.E. 46; see Order to Show Cause, *id.* (Dec. 5, 2006), D.E. 44.