

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

United States v. Dallas County Commission

850 F.2d 1433 (11th Cir. 1988) · Decided July 13, 1988

SUMMARY

The Eleventh Circuit held that the district court’s remedial election plan for the Dallas County Board of Education did not adequately remedy a violation of Section 2 of the Voting Rights Act because its inclusion of an at-large seat perpetuated the dilution of Black voting strength. The court vacated the plan and directed implementation of a five-single-member-district plan proposed by Dr. Allan Lichtman. The court also dismissed an attempted appeal concerning intervention under Federal Rule of Civil Procedure 24(a) for lack of jurisdiction and upheld the denial of permissive intervention under Rule 24(b).

CASE DETAILS

COURT	United States Court of Appeals for the Eleventh Circuit
WRITING FOR THE COURT	Hatchett, Circuit Judge; Hatchett; Gibson; Hill
JURISDICTION	Federal
DECIDED	July 13, 1988
DISPOSITION	other
PROCEDURAL POSTURE	The United States appealed the district court's final judgment adopting a remedial election plan for the Dallas County Board of Education after finding that the at-large electoral system diluted Black voting strength in violation of section 2 of the Voting Rights Act. Applicants for intervention also appealed the denial of their motions to intervene.
STANDARD OF REVIEW	The adequacy of the remedial election plan was reviewed under section 2 of the Voting Rights Act; factual findings underlying the plan were reviewed for clear error. Permissive intervention was reviewed for abuse of discretion. The denial of intervention as of right was treated as a final appealable order subject to the applicable appellate filing deadline.
PRECEDENTIAL VALUE	Published federal appellate opinion; precedential within the Eleventh Circuit subject to later authority.
PARTIES	United States v. Dallas County Commission defendants, Dallas County Board of Education

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QUESTIONS PRESENTED

1. Whether the district court's remedial election plan for the Dallas County Board of Education complied with section 2 of the Voting Rights Act.
2. Whether the applicants' appeal from denial of intervention as of right was timely and within the court's appellate jurisdiction.
3. Whether the district court abused its discretion by denying permissive intervention under Federal Rule of Civil Procedure 24(b).

HOLDINGS

1. A remedial election plan that retains an at-large seat does not comply with section 2 when the record demonstrates that the at-large seat will not provide Black voters an equal opportunity to participate in the political process and elect candidates of their choice.
2. The appeal from denial of intervention as of right was untimely because the applicants did not file their notice of appeal within the applicable sixty-day period.
3. The district court did not abuse its discretion by denying the applicants' motion for permissive intervention.

KEY QUOTATIONS

"It is clear that any proposal to remedy a Section 2 violation must itself conform with Section 2." (850 F.2d at 1438)

"The district court's proposed election plan does not comply with section 2 of the Voting Rights Act." (850 F.2d at 1440)

"Accordingly, the district court's remedial plan for election of members to the Dallas County Board of Education is VACATED." (850 F.2d at 1442)

"Accordingly, we hold that the district court did not abuse its discretion in denying the motion for permissive intervention." (850 F.2d at 1443)

FACTUAL BACKGROUND

Dallas County's population was approximately 55 percent Black, but Black residents comprised approximately 49 percent of the voting-age population and 44.8 percent of registered voters. The five members of the Dallas County Board of Education were elected at large from numbered posts, and no Black candidate had defeated a white candidate for the School Board since Reconstruction. The district court found racially polarized voting,

pervasive past discrimination, and socioeconomic and political disadvantages affecting Black citizens. The district court's remedial plan created four single-member districts plus an at-large seat, but the evidence indicated that the at-large seat and a proposed near-majority-Black swing district would not give Black voters an equal opportunity to elect candidates of their choice.

PROCEDURAL HISTORY

The United States commenced the vote-dilution action in 1978. After earlier proceedings involving *Mobile v. Bolden* and an Eleventh Circuit remand, the district court found the School Board's at-large electoral system unlawful and adopted a plan consisting of four single-member districts and one at-large seat. The United States appealed, and the Eleventh Circuit reviewed both the remedial plan and the denial of intervention. The court vacated the remedial plan, adopted a five-single-member-district plan, and affirmed dismissal of the intervention appeal in part while rejecting review of intervention as of right for lack of appellate jurisdiction.

DISPOSITION

other

REMAND INSTRUCTIONS

The district court was directed to order the Dallas County Board of Education to conduct elections under the five-single-member-district plan devised by Dr. Allan J. Lichtman and adopted by the Eleventh Circuit, in accordance with applicable state and local law, with a primary election to be scheduled and the general election held in November 1988. The stay of the June 7, 1988 elections and the tolling of the candidate-qualification period were vacated. The intervention appeal was affirmed in part and dismissed for lack of jurisdiction as to intervention as of right.

CASES CITED

- *Zimmer v. McKeithen*, 485 F.2d 1297 (5th Cir. 1973)
- *East Carroll Parish School Board v. Marshall*, 424 U.S. 636 (1976)
- *Mobile v. Bolden*, 446 U.S. 55 (1980)
- *Washington v. Davis*, 426 U.S. 229 (1976)
- *United States v. Dallas County Commission*, 739 F.2d 1529 (11th Cir. 1984)
- *United States v. Dallas County Commission*, 791 F.2d 831 (11th Cir. 1986)
- *Dillard v. Crenshaw County*, 831 F.2d 246 (11th Cir. 1987)
- *Edge v. Sumter County School District*, 775 F.2d 1509 (11th Cir. 1985)
- *Wise v. Lipscomb*, 437 U.S. 535 (1978)
- *Rogers v. Lodge*, 458 U.S. 613 (1982)
- *Fortson v. Dorsey*, 379 U.S. 433 (1965)
- *United States v. Marengo County Commission*, 731 F.2d 1546 (11th Cir. 1984)
- *Brotherhood of Railroad Trainmen v. Baltimore & Ohio Railroad*, 331 U.S. 519 (1947)
- *Sellers v. United States*, 709 F.2d 1469 (11th Cir. 1983)

- *Cisneros v. Corpus Christi Independent School District*, 560 F.2d 190 (5th Cir. 1977)

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