

Preclearance of Landowner Voter-Registration Requirements

Shields v. Engelman Irrigation District
(Ricardo H. Hinojosa, S.D. Tex. 7:08-cv-116)

In response to an April 3, 2008, federal complaint, a district judge and then a three-judge district court enjoined new voter-registration requirements for a May 10 election by landowners to an irrigation-district board of directors for lack of preclearance pursuant to section 5 of the Voting Rights Act.

Subject: Registration procedures. *Topics:* Registration procedures; section 5 preclearance; three-judge court; voter identification; matters for state courts; intervention; pro se party.

On April 3, 2008, a member of the board of directors of an irrigation district and a candidate for the board in an upcoming May 10 election filed a federal complaint in the Southern District of Texas's McAllen courthouse objecting to registration requirements for landowners to vote in the election.¹ The complaint sought a temporary restraining order from the judge assigned the case and further declaratory and injunctive relief from a three-judge district court.²

The court assigned the case to Judge Ricardo H. Hinojosa,³ and the chief circuit judge appointed Circuit Judge Emilio M. Garza and Southern District of Texas Judge Randy Crane to join Judge Hinojosa on a three-judge court.⁴ Following an April 11 conference in chambers,⁵ Judge Hinojosa issued a temporary restraining order on April 18.⁶ New registration requirements were enjoined because they had not been precleared pursuant to section 5 of the Voting Rights Act.⁷ A state court enjoined the new registration requirements on the same day.⁸

1. Complaint, *Shields v. Engelman Irrigation Dist.*, No. 7:08-cv-116 (S.D. Tex. Apr. 3, 2008), D.E. 1.

2. *Id.*

3. Conference Order, *id.* (Apr. 4, 2008), D.E. 2.

4. Order, *id.* (Apr. 9, 2008), D.E. 3.

Judge Garza retired on January 15, 2015. Federal Judicial Center Biographical Directory of Article III Federal Judges, www.fjc.gov/history/judges.

5. Docket Sheet, *Shields*, No. 7:08-cv-116 (S.D. Tex. Apr. 3, 2008).

6. Temporary Restraining Order, *id.* (Apr. 18, 2008), D.E. 12.

7. *Id.*; 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 and requiring that preclearance disputes be heard by a three-judge district court).

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

8. Order, *Shields v. Engelman Irrigation Dist.*, No. C-356-08-B (Tex. Dist. Ct. 93d Dist. Apr. 18, 2008), *attached as Ex. 1*, Notice, *Shields*, No. 7:08-cv-116 (S.D. Tex. Apr. 18, 2008), D.E. 13; see Notice, *Shields*, No. 7:08-cv-116 (S.D. Tex. May 9, 2008), D.E. 25 (noting affirmation by the state court of appeals).

On April 25, the three-judge court issued a preliminary injunction against the new identification requirements for landowner voter registration for lack of preclearance.⁹ The court denied a pro se motion to intervene by two plaintiffs seeking to challenge the previous registration requirements for lack of previous preclearance.¹⁰ On May 9, the court resolved the case with a permanent injunction.¹¹

9. Order, *Shields*, No. 7:08-cv-116 (S.D. Tex. Apr. 25, 2008), D.E. 120.

10. Order, *id.* (May 9, 2008), D.E. 26; *see* Intervention Motion, *id.* (Apr. 28, 2008), D.E. 21; Order, *id.* (Apr. 25, 2008), D.E. 19 (denying intervention for lack of motion); Intervention Request, *id.* (Apr. 25, 2008), D.E. 18.

11. Order, *id.* (May 9, 2008), D.E. 27.