



The Birmingham News

U.S. court asked to oust Riley appointee

Thursday, November 29, 2007

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A Fairfield man asked a federal court Wednesday to remove newly appointed Jefferson County Commissioner George F. Bowman from office and to block Gov. Bob. Riley, who made the appointment, from interfering with a Feb. 5 election to fill the District 1 seat.

Fred Plump's request for a preliminary injunction is a continuation of his Nov. 16 lawsuit, which contends Riley lacks the authority to name a replacement to the seat left vacant when Larry Langford became Birmingham's mayor.

Riley named Bowman, 59, a retired two-star general, to the commission on Nov. 21.

Plump's suit said Riley is attempting to enforce procedures that have not been approved by the Justice Department under the federal Voting Rights Act. Plump's suit said the process of appointment of a commissioner by the governor prevents blacks in majority black jurisdictions from electing candidates of their choice.

"We're just trying to get things moving in the case," said Ed Still, a Plump attorney who filed the motion in Montgomery's federal court. The motion also seeks to keep Riley from making any new appointment in the case until the legal issues are settled.

Riley and the bipartisan Jefferson County Election Commission each claim the authority to fill the District 1 seat.

Jeff Emerson, a governor's spokesman, on Wednesday said Riley has jurisdiction.

"Under state law, the governor has the duty to fulfill that vacancy and that is what he has done," Emerson said.

However, the Election Commission set a special election because its members maintain the law that gives the governor the power to fill county commission vacancies by appointment specifically excludes counties that have their own special election rules, as does Jefferson County.

Bowman declined to comment Wednesday. "I understand the challenge, but it's a legal issue at this point and I will leave that up to the court to decide," he said.

State Democratic leaders said they support Plump's actions. Alabama Democratic Party Chairman Joe Turnham said the case is not about Bowman's distinguished record or character.

"It is all about thwarting the democratic process that was already under way with an election set for Feb. 5," Turnham said in a statement. "Now Governor Riley has pushed the issue into federal court, and the aftermath of these actions only serves to rile the electorate and call into question his true motives."

Emerson said Riley is operating under the same law former Gov. Don Siegelman used when he appointed the Rev. Steve Small to replace Chris McNair, when McNair retired from the Jefferson County Commission in 2001.

"The Democratic Party didn't complain" then, Emerson said. "It makes all the criticism appear to be insincere."

Turnham said the 2001 appointment and the current dispute are not comparable because of pending court issues based on the Voting Rights Act.

The current Jefferson County case mirrors a case involving the Mobile County Commission. In 2005, Riley appointed Juan Chastang, a fellow Republican, to fill the vacancy created on the Mobile County Commission when Commissioner Sam Jones, a Democrat, was elected mayor of Mobile.

A panel of federal judges ruled that Chastang's appointment violated the federal Voting Rights Act of 1965 because changes to Alabama voting procedures must be cleared to guarantee they won't hurt minority voters. Chastang was removed and a special election was held.

Riley appealed the Mobile case ruling, which is now before the U.S. Supreme Court

Plump's suit asks that it be consolidated with the Mobile County case or for a three-judge panel to be convened to decide the issues.

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