

Judge's order in dispute

Senators' attorney says federal court out of line

By Chris Conley
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Is a federal judge right to intervene in the middle of deliberations by the Tennessee Senate, now wrestling with Ophelia Ford's controversial election?

Attorney John Ryder raises that question as he represents one of the senators who voted last week to unseat Ford, who won a special election Sept. 15.

On Jan. 17, the panel voted 17-14 to void the special election, and it was set to vote again Jan. 19.

But the day before, U.S. Dist. Judge Bernice Donald issued a restraining order blocking the Senate from that final vote.

Democrat Ford won by 13 votes, and opponent Terry Roland, a Millington Republican, contends there were voting irregularities.

The seat opened up when Ford's brother, John Ford, left the Senate after being indicted in the Tennessee Waltz investigation.

A hearing begins today for Donald to decide whether she should make the temporary order a permanent injunction, or let it lapse.

Arguments could take more than one day, attorneys said.

Sens. Don McLeary, D-Humboldt; Mark Norris, R-Collierville; and Curtis Person, R-Memphis -- who voted to void the election -- have been subpoenaed.

Ophelia Ford's attorney, David Cocke, filed legal papers Monday in hopes of stopping any further moves to oust his client, alleging the Senate was violating the rights of voters in Dist. 29, a majority black district.

"A party-controlled state legislative chamber is precisely the sort of entity likely to be moved by pure partisanship or other unconstitutional purposes in disenfranchising voters to change election outcomes," Cocke wrote.

"The state proposes to disenfranchise (voters) in a manner that overwhelmingly affects minority voters," he wrote.

Why, Cocke asks, were certain voters singled out for scrutiny?

In his response Tuesday, Ryder says not dismissing Ford's complaint "would undermine the sovereignty of the State of Tennessee" and render its constitution meaningless.

Ryder points out that since the Senate's deliberations weren't finished, the federal court can't assume that senators would have violated voters' rights.

Ford's constitutional claims could've been raised on the Senate floor, he says.

But Ford took her case to the federal court only after it appeared the Senate would oust her "because of the stench of fraud and irregularities that permeate the special election," Ryder wrote.

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