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No rush to judgment

On Ophelia Ford vote, judge gives herself another week to consider who has jurisdiction

By Chris Conley
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A federal judge considering state Sen. Ophelia Ford's efforts to prevent the Senate from ousting her gave herself another week to decide if the ball is rightly in her court.

U.S. Dist. Judge Bernice Donald Wednesday extended the life of a temporary order she issued last week, barring the Senate from taking final action to remove Ford.

She extended the order until Wednesday.

The crowded courtroom was packed with Ford's supporters and political opponents -- as well as 15 senators -- who listened to a day's worth of mostly technical testimony on election laws and procedures.

Because the courtroom was so crowded, 14 senators sat in the jury box. All were white, and all but three were men.

Ford complained after her fellow senators voted to oust her that she was the victim of "racism and Jim Crowism."

Ford, a Democrat, had a 13-vote victory in the Sept. 15 election to fill the seat of her brother John Ford, who stepped down after being indicted on corruption charges in the Tennessee Waltz investigation.

Her Republican opponent, Terry Roland, challenged the election, showing that two dead people, at least three felons, and people who didn't live in District 29 voted. He's compiled a list of dozens of voters who may not live in the district, or who failed to sign poll sheets or voter applications.

On Jan. 16, senators voted 17-14 to void the election. They were to take a final vote Jan. 19.

That vote, Ford argued, violated voters' rights. She got the restraining order Jan. 18.

State Sen. Steve Cohen of Memphis testified that the resolution recommending Ford be stripped of her seat was rushed.

The resolution was passed without a report from a Senate group looking into irregularities or from the Tennessee Bureau of Investigation, which is conducting a criminal investigation.

There was little debate, Cohen said.

"There was a rush to judgment," he said after the hearing. "They wanted to have another Republican in the Senate."

Cohen's testimony was one of the day's few light spots.

He frequently poked at the 14 senators listening to testimony from the jury box, the majority who voted to oust Ford.

Attorneys for the senators pointed out that the Jan. 19 vote could have gone in Ford's favor, that positions often change between committee and final vote.

Donald issued the restraining order Jan. 18, before that final vote could be taken.

"You have no idea what the Senate was going to do," said Janet Kleinfelter, a lawyer with the state Attorney General's office.

"Other than Nostradamus, I don't think anyone could have known," Cohen said.

The Attorney General's office and Memphis attorney John Ryder argued that the federal court had no business interfering in the Senate's vote, since the Senate has authority to weigh the validity of its elections.

Ryder called the restraining order a "gross interference" in the delicate balance between federal rights and state powers.

"It stopped the Senate in mid-stream," he argued.

Donald said she would take up to a week to research the law and determine if the federal court has jurisdiction, and if the restraining order was premature.

"Sometimes, things don't happen as quickly as you like," she said. "It's better to be thorough than quick."

If she rules she has jurisdiction, she will then rule on whether voters' rights were violated.

Then she could issue an injunction that blocks the Senate from unseating Ford.

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