

# RAHM'S BALLOT ELIGIBILITY CASE APPEAL AND WHITE HOUSE INTERFERENCE

[Updated Below]



The decision Monday by the Illinois Court of Appeals to disallow the candidacy for Mayor by Rahm Emanuel as well as his name on the official election ballot stunned many people, and left Emanuel, his political supporters and Wall Street and Hollywood financial bag men scrambling with the ballots set for printing today and the election on the near horizon on February 22. By late Monday night, the Emanuel campaign had already filed an Emergency Motion For Stay Pending Appeal and Expedite Consideration of Petition For Leave To Appeal with the Illinois Supreme Court. A copy of the filing is here.

Within less than eight hours of Emanuel's late night filing, at the crack of dawn on ABC's Good Morning America, Valerie Jarrett, Barack Obama's most senior and trusted advisor, was delivering a direct message on behalf of the White House commenting on the case and declaring they viewed Emanuel legally eligible:

I think that he believes that [Rahm is] eligible and I believe that he believes that Rahm will pursue his appeal in the courts.

I do not know about you, but I cannot think of any instance in which a White House and President, especially one so intimately related to one side of the issue, has so directly stepped into a state and local court proceeding at such a critical moment with its opinion on the ultimate legal determination.

Perhaps, under different circumstances, this

would not be a notable event. However, when the President's closest advisor weighs in with such a statement as to what the law should be, right as the sensitive matter is being presented on an emergency basis to a state supreme court, it is of highly questionable discretion and ethics. The impingement on the local situation is only exacerbated by the close ties Obama has to Emanuel, Chicago, the Daley political machine behind Emanuel (A Daley now serving as Obama's Chief of Staff) and Illinois. It was an unnecessary and completely inappropriate meddling in a state and local judicial matter that the Obama White House had no business engaging in.

Jarrett's imposition of the White House thumb of comment here is even more telling when juxtaposed with the consistent position she and Obama insisted on taking, and still maintain, with relation to the court process in the legal challenges to the discriminatory Don't Ask Don't Tell policy. Obama, Valerie Jarrett and the White House have consistently refused to take a position on how the DADT constitutional litigation should be decided in public statements and appearances and, in fact, are STILL officially supporting the disgraceful policy in courts under the guise that law must be supported and courts left undisturbed to decide the matter unfettered. Apparently such ethical and moral restraint does not apply when it comes to their friend and political crony's local election litigation.

Which brings us to the law Mr. Obama and Ms. Jarrett are so positive stands for the eligibility of Emanuel. You have to wonder if either one of these trained lawyers bothered to actually read the law, because the statute, on it's face, reads directly contrary to the position they take with such certainty. As Adam Bonin delineated yesterday, the election law at issue reads different than most assume and is quite clear:

So let's take a look at the actual

statute which governs this ballot requirement:

Sec. 3.1-10-5. Qualifications; elective office.

(a) A person is not eligible for an elective municipal office unless that person is a qualified elector of the municipality and has resided in the municipality at least one year next preceding the election or appointment, except as provided in subsection (c) of Section 3.1-20-25, subsection (b) of Section 3.1-25-75, Section 5-2-2, or Section 5-2-11.

“And has resided in.” Well, that’s a bit different from “has a residence in,” which I think was our assumption as to what the law required....

Emanuel didn’t meet that test, but there’s this statutory exception:

10 ILCS 5/3-2

No elector or spouse shall be deemed to have lost his or her residence in any precinct or election district in this State by reason of his or her absence on business of the United States, or of this State.

The Court found this provision inapplicable as to Emanuel. Yes, they say, it means that he didn’t lose his “residence” in Chicago to qualify as a registered voter, but it doesn’t mean he “resided in” Chicago during the interim either.

That plain language limits the reach of the “business of the United States” exception to “elector[s]” or their spouses; it makes no mention of “candidates.” Further, as we

have noted, we must interpret statutes “as a whole, with each provision construed in connection with every other section.” Section 3-2’s “business of the United States” exception is housed not only in the Election Code, but in a portion of the Election Code dealing exclusively with voter qualification, in fact in an Article titled “Qualification of Voters.”

In other words, “Rahm, you can vote for anyone you want in this election ... except you, because you can’t be on the ballot.”

Adam is exactly right. And one other thing should be pointed out, the exceptions contained within the clause “...except as provided in subsection (c) of Section 3.1-20-25, subsection (b) of Section 3.1-25-75, Section 5-2-2, or Section 5-2-11”, ALL pertain strictly to voting rights, NOT office candidacy eligibility rights.

The full decision by the Illinois Court of Appeals is here, and it is extremely well reasoned and supported. The judge, Thomas Hoffman, authoring the opinion has long been considered by litigants across the spectrum as fair and the leading intellect on the court. The exceptions Rahm Emanuel seeks to rely on are, by their wording and designation, only applicable to voting rights; not the right to run for and hold office. Yes, you can certainly convolute and extrapolate around that; but it is not the natural logic path as convincingly demonstrated by Justice Hoffman and the majority in the Illinois Court of Appeals.

Perhaps the law is unfair to individuals under the circumstances attendant to Mr. Emanuel; it is certainly easy to understand how a person could take that position or consider it silly.

However, if this crystal clear law is “silly” or “unfair”, then it should be amended or repealed; not just blithely ignored and convoluted for one powerful and connected man, Rahm Emanuel. Yet that is exactly what Mr. Emanuel and the Obama White House think he is due.

**UPDATE:** This morning, the Washington Post has caught on to the the issue here and provides additional details about the coordinated effort by Barack Obama and the White House to intentionally inject themselves into the state and local election ballot challenge in order to selectively help their friend and crony, Rahm Emanuel.

President Obama launched his political career in Chicago by maneuvering to keep a rival off the ballot in a state Senate campaign. Fifteen years later, he is reaching back from the White House into the city’s bruising political ring – this time in an effort to shield former aide Rahm Emanuel from losing a ballot dispute of his own in a hotly contested mayoral race.

The president called Emanuel, his former White House chief of staff, on Monday after an Illinois appellate court declared him ineligible to appear on the ballot because he does not meet the city’s residency requirement. On Tuesday morning, Obama sent senior adviser Valerie Jarrett out on the television circuit, where she told an ABC interviewer that the president “believes that [Emanuel is] eligible.”

Emanuel grabbed the baton from his former boss. His lawyers invoked Obama’s name repeatedly in legal briefs filed Tuesday with the Illinois Supreme Court, arguing that the appellate ruling would also make the president ineligible to run for a city office in his home town. And Emanuel told supporters that he was inspired to push ahead by the

president's history of ignoring critics  
in the "birther" movement.

This is literally a stunning and ethically bereft power and intimidation play by Obama and his White House. Why other members of the major media are not also questioning and reporting on this inappropriate attempt to influence a local judicial determination is anybody's guess.