

KC legislator may be denied seat over fraud allegations

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JEFFERSON CITY • Incoming Speaker of the House Steve Tilley says he may refuse to seat a new representative from Kansas City because of allegations of voter fraud in the Democratic primary.

Such a move would be exceedingly rare but allowed under Missouri law, and it would cast a bright light on a topic Republicans in Missouri have been pushing unsuccessfully for several years: the concept of requiring every voter to present a photo ID when voting.

Supporters of voter ID legislation say it is needed to prevent fraud, but they've had scant evidence of actual fraud in Missouri. Tilley said Republicans expect to push a similar bill this year, and while he said he hesitates to politicize the allegations in the Kansas City race, he is sure the evidence will give pause to those who don't believe voter fraud exists.

Tilley was presented this month with a nearly 100-page document alleging widespread voter fraud from failed Democratic candidate Will Royster, who lost the primary in the 40th legislative district to John J. Rizzo by a single vote.

Rizzo won the general election against a Libertarian candidate, and he said Royster's complaints are 'sour grapes.'

But Tilley is taking them seriously.

"Clearly there's a lot of smoke," Tilley said of Royster's allegations, which include that relatives and supporters of Rizzo's who live outside the district illegally cast votes and that a group of Somalis who couldn't speak English were instructed how to vote by a Rizzo supporter.

Royster has been waging an unsuccessful court battle to seek a hand recount of the ballots in the August primary because of multiple irregularities in the election. Judge Stephen Nixon refused to grant a detailed hand recount — where each ballot is inspected and can be challenged. Nixon ruled that despite finding numerous instances of "suspicious" conduct, "mistakes" and a failure of election judges to properly sign ballots, the allegations came up short of proving fraud.

An appeals court upheld Nixon's decision.

But Royster and his allies have continued to develop new evidence that they couldn't present at court. Among the allegations:

- Throughout primary election day, an unidentified Rizzo supporter brought groups of voters to various precincts who appeared to be Somalis who did not speak or read English. According to affidavits from several election judges, the Rizzo supporter handed out the ballots and told the Somalis to vote for Rizzo.
- Several Rizzo campaign supporters, including relatives, voted in the election even though in campaign documents they list home addresses that are outside the 40th District.
- A total of 14 ballots weren't signed by any election officials, as required by law.

Royster also questions the independence of Nixon, who announced his retirement as a judge this month and then took a job as county counselor for Jackson County. Rizzo's father, Henry Rizzo, is the chairman of the Jackson County Legislature.

"There are so many irregularities, it's astonishing," Royster said. "This is one of the most blatant cases of voter fraud I've ever heard of."

THE RECOUNT

On primary election night, Rizzo actually won by 10 votes. The number was then narrowed to six, and then three. By the time the secretary of state conducted an automated recount, the margin was down to one vote.

What Royster seeks, and was denied by Nixon, is a more specific, ballot-by-ballot recount where both sides can individually inspect each ballot and challenge those that appear to have problems. That is the kind of recount that Democrat Barbara Fraser asked for and received in her close general election race for the 24th District Senate seat against John Lamping in St. Louis County.

Lamping won the race, but the recount narrowed his margin over Fraser.

It's also the kind of recount that Rizzo was granted by the Kansas City Board of Election in 2006 when he lost his primary to then-state Rep. John Burnett.

With only a one-vote margin, Tilley said he doesn't understand why such a recount hasn't taken place.

"With the election decided by only one vote, a hand recount should be warranted," Tilley said.

The incoming speaker, a Republican from Perryville, said he has instructed his general counsel to examine the evidence provided by Royster and make a recommendation on whether the case has merit and what the remedy might be.

Tilley could choose not to allow Rizzo to take his seat.

Or he could send the matter to the House's elections committee and give that committee subpoena power to conduct an investigation.

Rizzo said he doesn't see a need for any sort of a recount.

"It's one vote," Rizzo said. "It is what it is. Every judge has agreed with me through the entire process.

"This election has been scrutinized more than any election in Missouri history, and it has stood the test every time."

THE JUDGE

Royster said the first judge to hear the case, Nixon, should have recused himself. Because the judge and the circuit get much of their funding from the Jackson County Legislature, he had a conflict of interest in deciding a case involving the son of the man — Henry Rizzo — who controls some of those purse strings, Royster said.

"Nixon is completely tainted by political and personal bias," Royster argues.

Nixon, who could not be reached for comment, was appointed to his new job by County Executive Mike Sanders, but he had to be approved by the Legislature.

Royster calls that job Nixon's "payback."

Henry Rizzo said he had nothing to do with it.

"I had no say over that," Rizzo said. "That has nothing to do with me."

John Rizzo, the incoming House member, said he understands that "on its face" the Nixon appointment so soon after the court case looks bad.

But he says there's no connection between the two events.

"For them to call Judge Nixon's integrity into question is absurd," he said.

Nixon retires from the Jackson County bench Friday.

In his ruling, he agreed with much of the evidence provided by Royster in court that there were numerous irregularities in the Aug. 3 election.

Wrote Nixon: "The evidence does not establish that the conduct was fraudulent, that any person who was not registered to vote voted, or that any registered voter was prevented from casting their ballots as they intended."

After losing the court case, Royster filed an open records request to obtain the full voter list of who voted in the 40th District on Aug. 3. Those records raised even more questions about the election.

For example, the records identify four voters who are Rizzo supporters who, according to other public records, live outside the district.

Further, an analysis of the birth dates on the database of about 1,800 voters shows an anomaly: 53 of the voters, most with Somali-sounding names, list a birthday of Jan. 1.

"We couldn't produce that evidence in court," Royster said. "But we can give it to the speaker."

PERSONAL BATTLE

It would be an understatement to say the battle between Royster and the Rizzos has created personal animosity between them.

"The guy is a nut," Henry Rizzo said of Royster.

The junior Rizzo also questions Royster's mental state.

"For them to do that is a shallow deflection," Royster said.

The former Navy pilot suffers from post-traumatic stress disorder. He says any implication that he's "unfit" is a 'slap in the face to every service member who has ever served in the military."

The two political rivals might end up in a Capitol hearing room to hash out the issue depending on how Tilley responds to Royster's request.

For his part, Rizzo said he thinks Tilley will find 'smoke and mirrors" and drop the matter.

Tilley said the "issue could be a very thorny and polarizing one," but that to "uphold the sanctity of the voting process" he has to take the complaint seriously.