

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

PULASKI COUNTY, VIRGINIA,)
A political subdivision of the)
Commonwealth of Virginia,)
County Administration Building)
143 Third Street, NW, Suite 1)
Pulaski, Virginia 24301)

Plaintiff,)

v.)

Civil Action No. _____

ALBERTO R. GONZALES,)
United States Attorney General, and)
R. ALEXANDER ACOSTA,)
Assistant Attorney General,)
Civil Rights Division)
United States Department of Justice)
950 Pennsylvania Avenue)
Washington, D.C. 20530)

Defendants.)

STIPULATION OF FACTS

This action was initiated by Pulaski County, a political subdivision of the Commonwealth of Virginia (hereafter “the County”). The County seeks a declaratory judgment pursuant to Section 4(a) of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973b.

The parties have jointly moved this three-judge court for entry of a Consent Judgment and Decree to resolve this action. In support of that motion, the parties have entered into the following stipulation of facts. The facts in this stipulation may be received into evidence in lieu of further proof or testimony.

It is hereby stipulated, by and between the respective parties, that:

1. Plaintiff Pulaski County is a political subdivision of the Commonwealth of Virginia. *See* Va. Code Ann. §1-13.2. The County is a political subdivision of a state within the meaning of Section 4(a) of the Voting Rights Act, 42 U.S.C. §1973b(a)(1). The towns of Dublin and Pulaski are located within Pulaski County.

2. In addition to the Pulaski County Board of Supervisors, there are additional governmental units within Pulaski County within the meaning of 42 U.S.C. §1973b(a)(1), including the Pulaski County School Board and the Town Councils of Dublin and Pulaski.

3. Pulaski County is a covered jurisdiction subject to the special provisions of the Voting Rights Act, including Section 5 of the Act. 42 U.S.C. §1973c. Under Section 5, the County is required to obtain preclearance from either this Court or from the Attorney General for any change in voting standards, practices and procedures since the Act's November 1, 1964 coverage date for Virginia.

4. Pulaski County was designated as a jurisdiction subject to the special provisions of the Voting Rights Act on the basis of the determinations made by the Attorney General that Virginia maintained a “test or device” as defined by Section 4(b) of the Act on November 1, 1964, and by the Director of the Census that fewer than 50 percent of the persons of voting age then residing in the state voted in the 1964 presidential election. 42 U.S.C. §1973b(b). The “test or device” triggering preclearance coverage under Section 5 was an article of the Virginia Constitution providing for a literacy test as a prerequisite for citizens to become electors. Va. Const. Art. II., Sec. 20 (1902). The literacy test was repealed by the Virginia legislature of 1972.

5. According to the 2000 Census, Pulaski County has a total population of 35,127 persons, of whom 32,529 (92.6%) are white, 1,957 (5.6%) are black, and 336 (1.0%) are Hispanic. The total voting age population is 27,888 persons, of whom 25,931 (93%) are white, 1,531 (5.5%) are black, and 241 (.9%) are Hispanic.

6. According to the 2000 Census, the Town of Dublin has a population of 2,288 persons, of whom 196 (8.6%) are black and 15 (.7%) are Hispanic. The total voting age population of the town is 1,870 persons, of whom 166 (8.9%) are black and 14 (.7%) are Hispanic.

7. According to the 2000 Census, the Town of Pulaski has a population of 9,473, of whom 734 (7.7%) are black and 191 (2.0%) are Hispanic. The total voting age population of the town is 7,415 persons, of whom 542 (7.3%) are black and 126 (1.3%) are Hispanic.

8. Like other jurisdictions in the Commonwealth of Virginia, Pulaski County does not collect or maintain voter registration data by race. Since 1990, registration in the County has grown more than 40 percent, from 14,729 in 1990, to 20,672 in 2004. Today, 74 percent (20,672 of 27,888) of the County's voting age population are registered voters.

9. Voters may register in person at the Registrar's Office on the third floor of the Stone Pulaski County Courthouse, 52 West Main Street, Suite 300, Pulaski, Virginia, between 8:30 a.m. and 4:30 p.m., Monday through Friday. Voters also may register at the Department of Motor Vehicles. Voter registration applications are available at the Pulaski County Main Library and its Dublin Branch, at most County post offices, at the Pulaski County Service Center in Fairlawn, at Pulaski County High School, at Pulaski County Department of Social Services, and at the Regional Mental Health Agency. The registrar's office will mail registration applications upon request. Twice a year, the registrar's office registers seniors at the high school. Civic organizations and

churches also conduct voter registration drives. The registrar's office gives these organizations registration forms and advises the participants on how registrants are to fill out the forms.

10. Pulaski County is governed by a five-member Board of Supervisors. All five of the Supervisors are elected from single-member districts. The entire board is elected at the same time, once every four years, and a plurality win system is in effect. The supervisors serve four-year terms. *See* Va. Code Section 24.2-218. The Board's Chair and Vice-Chair are elected by the supervisors.

11. By referendum vote on November 3, 1992, Pulaski County voters elected to change from an appointed to an elected School Board. The five members of the School Board are now elected, one from each supervisor's district, a plurality win system is in effect. Board members serve four-year terms. *See* Va. Code Section 24.2-223. Pulaski County School Board elections are non-partisan.

12. The Town of Dublin has a mayor-council form of government. There are six members of the Dublin Town Council, who are elected at-large by plurality vote, and a mayor. The mayor only votes to break a tie. Elections are held in a May general election in even numbered years every two years, with

three councilors elected every two years. The term of office for mayor is four years and council members also serve for four years. *See* Va. Code Section 24.2-222. These elections are non-partisan.

13. The Town of Pulaski has a mayor-council form of government. There are six members of the Pulaski Town Council, who are elected at-large by plurality vote, and a mayor. The mayor only votes to break a tie. Elections are held in a May general election in even numbered years every two years, with three councilors elected every two years. The term of office for mayor is two years and council members serve for four years. *See* Va. Code Section 24.2-222. These elections are non-partisan.

14. There are 12 voting precincts in Pulaski County for purposes of electing the County Board of Supervisors and School Board. The polling places are located in the Belspring United Methodist Church, the Fairlawn Fire Department, the New River Fairgrounds building, the Draper Fire Department, the Central Gym, the Dublin Lions Club, the Hiwassee Fire Department, and the Snowville Elementary School. Some of these polling places house multiple precincts. There is one voting precinct in the Town of Pulaski for the purpose of electing the town mayor and town council members. There is one voting precinct

in the Town of Dublin for the purpose of electing the town mayor and town council members.

15. Although the number of minority citizens in Pulaski County is quite small, minority citizens have nonetheless played important roles in the political process. For example, Joseph L. Sheffey, who is black, is the Chairman of the Pulaski County Board of Supervisors. The Pulaski Town Council has one black member, Lane Penn, as does the Dublin Town Council, Edith Hampton. In addition, the County currently employs 100 poll workers, of whom 12 are black or multi-racial.

16. Pulaski County has a three-member Electoral Board appointed by the County Circuit Court Judge. The Electoral Board is responsible for conducting elections and appointing the Voter Registrar. Historically, the chairs of the local Democratic and Republican parties forward names to the Electoral Board. The appointment of poll officials is for a one-year term. Currently, none of the members of the Electoral Board is a member of a racial minority group. No person recommended by a political party chair to serve as a poll official ever has been rejected by the Electoral Board.

17. In recent years, the local political parties have not made recommendations to the Electoral Board for poll officials. There is no indication

in the preceding ten years that any eligible Pulaski County resident who has expressed an interest in becoming a poll official has been denied the opportunity to serve. The registrar forwards the names of voters indicating an interest in serving as a poll official to the Electoral Board for consideration and appointment.

18. In the preceding ten years, Pulaski County has made fourteen (14) Section 5 submissions. The Attorney General has precleared each submission, and has interposed no objections. Many of the voting changes made over the years in Pulaski County and submitted for Section 5 preclearance have expanded the opportunities of County residents to register to vote and to cast their ballots.

19. No person in Pulaski County has been denied the right to vote on account of race, color, or membership in a language minority group during the preceding ten years.

20. No “test or device” as defined in the Voting Rights Act, 42 U.S.C. §1973b(c), has been used in Pulaski County as a prerequisite to either registering or voting for at least the preceding ten years.

21. Pulaski County has never been the subject of any lawsuit in which it was alleged that a person (or persons) was being denied the right to vote on account of race, color or membership in a language minority group.

22. During the past ten years, no voting practices or procedures have been abandoned by the County or challenged on the grounds that such practices or procedures would have either the purpose or the effect of denying the right to vote on account of race, color, or membership in a language minority group.

23. In the preceding ten years, Pulaski County has not employed any voting procedures or methods of election that inhibit or dilute equal access to the electoral process by minority voters in the County. Under the County's current election method, minority voters are not being denied an equal opportunity to elect candidates of their choice to the County Board of Supervisors, to the County School Board, or any of the Town governmental bodies.

24. Within the last ten years, no federal examiners have ever been appointed or assigned to Pulaski County under Section 3 of the Voting Rights Act, 42 U.S.C. Section 1973a.

25. Neither Pulaski County nor its governmental units have engaged in constructive efforts to eliminate intimidation and harassment of persons exercising rights protected under the Voting Rights Act because there is no evidence that any such incidents have occurred in the County in the last ten years.

26. Pursuant to 42 U.S.C. Section 1973b(a)(4), Pulaski County has publicized the intended filing of this action prior to its commencement in the local

newspaper of general circulation and in appropriate United States post offices. Pulaski County issued a notice regarding the proposed bailout on March 28, 2005. The County published the notice at the Registrar's office and in The Southwest Times, a local daily newspaper having a general circulation in the County, in the April 5, and April 12, 2005 editions. In addition, the County posted copies of the notice in other public locations, including the County courthouse, the Pulaski County Main Library and its Dublin Branch, the Pulaski County Administration Building, and the Voter Registrar's Office.

27. The United States has determined that it is appropriate to consent to a declaratory judgment in this action, pursuant to Section 4(a)(9) of the Voting Rights Act. This consent is premised upon an understanding that Congress intended Section 4(a)(9) to permit bailout in those cases where the Attorney General is satisfied that the statutory objectives of encouraging Section 5 compliance, and preventing the use of racially discriminatory voting practices would not be compromised by such consent.

The United States' consent in this action is based upon its own factual investigation and consideration of all of the circumstances of this case, including the views of minority citizens in Pulaski County, the fact that there are no defendant-interveners, the affirmative steps taken by the County to increase voter

participation, and the absence of evidence of racial polarization or discrimination in the electoral process within the County.

Approved as to form and content:

For the Plaintiff, Pulaski County, Virginia



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CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2005, I electronically filed the foregoing Stipulation of Facts with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel for defendants:

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