

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

WARREN COUNTY, VIRGINIA, )  
)  
Plaintiff, )  
)  
v. ) C.A. No. (1:02CV01736)  
)  
JOHN ASHCROFT, Attorney General ) (HTE, EGS, RMU)  
of the United States of America, ) (three-judge court)  
RALPH F. BOYD JR., Assistant )  
Attorney General, Civil Rights )  
Division, )  
)  
Defendants. )  
\_\_\_\_\_ )

STIPULATION OF FACTS

This action was initiated by Warren 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 Warren County ("the County") is a political subdivision of the Commonwealth of Virginia. See Va. Code Ann. §1-13.2. Warren 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). Warren County, Virginia is located approximately 70 miles from Washington, D.C., at the northern end of the Shenandoah Valley.

2. In addition to the County itself, there are two separate governmental units in Warren County within the meaning of 42 U.S.C. §1973b(a)(1), the Town of Front Royal and the Warren County School Board.

3. Warren 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. Warren 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 Constitution of 1972.

5. According to the 2000 Census, the County has a total population of 31,584, of whom 1,618 persons (5.1%) are black and 494 (1.6%) are Hispanic. The voting age population, according to the 2000 Census, is 23,501, of whom 1,097 (4.7%) are black and 343 (1.5%) are Hispanic. According to the 2000 Census, the Town of Front Royal has a total population of 13,589, of whom 1,229 (9%) are black and 290 (2.1%) are Hispanic.

6. Like other jurisdictions in the Commonwealth of Virginia, the County does not collect or maintain voter registration data by race. Current data show, however, that a significant proportion of the County's voting age population is

registered to vote. As of June 29, 2002, there were 18,160 registered voters in Warren County. This number constitutes 77% of the County's 2000 Census voting age population. The number of registered voters in the County has increased over the preceding decades. In 1979, there were 7,834 registered voters in Warren County. By 1990, the number of registered voters had risen to 9,368.

7. Warren County's minority population is generally dispersed throughout the County, with the greatest concentration of minorities residing within the Town of Front Royal. There are five election districts and 12 voting precincts in Warren County. The North River and South River Districts have the largest number of minorities among Warren County's five election districts, with 15.5% and 14.6% respectively of each district's total population, according to the 2000 Census.

8. The County's governing body is a five-member elected board of supervisors. Each of the supervisors is elected from single-member districts. Supervisors serve four-year terms and are elected biannually. Staggered terms are used, and a plurality win system is in effect.

9. The County's 12 voting precincts are located conveniently for voters throughout Warren County. All polling

places are located in public buildings, such as public schools, fire stations, and the County Government Center, which are also accessible to physically disabled persons.

10. Members of the County school board have been elected since 1995, and are elected from the same five districts as are the members of the board of supervisors. School board members serve four-year terms, with the same method of staggered terms as used for supervisor elections. A plurality win system is also in effect for school board members.

11. Front Royal is the only incorporated town located within Warren County. The town has a mayor-council form of government and elects its council members at-large. There are seven council members, including a mayor. Council members serve four-year terms while the mayor serves for two years. Council members' terms are staggered, and their elections are non-partisan.

12. No minority candidates have ever sought a position on the County board of supervisors. A black candidate ran successfully for County school board in 1995. He currently serves as School Board Chairman. Black candidates have run for seats on the Front Royal Town Council. One such candidate was elected to the Town Council, and subsequently, was elected

mayor, serving until 2000 when he decided not to seek a third term.

13. Within the ten-year period preceding the filing of this action, Warren County and the governmental units within the County have made 25 submissions consisting of 74 changes affecting voting for preclearance review under Section 5 of the Voting Rights Act. 42 U.S.C. §1973c.

14. Within the ten years preceding the filing of this action, Warren County has enforced seven voting changes prior to Section 5 preclearance. These voting changes include boundary line adjustments with Fauquier, Shenandoah and Rappahannock Counties, one Warren County special election, and electing the Warren County Board of Supervisors to staggered terms. These seven changes were submitted to the Attorney General for Section 5 review during the pendency of the present action. All seven voting changes have been precleared.

15. The Attorney General has not interposed a Section 5 objection to any change affecting voting in Warren County within the past ten years. All voting changes submitted by the County under Section 5 have been precleared by the Attorney General. Warren County has also never sought Section 5 judicial

preclearance from this court. The County has no pending Section 5 submissions before the Attorney General.

16. Voter registration opportunities in the County are readily and equally available to all citizens. The voter registration office for the County is located in Front Royal, which is the County seat and a central location within the County. The voter registration office is open from 9 a.m. to 12:30 p.m., and 1:30 p.m. to 5:00 p.m., Monday through Friday.

17. Warren County voters may also register by mail, and voter registration applications are available at several sites around the county, including the school board's administration office and the County Government Center.

18. The opportunity to become a registered voter in Warren County is also available under the National Voter Registration Act (the "NVRA") at Department of Motor Vehicles offices and public assistance agencies in the County.

19. Polls open in the County on election days at 6:00 a.m., and close at 7:00 p.m., as is the case throughout the Commonwealth of Virginia.

20. Warren County's three-member electoral board nominates a roster of persons each February to work as poll workers. Recommendations of persons to serve as poll workers originate

with the chairs of the County Democratic and Republican parties, who refer their recommendations to the Electoral Board. In the preceding ten years, no member of a minority group has been denied an appointment to serve as a poll official.

21. There is no indication that any eligible Warren County resident who has expressed an interest in becoming an election official has been denied the opportunity to do so within the past ten years. In addition, in recent years, the State's voter registration applications (including those used at the Department of Motor Vehicles and public assistance agencies in Warren County) have included a special section soliciting persons to serve as poll officials. All voters expressing an interest in serving as a poll official on these applications have been referred to the Electoral Board for consideration and appointment.

22. Warren County currently has 54 poll workers, four of whom are black. The percentage of black poll workers (7.3%) exceeds Warren County's black voting age population (5.1%).

23. No person in Warren County has been denied the right to vote on account of race or color during the past ten years.

24. No discriminatory test or device as defined in the Voting Rights Act (42 U.S.C. §1973b(c)) has been used in Warren

County for the preceding ten years. The County has not engaged, within the ten years prior to the commencement of this action, in violations of the Constitution or laws of the United States or any State or political subdivision with respect to discrimination in voting on account of race or color.

25. Warren 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. No court of the United States has issued a final judgment to this effect.

26. 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 or color. No court of the United States has issued a final judgment during the last ten years prior to the commencement of this action that the right to vote has been denied or abridged on account of race or color in Warren County, and no consent decree, settlement, or agreement has been entered into resulting in any abandonment of a voting practice challenged on such grounds during that time. No such claims presently are pending or were pending at the time this action was filed.

27. Warren County does not employ any voting procedures or methods of election that inhibit or dilute minority citizens' equal access to the electoral process in the County.

28. No Federal examiners have been appointed or assigned to Warren County pursuant to Section 3 or Section 6 of the Voting Rights Act, 42 U.S.C. §1973a, within the past ten years.

29. Because there is no evidence that there has been any intimidation and harassment of persons exercising rights protected under the Voting Rights Act in Warren County within the last ten years, neither the County nor any of its governmental units have had any occasion to engaged in constructive efforts to eliminate such activity.

30. Warren County has publicized the intended filing of this action prior to its commencement in local newspapers of general circulation and in appropriate United States post offices throughout the County in accordance with 42 U.S.C. §1973b(a)(4). Notices have remained posted throughout the litigation process. The County has posted notices regarding the proposed settlement at each post office, the County Courthouse, the County Voter Registration Office, and has also published the notice of its intent to file a proposed settlement in the local

newspapers, whose circulation reach persons throughout the County.

31. 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, notwithstanding the enforcement of certain voting changes prior to Section 5 preclearance. 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 in this case, including the views of minority citizens in the County, the fact that there are no defendant-intervenors, the affirmative steps taken by the County to increase voter participation, the fact that minority candidates have been elected to Town of Front Royal and Warren County offices, and the absence of evidence of racial polarization or discrimination in the electoral process within the County.

The United States' consent also is based upon the fact that the voting changes enforced without Section 5 preclearance were submitted promptly and precleared once brought to Plaintiff's attention, and the absence of any indication that the failure to submit those changes was intended to evade a Section 5 objection. In these circumstances, where the political subdivision seeking bailout otherwise meets the statutory requirements, the United States believes that bailout should not be denied.

Approved as to form and content:

**For the Plaintiff Warren County, Virginia**

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