

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
FEB 27 2006
CLERK, U.S. DISTRICT COURT
By _____
Deputy

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

HALE COUNTY, TEXAS;)

DIANE WILLIAMS, the)

COUNTY CLERK, in her official)

capacity; and)

the HALE COUNTY COMMISSIONERS)

COURT;)

Defendants.)

No.

COMPLAINT

5-06CV0043-C

The United States of America, Plaintiff herein, alleges:

1. The Attorney General files this action pursuant to Sections 203, 204, 208, and 12(d) of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973aa-1a; 42 U.S.C. § 1973aa-2; 42 U.S.C. § 1973aa-6; 42 U.S.C. § 1973j(d); and 28 U.S.C. § 2201.
2. The Court has jurisdiction of this action pursuant to 28 U.S.C. § 1345, 42 U.S.C. § 1973j(d), and 42 U.S.C. § 1973j(f).
3. The events relevant to this action occurred in Hale County, which is located in the United States District Court for the Northern District of Texas, Lubbock Division.
4. Defendant HALE COUNTY is a political and geographical subdivision of the State of Texas.

5. Defendant DIANE WILLIAMS is the County Clerk of Hale County. In her capacity as County Clerk, Defendant Williams has responsibilities concerning the administration of voting and elections in Hale County. Defendant Williams is sued in her official capacity.

6. Defendant HALE COUNTY COMMISSIONERS COURT is the primary budgetary authority for the County and for the County Clerk and Elections Coordinator.

7. According to the 2000 Census, Hale County had a total population of 36,602 persons, of whom 17,532 (47.9%) were Hispanic. The total citizen voting-age population was 25,532, of whom 10,663 (41.8%) were Hispanic.

8. According to the 2000 Census, 2,625 voting age citizens in Hale County (or 10.3% of the total citizen voting age population) had limited English proficiency.

9. Hale County, as a political subdivision of the State of Texas, is subject to the requirements of Section 203 with respect to the Spanish language. See 42 U.S.C. § 1973aa-1a(c); 40 Fed. Reg. 41,827 (Sept. 9, 1975). The determination that Section 203 covers Hale County for Spanish language is final and non-reviewable. See 42 U.S.C. § 1973b(a)(9)(b); 28 C.F.R. § 55.4(a)(2).

10. Hale County has been continuously covered under Section 203 to provide bilingual elections in Spanish since September 1975. See 40 Fed. Reg. 41,827 (Sept. 9, 1975). The Department of Justice has directly notified Hale County election officials regarding the bilingual election requirements of the Voting Rights Act, including in letters dated July 26, 2002 and August 31, 2004.

FIRST CAUSE OF ACTION

11. The Plaintiff hereby alleges and incorporates by reference paragraphs one through eleven above.

12. Section 208 of the Voting Rights Act provides that “[a]ny voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.” 42 U.S.C. § 1973aa-6.

13. In violation of Section 208, the Defendants, their employees, and agents have failed to allow voters the assistants of their choice through the following practices:

- a) Prohibiting family members and poll watchers from providing assistance to limited English proficient Spanish-speaking citizens.
- b) Requiring Spanish-speaking voters to be assisted by poll workers who either did not speak Spanish or did not speak Spanish fluently.
- c) Failing to accurately and adequately instruct poll workers on their duty to permit voters assistance from any person of their choice, other than their employers or union officials.

14. Defendants’ failure to allow voters to receive necessary assistance from any person of their choice, other than their employers or union officials, as described herein, is a violation of Section 208 of the Voting Rights Act. 42 U.S.C. § 1973aa-6.

15. Unless enjoined by this Court, Defendants will continue to violate Section 208 by failing to provide Hale County’s voters with the opportunity to receive assistance from

persons of the voters' choice and by limiting the scope of the assistance voters can receive from their chosen assistants.

SECOND CAUSE OF ACTION

16. The Plaintiff hereby alleges and incorporates by reference paragraphs one through sixteen above.

17. Under Section 203 of the Voting Rights Act, "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots" that Defendants provide in English must also be furnished in Spanish to Spanish-speaking voters. 42 U.S.C. § 1973aa-1a(c).

18. In violation of Section 203, the Defendants, their employees, and agents have not effectively provided election-related materials and information in Spanish to limited English proficient Hispanic citizens as required by Section 203 of the Voting Rights Act, including, but not limited to, the following:

- a) Failing to recruit, appoint, train, and maintain an adequate pool of bilingual poll officials capable of providing effective language election information and assistance to limited English proficient Spanish-speaking citizens that it provides in English; and
- b) Failing to provide certain election-related information that it provides in English, including, but not limited to, information publicizing elections, in a manner that assures Spanish-speaking voters an effective opportunity to be informed about election-related activities.

19. Defendants' failure to provide effective Spanish language materials and information, as described herein, constitutes a violation of Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a(c).

20. Unless enjoined by this Court, Defendants will continue to violate Section 203 by failing to provide Spanish-speaking citizens of Hale County with Spanish-language election information and assistance necessary for their effective political participation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff the United States of America prays that this Court enter an order:

- (1) Declaring that the practices of Defendants set forth above violate Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6;
- (2) Declaring that Defendants have failed to provide election assistance and information necessary to those who require it in Spanish for effective political participation, in violation of Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a(c);
- (3) Enjoining Defendants, their agents, and successors in office, and all persons acting in concert with them, from engaging in any act or practice that denies the rights secured by Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6;
- (4) Enjoining Defendants, their employees, agents, and successors in office, and all persons acting in concert with them, from failing to provide Spanish-language election assistance and information to persons with limited English proficiency as required by Section 203, 42 U.S.C. § 1973aa-1a(c);
- (5) Requiring Defendants to devise and implement a remedial plan to ensure that Hale County's voters are permitted assistance from persons of choice when they cast their

ballots, in compliance with Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6;

- (6) Requiring Defendants to devise and implement a remedial plan to ensure that Spanish-speaking citizens with limited English proficiency are able to understand, learn of, and participate in all phases of the electoral process as required by Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a(c);
- (7) Requiring Defendants to publicize effectively the remedial plans and programs addressing violations of Section 208 of the Voting Rights Act to ensure their dissemination to Hale County's voters;
- (8) Requiring Defendants to publicize effectively the remedial plans and programs addressing violations of Section 203 of the Voting Rights Act to ensure their widespread dissemination to Hale County's minority language voters; and
- (9) Authorizing the appointment of federal examiners for elections held in Hale County pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a), through December 31, 2008.

Plaintiff further prays that this Court order such additional relief as the interests of justice may require, together with the costs and disbursements in maintaining this action.

Date: 27th day of February, 2006

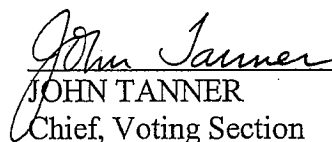
ALBERTO R. GONZALES
Attorney General



WAN J. KIM
Assistant Attorney General
Civil Rights Division



RICHARD B. ROPER
United States Attorney
E. SCOTT FROST
Assistant United States Attorney
State Bar No. 07488080
Telephone: (806) 472-7566
Facsimile: (806) 472-7394



JOHN TANNER
Chief, Voting Section



SUSANA LORENZO-GIGUERE
Special Litigation Counsel
JOSHUA L. ROGERS
Trial Attorney
United States Department of Justice
Civil Rights Division,
950 Pennsylvania Avenue NW NWB-7254
Washington, D.C. 20530
Telephone: (202) 514-8201
Facsimile: (202) 307-3961