

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
WESTERN DIVISION

2006 AUG -2 P 2:58

UNITED STATES OF AMERICA )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CITY OF SPRINGFIELD, MASSACHUSETTS; )  
 SPRINGFIELD ELECTION COMMISSION; and )  
 SPRINGFIELD ELECTION COMMISSIONERS, )  
 Denise Jordan, Mary Kaufman, Shannon Powers, )  
 and John Ramircz, in their official capacity, )  
 )  
 Defendants. )

U.S. DISTRICT COURT  
DISTRICT OF MASS.  
DIVISION NO. 06-30123-MA P

COMPLAINT

Three Judge Court Requested  
As to First Cause of Action

The United States of America, Plaintiff herein, alleges:

1. The Attorney General files this action seeking injunctive and declaratory relief pursuant to Sections 3, 11(a), 12(d), 203, 204, and 208 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §§ 1973a, 1973i(a), 1973j(d), 1973aa-1a, 1973aa-2, 1973aa-6, and 28 U.S.C. § 2201.

JURISDICTION

2. The Court has jurisdiction of this action pursuant to 28 U.S.C. § 1345 and 42 U.S.C. §§ 1973j(d) & (f), 1973aa-2. The claim pursuant to Section 203 of the Voting Rights Act must be heard and determined by a court of three judges, in accordance with the provisions of 42 U.S.C. § 1973aa-2 and 28 U.S.C. § 2284.

PARTIES

3. Defendant CITY OF SPRINGFIELD ("City" or "Springfield") is a geographical and political subdivision of the Commonwealth of Massachusetts ("Commonwealth" or

“Massachusetts”) and exists as a charter city organized pursuant to the laws of Massachusetts.

4. Defendant SPRINGFIELD ELECTION COMMISSION is a four member board that oversees the conducting of all municipal, state, and federal elections in the City of Springfield and is responsible for ensuring that elections are properly managed and conducted in accordance with municipal, state, and federal laws.

5. Defendants SPRINGFIELD ELECTION COMMISSIONERS—Denise Jordan, Mary Kaufman, Shannon Powers, and John Ramirez—are members of the Springfield Election Commission and are responsible for ensuring that elections in Springfield are conducted in accordance with municipal, state, and federal laws. The four members are sued in their official capacity.

#### ALLEGATIONS

6. According to the 2000 Census, Springfield had a total population of 152,080 persons, of whom 41,360 were Hispanic (27.2%). The total voting age citizen population was 102,490, of whom 22,720 were Hispanic (22.2%). Of Springfield’s Hispanic voting age citizen population, 9,560 were limited English proficient (42.1%).

7. Springfield is subject to the requirements of Section 203 for the Spanish language, pursuant to the designation by the Director of the Census. The Director has determined that more than five percent of Springfield’s voting age citizens are members of a single language minority group (Spanish heritage or Hispanic) who do not speak or understand English well enough to participate in the English language election process and have an illiteracy rate that is higher than the national illiteracy rate. See 42 U.S.C. § 1973aa-1a(b)(2); see also 67 Fed. Reg. 48,871 (July 26, 2002). The determination of the Census Bureau that the City of Springfield is covered by

Section 203 for Spanish is final and non-reviewable. See 42 U.S.C. § 1973aa-1a(b)(4).

8. Springfield has been continuously covered under Section 203 to provide bilingual elections in Spanish since September 18, 1992. See 57 Fed. Reg. 43,213 (Sept. 18, 1992); 67 Fed. Reg. 48,871 (July 26, 2002). Since 1992, the Department of Justice has directly notified election officials in all jurisdictions covered under Section 203, including Springfield election officials, and has provided information regarding the requirements of Section 203.

9. Because Springfield is subject to the requirements of Section 203, "any registration or voting notice, 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. See 42 U.S.C. § 1973aa-1a.

10. The City of Springfield is also subject to the requirements of Section 208 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." See 42 U.S.C. § 1973aa-6.

11. Spanish-speaking voters in Springfield have faced difficulties and rude treatment at the polls. In some cases, Spanish-speaking voters have left the polls without casting a ballot due to the absence of bilingual assistance and interference by poll workers and others in the voters' selecting the assistants of their choice.

#### **FIRST CAUSE OF ACTION**

12. Plaintiff hereby alleges and incorporates by reference paragraphs one (1) through eleven (11) above.

13. In conducting elections in Springfield, Defendants have failed to provide effective election-related information and assistance to Spanish-speaking voters, as required by Section 203 of the Voting Rights Act, by failing to recruit, appoint, train, and maintain an adequate pool of bilingual poll officials capable of providing Spanish-speaking voters with necessary and effective language assistance throughout the city on election day.

14. Defendants have also failed to provide effective election-related information and assistance in Spanish to Spanish-speaking voters, as required by Section 203, by failing to provide certain election-related information, including but not limited to information publicizing elections, in a manner that ensures that Spanish-speaking voters throughout the city have an opportunity to be informed about election-related activities.

15. Defendants' failure to provide Spanish-speaking citizens of Springfield with Spanish language election information and assistance, as described above, constitutes a violation of Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a.

16. Unless enjoined by this Court, Defendants will continue to violate Section 203 by failing to provide limited English proficient Spanish-speaking citizens of Springfield with Spanish language election information and assistance necessary for their effective participation in the political process.

#### SECOND CAUSE OF ACTION

17. Plaintiff hereby re-alleges and reincorporates by reference to paragraphs one (1) through sixteen (16) above.

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

- a. Prohibiting assistors of choice from providing assistance to Spanish-speaking voters with limited English proficiency; and
- b. Failing to accurately and adequately instruct poll workers on their duty to permit voters who need assistance to obtain assistance from any person of the voters' choice, other than voters' employers or agents of those employers or officers or agents of the voters' union.

19. Unless enjoined by this Court, Defendants will continue to violate Section 208 by failing to provide Springfield's voters with the opportunity to receive assistance from persons of the voters' choice.

#### PRAAYER FOR RELIEF

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

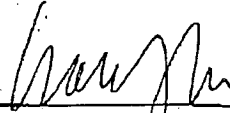
- (1). Declaring that Defendants have failed to provide in an effective manner Spanish language election information and assistance necessary for the political participation of limited English proficient Spanish-speaking voters, in violation of Section 203 of the Voting Rights Act, 42 U.S.C. § 19733aa-1a;
- (2). Declaring that Defendants have failed to allow certain Springfield voters their assistors of choice, in violation of Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6;
- (3). Enjoining Defendants, their employees, agents and successors in office, and all persons acting in concert with them, from failing to provide Spanish language election information and assistance to persons with limited English proficiency as required by Section 203 of the Voting Rights Act, 42 U.S.C. § 19733aa-1a;

- (4). Enjoining Defendants, their employces, 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;
- (5). Requiring Defendants to develop, publicize, and implement a remedial plan to ensure that Spanish-speaking voters 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. § 19733aa-1a;
- (6). Requiring Defendants to develop and implement a remedial plan to ensure that Springfield's voters are permitted assistance from persons of their choice when they cast their ballots, in compliance with Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6; and
- (7). Authorizing the appointment of federal examiners for elections held in the City of Springfield pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a).

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.

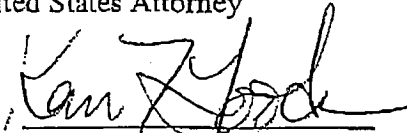
Date: 2<sup>nd</sup> day of August, 2006

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