

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATRICK J. DUGGAN,

00-73541

MAGISTRATE JUDGE SCHEER

Civil Action No.:

THE UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
CITY OF HAMTRAMCK, MICHIGAN;)
CITY CLERK OF HAMTRAMCK,)
MICHIGAN; ETHEL FIDDLER, in her)
official capacity,)
)
Defendants.)

COMPLAINT

This action arises out of the general election that took place in Hamtramck, Michigan, on November 2, 1999. In that election, more than forty dark-skinned or Arab-American citizens were required to take an oath as a condition to voting, a requirement that was not imposed on white voters. Because the Attorney General finds that this race-based prerequisite violates federal laws designed to enforce the voting guarantees of the Fourteenth and Fifteenth Amendments, the United States of America, plaintiff herein, alleges:

1. The Attorney General files this action pursuant to Sections 2 and 12(d) of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, 42 U.S.C. 1973j(d), 42 U.S.C. 1971(a)(1) and 1971(a)(2)(A), and 28 U.S.C. 2201, to enforce the voting guarantees of the Fourteenth and Fifteenth Amendments to the United States Constitution.

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2. This Court has jurisdiction of this action pursuant to 42 U.S.C. 1973j(f), 42 U.S.C. 1971(d), and 28 U.S.C. 1345.

3. Defendant City of Hamtramck (hereafter referred to as "Hamtramck") is a political and geographical subdivision of the State of Michigan.

4. Defendant City Clerk of Hamtramck (hereafter "City Clerk") is responsible for conducting elections in Hamtramck under the laws of Michigan.

5. On November 2, 1999, Hamtramck conducted a general election for certain municipal offices, including Mayor, all seats on City Council, and City Clerk.

6. Under Michigan law, political parties and citizen groups may designate "challengers". M.C.L. § 168.730. Challengers have the right under Michigan election procedures to observe the manner in which the duties of election inspectors (pollworkers) are performed and to challenge the voting rights of a person whom the challenger has good reason to believe is not a registered elector. M.C.L. § 168.733.

7. In October of 1999, a group called "Citizens for a Better Hamtramck" ("CCBH") registered with the City Clerk of Hamtramck to provide challengers for the November 1999 general election. In its registration statement, CCBH asserted an interest in keeping the elections "pure." The committee to re-elect Mayor Zych ("the Zych Committee") likewise registered in October of 1999 to provide challengers for the November general election.

8. Under Michigan practice, a challenger may contest a voter's qualifications in three areas: citizenship, age, and residency. At the November election, more than forty voters in Hamtramck were challenged by CCBH for "citizenship." Some voters were challenged before they signed their applications to vote, and therefore appear to have been challenged based on their physical appearance alone. Other voters were challenged after they had signed their applications and their names had been announced. The challenged voters had dark skin and distinctly Arabic names, such as Mohamed, Ahmed, and Ali.

9. Once challenged, the city election inspectors required the challenged voters to swear that they were American citizens before permitting them to vote. Voters who were not challenged were not required to take this oath.

10. Some dark-skinned voters produced their American passports to identify themselves to election officials. Nevertheless, these persons were challenged by CCBH, and the election inspectors required them to take a citizenship oath as a prerequisite to voting.

11. No white voters were challenged for citizenship. No white voters were required to take a citizenship oath prior to voting.

12. Early on election day, a representative of the Zych Committee complained to the State of Michigan elections office and the City Clerk's office regarding the manner in which CCBH was challenging voters. Members of the Zych Committee complained

repeatedly to the City Clerk and the Deputy City Clerk that the CCBH challengers were targeting voters because of their skin color or because they were Arab, without any other reason to believe that the voters were not citizens.

13. Despite the complaints, the City gave no additional instructions to the election inspectors regarding evaluation of challenges; the City did not require challengers to set forth evidence of a reason to believe that voters were not qualified. In short, despite the Zych committee's allegations, the City did not prevent challenges of dark-skinned voters from continuing, and the election inspectors continued to require all voters who were challenged for "citizenship" to take a citizenship oath as a prerequisite to voting.

14. Members of the Zych Committee who had observed the discriminatory challenges asked that the CCBH challengers be expelled for misconduct based on repeated discriminatory challenges. No challengers were expelled.

15. Some Arab-American citizens heard of the treatment that others experienced when they voted and decided not to vote rather than be subjected to the embarrassment of being challenged as non-citizens.

16. In addition to the oaths required at the instigation of challengers, the chairperson of one election precinct directed election inspectors to the effect that anyone who "looks Arabic" must show a driver's license and voter registration card. Several dark-skinned voters were required to show their driver's

license prior to voting as a result of this instruction, although white voters were not required to do so.

Claim One

17. Plaintiff realleges and restates paragraphs 1 through 16 as if fully set forth herein.

18. Defendants, by their actions as described in this Complaint, have applied prerequisites to voting in a manner which results in denial or abridgement of the rights of citizens in Hamtramck to vote on account of race or color in violation of Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973.

Claim Two

19. Plaintiff realleges and restates paragraphs 1 through 16 as if fully set forth herein.

20. Defendants, by their actions as described in this Complaint, have, acting under color of law, applied different standards, practices or procedures in determining whether dark-skinned voters were qualified to vote than were applied to white voters, in violation of 42 U.S.C. 1971(a)(1) and 1971(a)(2)(A).

Claim Three

21. Plaintiff realleges and restates paragraphs 1 through 16 as if fully set forth herein.

22. Defendants, by their actions as described in this Complaint, have, acting under color of law, deliberately applied different standards, practices and procedures to voters on account of race or color, and have intentionally imposed

prerequisites to voting in a manner which denied or abridged the rights of citizens to vote on account of race or color, in violation of the voting guarantees of the Fourteenth and Fifteenth Amendments to the United States Constitution.

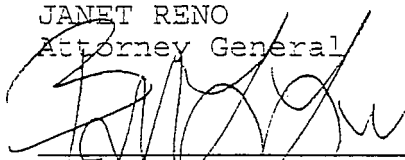
23. Unless enjoined by order of this Court, defendants will continue to follow procedures which deny or abridge the rights of Arab-American and dark-skinned voters in violation of Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, 42 U.S.C. 1971(a)(1), 42 U.S.C. 1971(a)(2)(A), and the voting guarantees of the Fourteenth and Fifteenth Amendments to the United States Constitution.

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

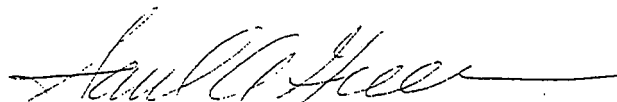
- (1) Declaring that the practice of imposing different standards on dark-skinned and Arab-American voters than are imposed on other voters violates Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, 42 U.S.C. 1971(a)(1), and 42 U.S.C. 1971(a)(2)(A);
- (2) Enjoining the defendants, their agents and successors in office, and all persons acting in concert with any of them, from discriminating against voters on the basis of race or color;
- (3) Finding that violations of the voting guarantees of the Fourteenth and Fifteenth Amendments have occurred in Hamtramck justifying equitable relief;

- (4) Authorizing the appointment of federal examiners pursuant to Section 3 of the Voting Rights Act, 42 U.S.C. 1973a; and
- (5) Ordering such additional relief as the interests of justice may require, together with the costs and disbursements of this action.

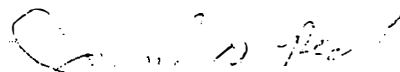
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