

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

GREENE COUNTY, VIRGINIA,  
a political subdivision of the  
Commonwealth of Virginia,

Plaintiff,

v.

CIVIL ACTION 03-1877

JOHN D. ASHCROFT, Attorney General  
of the United States of America,  
R. ALEXANDER ACOSTA, Assistant  
Attorney General, Civil Rights  
Division, United States Department  
of Justice, Washington, D.C.,

Defendants.

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**CONSENT JUDGMENT AND DECREE**

This action was initiated by Greene County, a political subdivision of the Commonwealth of Virginia (hereafter "the County"). The County is subject to the provisions of Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c. The County seeks a declaratory judgment under Section 4 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973b. A three-judge court has been convened as provided in 42 U.S.C. §1973b(a)(5) and 28 U.S.C. §2284.

Section 4(a) of the Voting Rights Act provides that a state or political subdivision subject to the special provisions of the Act may be exempted from those provisions if it can demonstrate in an action for a declaratory judgment before the United States District Court for the District of Columbia that for the ten-year period prior to filing the action and during its pendency, it has both 1) complied with the Voting Rights Act and 2) taken positive steps both to encourage minority political participation and to remove structural barriers to minority electoral influence.

In order to demonstrate compliance with the Voting Rights Act during the ten-year period prior to commencement of a declaratory judgment action under Section 4(a), the County must

satisfy five conditions:

1) the County has not used any test or device during that ten-year period for the purpose or with the effect of denying or abridging the right to vote on account of race or color;

2) no court of the United States has issued a final judgment during that ten-year period that the right to vote has been denied or abridged on account of race or color within the territory of the County, and no consent decree, settlement or agreement may have been entered into during that ten-year period that resulted in the abandonment of a voting practice challenged on such grounds; and no such claims may be pending at the time the declaratory judgment action is commenced;

3) no Federal examiners have been assigned to the County pursuant to the Voting Rights Act during the ten-year period preceding commencement of the declaratory judgment action;

4) the County and all governmental units within its territory must have complied with Section 5 of the Voting Rights Act, 42 U.S.C. §1973c, during that ten-year period, including the requirement that voting changes covered under Section 5 not be enforced without Section 5 preclearance, and that all voting changes denied Section 5 preclearance by the Attorney General or the District Court for the District of Columbia have been repealed; and

5) neither the Attorney General nor the District Court for the District of Columbia have denied Section 5 preclearance to a submission by the County or any governmental unit within its territory during that ten-year period, nor may any Section 5 submissions or declaratory judgment actions be pending. 42 U.S.C. §1973b(a)(1)(A-E).

In addition, to obtain the declaratory judgment, the County and all governmental units within its territory must have:

1) eliminated voting procedures and methods of election that inhibit or dilute equal access to the electoral process, 42 U.S.C. §1973b(a)(1)(F)(i); and

2) engaged in constructive efforts to eliminate intimidation or harassment of persons

exercising voting rights, and to expand the opportunity for convenient registration and voting for every person of voting age, and the appointment of minority persons as election officials throughout the jurisdiction and at all stages of the election and registration process, 42 U.S.C. §1973b(a)(1)(F)(ii-iii).

The County is required to present evidence of minority participation in the electoral process, including the levels of minority group registration and voting, changes in such levels over time, and disparities between minority group and non-minority group participation. 42 U.S.C. §1973b(a)(2). In the ten years preceding bailout, the County must not have engaged in violations of any provision 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. 42 U.S.C. §1973b(a)(3). Finally, the County must provide public notice of its intent to seek a Section 4(a) declaratory judgment. 42 U.S.C. §1973b(a)(4).

The Defendant United States, after investigation, has agreed that the Plaintiff has fulfilled all conditions required by Section 4(a) and is entitled to the requested declaratory judgment, subject to annual reporting requirements for a period of two years to which the parties have agreed as a basis for resolving this action. 42 U.S.C. §1973b(a)(9). The parties have filed a joint motion, accompanied by a Stipulation of Facts, for entry of this Consent Judgment and Decree.

#### FINDINGS

Pursuant to the parties' stipulations and joint motion, this Court finds as follows:

1. Greene County is a political subdivision of the Commonwealth of Virginia, and 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).
2. Governmental units within Greene County include the Greene County Board of Supervisors, Greene County School Board, and the Stanardsville Town Council.

3. Greene 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.

4. Greene 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, 42 U.S.C. § 1973b(b), on November 1, 1964, and by the Director of the Census that fewer than 50 percent of the persons of voting age residing in the state voted in the 1964 presidential election.

5. No discriminatory test or device has been used by Greene County during the ten years prior to the commencement of this action for the purpose or with the effect of denying or abridging the right to vote on account of race or color.

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

7. 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 Greene 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.

8. No Federal Examiners have been assigned to Greene County within the ten-year period preceding this action.

9. Greene County and its governmental units have enforced only one voting change prior to receiving Section 5 preclearance during the ten-year period preceding this action. That voting change has since been submitted and precleared.

10. All voting changes submitted by Greene County and its governmental units under Section 5 have been precleared by the Attorney General. No Section 5 submissions by the County or its governmental units presently are pending before the Attorney General. The County

and its governmental units have never sought Section 5 judicial preclearance from this Court.

11. No voting practices or procedures have been abandoned by Greene 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 during the ten-year period preceding this action.

12. Greene County does not employ voting procedures or methods of election which inhibit or dilute equal access to the electoral process by the County's minority citizens.

13. There is no indication that in the past ten years any persons in Greene County have been subject to intimidation or harassment in the course of exercising their right to participate in the political process.

14. Greene County and its governmental units have not 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.

15. Greene County has engaged in constructive efforts to enhance registration and voting opportunities for all of its citizens of voting age by adding hours during which to register to vote and polling locations at which to vote.

16. Since Greene County does not record the race of its registered voters, it is unable to present evidence directly measuring minority voter participation, but the County has provided evidence of voter participation for elections since 1990. Turnout has been highest in Greene County in presidential election years. In the election years of 1992, 1996, and 2000, county voter turnout was 83.2%, 71.3%, and 68.7% respectively.

17. Greene 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.

18. Greene County has publicized the intended commencement and proposed settlement of this action in the media and in appropriate United States post offices as required under 42 U.S.C. §1973b(a)(4). No aggrieved party has sought to intervene in this action pursuant to 42 U.S.C. §1973b(a)(4).

19. As a basis for resolving this action, the parties have agreed that Greene County will be subject to annual reporting requirements for a period of two years. As part of an effort to increase participation of its African-American citizens as election officials, the County will include in its annual reports a by-election tally of how many African-Americans have served as election officials and a detailing of efforts to recruit African-Americans as election officials. Such efforts may include working with leaders in the African-American community, including holders of and candidates for public office, and churches and other organizations whose congregations and members are primarily comprised of African-American persons. In making this request, the United States recognizes that not many African-Americans reside in the County. In addition, the annual reports shall include the County's most recent registration figures, by precinct. The first report will be due one year from the date of entry of this Consent Order and Decree; the second report shall be due one year from the date of submission of the preceding report.

Accordingly, it is hereby ORDERED, ADJUDGED and DECREED:

The Plaintiff, Greene County, Virginia is entitled to a declaratory judgment in accordance with Section 4(a)(1) of the Voting Rights Act, 42 U.S.C. §1973b(a)(1);

The parties' Joint Motion for Entry of Consent Judgment and Decree is GRANTED, and Greene County, including the Greene County School Board and the town of Stanardsville, shall be exempt from coverage pursuant to Section 4(b) of the Voting Rights Act, 42 U.S.C. §1973b(b), provided that Greene County be subject to annual reporting requirements as provided in paragraph 19, and provided that this Court shall retain jurisdiction over this matter for a period of ten years. This

action shall be closed and placed on this Court's inactive docket, subject to being reactivated upon application by either the Attorney General or any aggrieved person in accordance with the procedures set forth in 42 U.S.C. §1973b(a)(5).

The parties shall bear their own costs.

John G. Roberts, Jr.  
UNITED STATES CIRCUIT JUDGE

Henry H. Kennedy, JR  
UNITED STATES DISTRICT JUDGE

Rosemary M. Collyer  
UNITED STATES DISTRICT JUDGE

Date: January 19, 2004