

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Greene County, VIRGINIA,)
a political subdivision of the)
Commonwealth of Virginia,)

Plaintiff,)

v.)

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.)

Case No.

Judge:

3-Judge Court

STIPULATION OF FACTS

This action was initiated by Greene 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.

FILED

SEP - 8 2003

NANCY MAYER WINTINGTON, CLERK
U.S. DISTRICT COURT

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It is hereby stipulated, by and between the respective parties, that:

1. Plaintiff Greene County is a political subdivision of the Commonwealth of Virginia. See Va. Code Ann. §1-13.2. The 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). The city of Stanardsville is located within Greene County.

2. In addition to the Greene County Board of Supervisors, there are additional governmental units within Greene County within the meaning of 42 U.S.C. §1973b(a)(1), including the 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. 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. 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 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 legislature of 1972.

5. According to the 2000 Census, Greene County has a total population of 15,244 persons, of whom 13,769 (90.3%) are white; 983 (6.4%) are black, and 201 (1.3%) are Hispanic. The total voting age population is 11,070 persons, of whom 10,125 (91.5%) are white; 664 (6.0%) are black, and 126 (1.1%) are Hispanic.

6. According to the 2000 census, the Town of Stanardsville has a population of 476, of whom 41 (8.6%) are black and 4 (0.8%) are Hispanic. The total voting age population of the town is 365 people, of whom 31 (8.5%) are black and 1 (0.3%) is Hispanic.

7. Like other jurisdictions in the Commonwealth of Virginia, Greene County does not collect or maintain voter registration data by race. The numbers countywide, irrespective of race, however, are encouraging. Since 1990, registration in the County has more than doubled, from 4,335 in 1990 to 8,742 in 2002. Today, 79.0 percent (8,742 of 11,070) of the County's voting age population are registered voters.

8. Voters may register in person at the Registrar's Office in the County Administration Building between 9 a.m. and 5 p.m.

Monday through Friday. Voters also may register at the Department of Motor Vehicles. Voter registration applications are available at the Greene County library, Greene County Clerk of Court's office, Bank of America in Stanardsville, Snow's Merchandise store in Dyke, and the administration office of the County School Board. The registrar's office will mail registration applications upon request. At least once a year, the registrar's office registers seniors at the high school. Civic organizations also conduct registration drives. The registrar's office gives these organizations registration forms and advises the participants on how registrants are to fill out the forms. The registrar's office has not conducted registration drives.

9. The county is governed by a five-member Board of Supervisors. Three of the supervisors are elected from single-member districts and two are elected at-large. Staggered terms are used and a plurality win system is in effect. The supervisors serve four year terms and are elected biannually on odd-numbered years, with terms staggered so that three supervisors are elected at one time and two supervisors are elected two years later. See Va. Stat. §§ 24.2-218 and 24.2-219. The Board's Chair and Vice-Chair are selected by the other supervisors.

10. By referendum vote on November 8, 1994, Greene County

voters elected to move from an appointed to an elected School Board. The five members of the School Board are now elected from the same three districts as the Board of Supervisors, with two elected at-large and a plurality win system in effect. Board members serve four-year terms, with the same method of staggered terms as used for supervisor elections. See Va. Stat. § 24.2-223. Greene County School Board elections are non-partisan.

11. The Town of Stanardsville has a mayor-council form of government. There are four members of the Stanardsville Town Council, who are elected at-large by plurality vote, and a mayor. The mayor only votes to break a tie. Elections are held in even numbered years every two years. The term of office for mayor is two years and council members serve four year terms. See Va. Stat. § 24.2-222. These elections are non-partisan.

12. There are four voting precincts in Greene County for purposes of electing the County Board of Supervisors and School Board. The polling places are located in the Dyke Firehouse, Greene County Vocation Center, Ruckersville Firehouse, and the Courthouse on Court Square in Stanardsville.

13. No minority candidate for public office has ever been successful in Greene County either at the town or county level. Wayne Berry, who is black, ran for Greene County Sheriff in 1995. He is the only black candidate for any town or county office in the last 25 years. He lost to the incumbent Sheriff, William

Morris, 2,173 to 1,287. Few black persons have ever served on town or county boards or commissions. Currently, Janet Frye, who is black, is a member of the Board of Zoning Appeals, a board appointed by the Circuit Court Judge.

14. Greene County currently employs 24 poll workers, one of whom, Booker Hill of Ruckersville, is black. The voter registrar has made efforts to hire black pollworkers through phone calls to individuals as well as to a black church in Ruckersville, but she has not been successful.

15. Greene County has a three-member Electoral Board appointed by the County Circuit Court judge. The Electoral Board is responsible for conducting elections and appointing the Voter Registrar. Historically, the chairs of the local Democratic and Republican parties forward names to the Voter Registrar to be appointed as poll officials by the Electoral Board. The appointment of poll officials is for a one-year term. Currently, none of the members on the Electoral Board is a member of a racial minority group. No person recommended by a political party chair to serve as a poll official ever has been rejected by the Electoral Board.

16. In recent years, the local political parties have not made recommendations to the Electoral Board for poll officials. Because Greene County has found it difficult over the years to find enough persons willing to serve as poll officials, the

county registrar has actively recruited persons to work at the polls, including adding a section to voter registration materials soliciting registrants to serve as poll officials as well as making calls to residents to inquire as to their availability to serve as poll officials. There is no indication in the preceding ten years that any eligible Greene County resident who has expressed an interest in becoming an election official has been denied the opportunity to serve. The registrar forwards the names of voters indicating an interest in serving as a poll official to the Electoral Board for consideration and appointment.

17. In the preceding ten years, Greene County has made 25 Section 5 submissions of changes affecting voting for preclearance review under Section 5 of the Voting Rights Act. 42 U.S.C. §1973c. Most of the County submissions involved increasing the opportunities its citizens had to register and vote by adding registration locations, hours during which citizens could register to vote, and voting precincts. The school district submissions related to changing the County School Board from an appointed to an elected body, a change which gave voters a more direct say in the composition of the School Board.

18. Within the ten-year period preceding the filing of this action, Greene County and its governmental units have failed to make a timely Section 5 preclearance submission of only one

change affecting voting. The County submitted that change on February 26, 2002. The Attorney General granted preclearance on April 26, 2002.

19. The Attorney General has not interposed a Section 5 objection to any change affecting voting in Greene County within the past ten years. All voting changes submitted by the County and its governmental units under Section 5 have been precleared by the Attorney General. Neither the County nor its governmental units has ever sought Section 5 judicial preclearance from this Court. The County and its governmental units have no pending Section 5 submissions before the Attorney General.

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

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

22. Greene County, in the preceding ten years, has not 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.

23. In the preceding ten years, 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. 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 the 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.

24. Greene 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.

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

26. 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.

27. Greene 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). Greene County issued a notice regarding the proposed bailout on October 18, 2001. The County published notice at the Registrar's office and in the Greene County Record in the October 18 and October 25, 2001 editions. In addition, the County posted copies of the notice in other public locations, including the County Courthouse and the Voter Registrar's Office.

28. 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. 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.

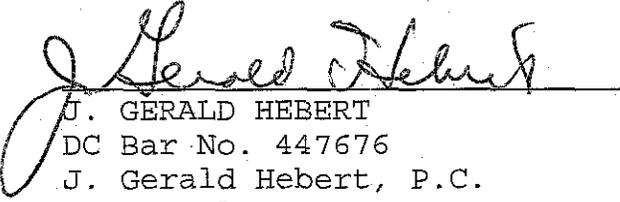
The United States' consent in this action is based upon its own factual investigation and consideration of all of the circumstances in this case, including the views of minority citizens in Greene County, the fact that there are no defendant-

interveners, the affirmative steps taken by the County to increase voter participation, and the absence of evidence of racial polarization or discrimination in the electoral process within the County.

Approved as to form and content:

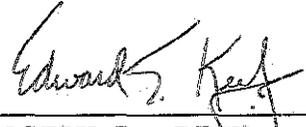
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