

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

WASHINGTON COUNTY, VIRGINIA,)
a political subdivision of the)
Commonwealth of Virginia,)
County Administration Building)
205 Academy Drive)
Abingdon, Virginia, 24210)

Plaintiff,)

v.)

MICHAEL B. MUKASEY)
Attorney General of the)
United States of America,)
GRACE CHUNG BECKER,)
Acting Assistant Attorney General,)
Civil Rights Division,)
United States Department of Justice,)
Washington, DC, 20530)

Defendants.)

Civil Action No. 1:08-cv-01112
RMU-ESH-JRB
(three-judge court)

STIPULATION OF FACTS

This action was initiated by Washington County, a political subdivision of the Commonwealth of Virginia (hereinafter "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. § 1973(b).

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.

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

1. Plaintiff Washington County (“the 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. § 1973(b)(a)(1). Washington County is located in southwest Virginia, approximately 132 miles south of Roanoke, VA, 132 miles northeast of Knoxville, TN, and 150 miles northwest of Charlotte, NC. The City of Bristol, VA adjoining Washington County to the west is an independent city not part of the County. The County has a land area of approximately 566 square miles.

2. Located within Washington County are the Towns of Abingdon, Damascus, and Glade Spring. Census figures from 2000 indicate that: the Town of Abingdon has a total population of 7,780 and of this number, 265 (3.4%) are black; the Town of Damascus has a population of 981 and of this number, 16 (1.6%) are black; and the Town of Glade Spring has a population of 1,374 and of this number, 97 (7.1%) are black.

3. The Town of Saltville is partly within the County. The Town is regulated by a mayor and a Town Council consisting of six other members. According to the 2000 Census, the population of Saltville numbered 2,204 and the Saltville population is approximately 0.41% black and 0.45% Hispanic or Latino.

4. Residents of the Towns are eligible to participate in town elections and in County elections. The Towns are governed by their respective Town Councils. The Town of Abingdon has a five-member Town Council elected at-large. The Towns of Damascus and Glade Spring have seven-member Town Councils and each Town Council is elected at-large.

5. Washington 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. § 1973(c). 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.

6. Washington 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 Constitution of 1972.

7. The Washington County Board of Supervisors is the governing body that formulates policies for the administration of government in Washington County. It is comprised of seven Supervisors elected from single-member districts to serve four-year terms. The chief administrative officer of the County government, the County Administrator, is appointed by and serves at the pleasure of the Washington County Board of Supervisors. The general day to day operations of Washington County are controlled by the Office of the County Administrator. The Washington County School Board is comprised of seven members and is elected from the same single-member districts as are members of the Board of Supervisors.

8. According to the 2000 census, Washington County, Virginia has a total population of 51,103. Of this number, 676 persons (or 1.3%) are African-American and

322 (or 0.6%) are Hispanic. The voting age population of the County (18 years of age or older) is 40,498 (79.2% of the total population). Of this number, 517 persons (or 1.3%) are African-American.

9. Like other jurisdictions in the Commonwealth of Virginia, the County does not collect or maintain voter registration data by race. Current data show, however, that a significant proportion of the County's voting age population is registered to vote. As of February 2008, there were 33,401 registered voters in Washington County, approximately 82.5% of the voting age population.

10. The number of registered voters in the County has steadily risen over the last ten years. In 1998, for example, there were 26,976 registered voters in the County. By 2003, the number of registered voters had grown to 30,905. The number of registered voters in the County has continued to grow. As of February 2008, the number of registered voters in the County had increased to 33,401. Thus, from 1998 to 2008, the total number of registered voters in the County has increased 24% (from 26,976 in 1998 to 33,401 in 2008).

11. Voter turnout in elections within Washington County (*i.e.*, the percentage of those registered voters who cast ballots) varies according to the offices up for election. In the last two Presidential elections (2000 and 2004), for example, 69.6% and 70.1% of the County's registered voters turned out to vote, respectively. In the General Elections for state and county offices held in November 1999, 2001, 2003, 2005, and 2007, 44.7%, 49.6%, 31.9%, 48.2%, and 38.54% of the County's registered voters turned out to vote, respectively. Voter turnout was 53.9% for the November 2006 General Election.

12. There are presently a total of eighteen (18) polling locations in Washington County (in addition to the central absentee voting precinct and three town polling locations), located conveniently to voters across the County. All polling places in the County are accessible to voters with physical disabilities.

13. Minority candidates have a history of electoral success in Washington County. In the town of Glade Springs, Elmer B. Johnson, an African American, was elected to the Town Council for four-year terms in 1986, 1992 and 1996, Marie Brown, an African American was elected to the Town Council for four-year terms in 1994, 1998 and 2002 , and W.P. “Ricky” Porter was elected to the Town Council in 2002 for a four-year term. In the town of Abingdon, two African Americans have been appointed to and serve in positions on the Housing Authority and the Board of Zoning Appeals, Marcie Barnes and Marva Jo Wheeler, respectively, and before being termed out, Harriet DeBose, an African American, recently completed her second six-year term on the Town Planning Commission.

14. Since 1997, Washington County has submitted twelve (12) voting changes to the United States Department of Justice seeking preclearance under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973(c). Not a single objection has been interposed by the Department of Justice to any of the changes submitted.

15. Within the ten years preceding the filing of this action, Washington County has not enforced any voting changes prior to Section 5 preclearance. Nor has the Attorney General interposed a Section 5 objection to any change affecting voting in Washington County within the past ten years. The County has not sought judicial preclearance of any voting changes in this Court.

16. Voter registration opportunities in the County are readily and equally available to all citizens. The voter registration office for the County is conveniently located for all County residents. The voter registration office is open 9:00 a.m. to 5:00 p.m. weekdays.

17. Voters in Washington County may also register by mail, and voter registration applications are available at locations convenient to voters throughout the County. In addition, voter registration is offered at the Washington County Department of Health, Department of Social Services, Department of Rehabilitative Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department for the Blind and Vision Impaired, the Virginia Office for Protection and Advocacy, Regional Offices of the Department of Game and Inland Fisheries, the Armed Forces Recruitment Offices, Department of Deaf and Hard of Hearing, and any other agencies whose primary function is to provide state-funded assistance to persons with disabilities.

18. The Washington County Voter Registrar works with numerous organizations that conduct voter registration drives, such as: the League of Women Voters; two local college campuses; Washington County School Board (registering high school students); community civic groups; the local Democratic and Republican Parties; and local candidates.

19. The opportunity to become a registered voter in Washington County is also available under the National Voter Registration Act (the "NVRA") at the Department of Motor Vehicle ("DMV") offices and at all public assistance agencies in Washington

County. The opportunities for persons to register to vote in Washington County have been made more convenient and available as a result of implementation of the NVRA.

20. Washington County has a three-member Electoral Board, appointed pursuant to Virginia state law. The Electoral Board has responsibility under Virginia law for overseeing the election process in the County, including the appointment of poll workers to conduct elections. VA. CODE ANN. § 24.2-115 (2007).

21. Over at least the last ten years, no person recommended to serve as a poll official has been rejected by the Electoral Board. Records from 2004 through 2007 show that the percentage of African-American poll workers (1.7%) employed by Washington County approximates the percentage of Washington County's African-American voting age population (1.3%).

22. No person in Washington County has been denied the right to vote on account of race, color, or membership in a language group for at least the preceding ten years.

23. No "test or device" as defined in the Voting Rights Act (42 U.S.C. § 1973(b)(c)) has been used in Washington County as a prerequisite to either registering or voting for at least the preceding ten years.

24. No final judgment of any court of the United States has determined that denials or abridgments of the right to vote on account of race or color have occurred in Washington County, nor has the County entered into any consent decree, settlement or agreement resulting in any abandonment of a voting practice challenged on such grounds. There are no pending actions against Washington County alleging such denials or abridgments of the right to vote.

25. No voting practices or procedures have been abandoned by the 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.

26. Washington County has not employed any voting procedures or methods of election that inhibit or dilute equal access to the electoral process by minority voters in the County. Minority voters in Washington County are not being denied an equal opportunity to elect candidates of their choice to the County Board of Supervisors or to the Abingdon, Damascus, or Glade Spring Town Councils.

27. Federal examiners have never been appointed or assigned to Washington County under Section 3 of the Voting Rights Act, 42 U.S.C. § 1973(a).

28. Because there has not been any known intimidation or harassment of persons exercising rights protected under the Voting Rights Act in Washington County within the last ten years, neither the County nor any of its governmental units have had any occasion to eliminate such activity.

29. Pursuant to 42 U.S.C. § 1973(b), the County has “publicize[d] the intended commencement ...of [this] action in the media serving [the County] and in the appropriate United States post offices.” A Notice of Intent to Seek a Bailout was published by the County in the *Bristol Herald Courier* on April 14, 22, and 29, 2008, and in the *Washington County News* on April 15, 23, and 30, 2008. This Notice was also delivered with a request that it be posted at post offices throughout the County, and at various County offices, including the county social services office, the county courthouse, the voting registration office, and various libraries throughout the County.

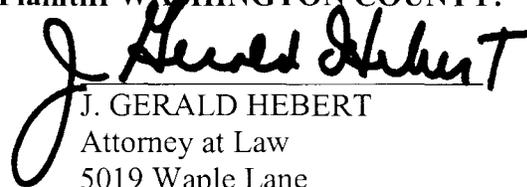
Washington County intends to publish a settlement of this action in the event that Defendants consent to bailout.

30. 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.

31. 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 the County, the fact that there are no defendant-intervenors, the affirmative steps taken by the County to increase voter participation, and the absence of evidence of discrimination in the electoral process within the County.

Approved as to form and content:

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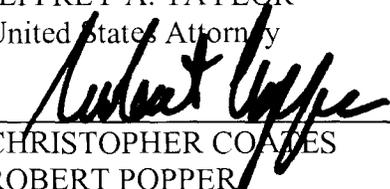
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