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U.S. DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
FILED

JUN - 2 2000

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE/OPELOUSAS DIVISION

ROBERT H. SHEMPELL, CLERK  
BY cah

GREIG, ET AL.,	)	
	)	
Plaintiffs,	)	No. 6:2000cv00603
	)	
v.	)	Judge Doherty
	)	Mag. Judge Methvin
	)	
CITY OF ST. MARTINVILLE, ET AL.,	)	
	)	
Defendants.	)	
	)	

UNITED STATES' ANSWER AND CROSS-CLAIM

Defendant United States respectfully submits the following Answer, including affirmative defenses, and a cross-claim against Defendant City of St. Martinville, alleging that the City is denying the right to vote on the basis of race in violation of Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973.

I. United States' Answer

A. United States' Responses to Plaintiffs' Allegations

Defendant United States answers the complaint in the above-captioned case as follows:

I. Jurisdiction

No response is required to the two sentences of Paragraph I regarding jurisdiction because they do not contain allegations of fact. The United States admits that this Court has jurisdiction over this claim pursuant to 42 U.S.C. 1973j(f) but denies that a

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three-judge panel is required to determine this matter pursuant to the claims raised in the complaint.

II. Venue

Admitted.

III. Parties Plaintiff

The United States lacks knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Paragraph III.

IV. Parties Defendant

Admitted.

V.

Admitted.

VI. Factual Allegations

The United States admits the first sentence of Paragraph VI, and admits that four of the five present council members were elected in April 1990 and took office in June 1990. The United States avers that the fifth council member, District 2 Council Member Pamela C. Thibodeaux, was appointed to the council in 1997 to replace her father, Zerben Champagne, who was elected as the District 2 Council Member in April 1990.

VII.

Paragraph VII is denied, except for the opening clause that states "[t]he next scheduled election was set for the Spring of 1994," which is admitted.

VIII.

The United States denies that plaintiffs are entitled to any relief from the United States on the basis of the factual allegations in Paragraph VIII, but admits the factual allegations contained therein.

IX.

Admitted, except that elections in St. Martinville have not been conducted according to schedule for six, rather than ten, years.

X. Causes of Action

Defendant United States denies that plaintiffs are entitled to any relief from the United States in this action based upon the provisions cited in Paragraph X. The United States' cross-claim asserts that the City of St. Martinville is in violation of Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973. The United States has not yet determined whether the allegations in Paragraph X with regard to St. Martinville can be admitted or denied.

XI. Relief Sought

No response is required to Paragraph XI because it does not contain allegations of fact. Defendant United States denies that plaintiffs are entitled to any relief from the United States in this action. The United States asserts that the proper remedial course for this action is identified in the United States' cross-claim.

Prayer

In response to the plaintiffs' prayer for relief, Defendant United States denies that plaintiffs are entitled to any relief from the United States in this action.

B. First Affirmative Defense: Lack of Subject Matter Jurisdiction

This Court lacks jurisdiction over the subject matter of the plaintiffs' claims against the United States.

C. Second Affirmative Defense: Failure to State a Claim Upon Which Relief Can be Granted

Plaintiffs have failed to state a claim against the United States upon which relief can be granted.

II. United States' Cross-Claim

Pursuant to Federal Rules of Civil Procedure 7(a), 12(b), and 13(g), Defendant United States asserts the following cross-claim against Defendant City of St. Martinville:

1. This claim is made by the Attorney General on behalf of the United States pursuant to Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, and Section 12(d) of the Voting Rights Act, 42 U.S.C. 1973j(d).
2. This Court has jurisdiction over this claim pursuant to 42 U.S.C. 1973j(d), (f), and 28 U.S.C. 1345.
3. The City of St. Martinville is a political and geographical subdivision of the State of Louisiana and of the Parish of St. Martin.
4. The Clerk of Court of the Parish of St. Martin is the chief elections authority in the parish.

5. As the chief elections authority in the parish, the St. Martin Parish Clerk of Court conducts city council elections for the City of St. Martinville. Among other duties, the Clerk of Court accepts qualifying papers for city council candidates and performs other necessary functions for the proper execution of city council elections.
6. Michael Fuselier, Pamela C. Thibodeaux, Pat Martin, James J. Charles, Sr., and Douglas J. Francois, Jr., are the current members of the St. Martinville City Council.
7. The City of St. Martinville is a covered jurisdiction under Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c, which means it must obtain preclearance for any change with respect to voting, either from the Attorney General of the United States or from the United States District Court for the District of Columbia, before such a change may be implemented.
8. In 1977, the St. Martinville city council adopted a change in the method of electing city council members from an at-large system to one with five single-member districts.
9. In 1977, the St. Martinville city council adopted a districting plan with two predominantly white districts (Districts 1 and 2), two predominantly black districts (Districts 4 and 5), and a fifth district (District 3) in which the total population was 51 percent black.

10. In 1978, the Attorney General of the United States precleared the City of St. Martinville's 1977 change in method of election and districting plan.
11. From 1977 to the present, white council members have represented Districts 1 and 2, black council members have represented Districts 4 and 5, and both black and white council members have represented District 3.
12. The City of St. Martinville did not redraw its city council district lines from 1977 to 1992.
13. City council members are elected to concurrent, four-year terms.
14. In the city council elections held in April 1990, voters in District 3 elected a white council member. After the 1990 election, white council members held three seats on the city council and black council members held two seats.
15. The 1990 Census revealed that the City of St. Martinville had a total population of 7,137, of whom 59.2 percent were black, and a voting age population of 5,013, of whom 55.7 percent were black.
16. The 1990 Census also revealed that black residents comprised 72, 98, and 89 percent of the total population in Council Districts 3, 4, and 5, respectively.
17. The 1990 Census also revealed that the existing council districts in St. Martinville did not comply with the one-person-one-vote requirement of the United States

Constitution because the council districts had a population deviation substantially in excess of 10 percent.

18. In 1992, the City of St. Martinville submitted to the United States Attorney General for preclearance under Section 5 of the Voting Rights Act a redistricting plan adopted in 1991 for its city council in which the total population in District 3 was 63 percent black, and the black populations in Districts 4 and 5 were 99 percent and 83 percent, respectively, according to 1990 Census figures.
19. On November 9, 1992, the Attorney General objected to the city's 1991 plan, stating in a letter that the proposed plan "occasion[ed] a prohibited 'retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.'"
20. In 1993, the City of St. Martinville submitted to the Justice Department a second proposal adopted in 1993 for redistricting of its city council. Districts 3, 4, and 5 in the 1993 plan had total populations that were 64, 98, and 84 percent black, respectively, according to 1990 Census figures.
21. On January 31, 1994, the United States requested additional information from the City of St. Martinville regarding the city's 1993 redistricting plan, and on April 4, 1994, the United States received additional information from the city.
22. The City did not conduct city council elections as scheduled in April 1994, and although their four-year terms had

expired in 1994, the St. Martinville city council members held over in office.

23. In May 1994, after informing the United States that the city was planning a series of annexations that would affect its 1993 redistricting submission, the City of St. Martinville withdrew its 1993 submission and the Attorney General made no determination on the city's 1993 plan.
24. From 1992 to 1997, the City of St. Martinville submitted a total of six annexations for preclearance, all of which were precleared by the Attorney General. Only one of these submissions, however, included the assignment of residents in a newly-annexed area to a particular city council district. This designation of residents involved only District 1, and it was precleared by the Attorney General.
25. In March 1997, the City of St. Martinville submitted a third redistricting plan for preclearance under Section 5 of the Voting Rights Act. Under this plan, which was adopted over the objections of the city's two black city council members, Districts 3, 4, and 5 contained total populations that were 61.4, 98.2, and 85.5 percent black, respectively, according to 1990 Census figures.
26. On October 6, 1997, the Attorney General objected to the city's 1997 submission, stating in a letter that "the proposed plan, like the 1991 objected-to plan, occasions a prohibited 'retrogression in the position of racial minorities with respect to their effective exercise of the



electoral franchise.'"

27. The City did not conduct city council elections as scheduled in April 1998. The St. Martinville city council members, four of whom had been elected in 1990 and a fifth who was appointed in 1997, have continued to hold over in office to this date.
28. The City of St. Martinville submitted a request in August 1998 that the Attorney General reconsider her objection to the 1997 plan. On October 19, 1998, the Attorney General continued her objection to the city's 1997 plan, stating in a letter that "a reduction in the black population percentage in District 3 to 61.4 percent black as the city suggests (or 60.3 percent black in registration) is likely to worsen black political participation opportunities in a manner prohibited by Section 5."
29. On April 17, 2000, the city council of St. Martinville, over the objections of its two black city council members, approved a resolution calling for the creation of a fourth redistricting plan in which the total population of District 3 would be 60 percent black.
30. It is possible for the city to draw a redistricting plan that complies with traditional redistricting principles, adheres to the requirements of the United States Constitution, does not make black voters worse off with respect to their effective exercise of the electoral franchise in the city, and that otherwise fully complies

with federal law.

31. Elections in the City of St. Martinville are racially polarized.
32. The City of St. Martinville has a history of official acts of discrimination against its African-American residents.
33. City officials have failed to offer a legitimate, nonracial reason for their failure to enact a redistricting plan that does not worsen the position of black voters in the city.
34. For racial reasons, the St. Martinville city council is following a course of action and inaction intended to benefit itself and to deny all voters in the city the basic opportunity to vote in city elections, but that is targeted against and disproportionately disadvantages the city's black citizens. This course of action and inaction constitutes a denial of the right to vote on account of race or color and violates Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973.
35. Unless enjoined by an order of this Court, the City of St. Martinville will continue to deny the right to vote on account of race or color.

WHEREFORE, the United States prays that the Court enter a judgment:

- 1) Declaring that the City of St. Martinville is denying the right 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;

- 2) Affording Defendant City of St. Martinville a reasonable opportunity to adopt, and obtain Section 5 preclearance for, a redistricting plan for its city council that complies with federal law, such that the city may hold a special election for its city council during the October 7, 2000, and November 7, 2000, primary and general elections;
- 3) In the event that Defendant City of St. Martinville fails to enact a remedial plan that complies with federal law, ordering a redistricting plan into effect for the city council of St. Martinville that complies with Section 2 of the Voting Rights Act, 42 U.S.C. 1973, Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, and that otherwise complies with applicable federal law, in sufficient time for the city to conduct a special election for its city council during the October 7, 2000, and November 7, 2000, primary and general elections; and
- 4) Ordering Defendant City of St. Martinville to conduct a special election for all members of its city council during the October 7, 2000, and November 7, 2000 primary and general elections under a lawful redistricting plan.

III. Joinder of Additional Parties

Pursuant to Rule 19(c) of the Federal Rules of Civil Procedure, the United States believes that St. Martin Parish Clerk of Court Allen Blanchard, Sr., acting in his official capacity as the chief elections officer of St. Martin Parish, and the St. Martinville city council members, acting in their official capacities, are necessary parties to effectuate the prayed-for remedies in this action. These individuals have not yet been joined in this action because the United States had not asserted its prayer for relief until today. If this Court deems appropriate, the United States is prepared to offer a Motion for Joinder pursuant to Fed. R. Civ. P. 19(a).

The United States further prays that this Court grant such additional relief as the interests of justice may require, together with the costs and disbursements of this action.

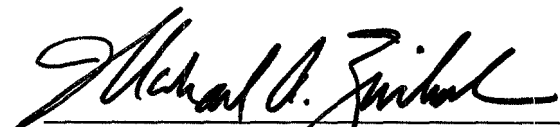
Respectfully submitted:

JANET RENO  
Attorney General

WILLIAM FLANAGAN  
United States Attorney

JANICE HEBERT  
Assistant United States  
Attorney

BILL LANN LEE  
Acting Assistant Attorney  
General for Civil Rights



JOSEPH D. RICH  
ROBERT A. KENGLER  
MICHAEL A. ZWIBELMAN, T.A.  
Attorneys  
Voting Section  
Civil Rights Division  
U.S. Department of Justice  
P.O. Box 66128  
Washington, D.C. 20035-6128  
(202) 514-6450