IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

MARY THOMAS, *et al.*, Plaintiffs, v. MARCI ANDINO, *et al.*, Defendants.	Civil Action No. 3:20-cv-1552 (JMC)

STATEMENT OF INTEREST OF THE UNITED STATES CONCERNING SECTION 201 OF THE VOTING RIGHTS ACT

The United States respectfully submits this Statement of Interest pursuant to 28 U.S.C. § 517, which authorizes the Attorney General "to attend to the interests of the United States in a suit pending in a court of the United States." This case presents important questions regarding Section 201 of the Voting Rights Act, 52 U.S.C. § 10501 ("Section 201"). Congress has accorded the Attorney General broad authority to enforce the Voting Rights Act on behalf of the United States. *See* 52 U.S.C. § 10504. Accordingly, the United States has a substantial interest in ensuring the proper interpretation and uniform enforcement of Section 201. The United States submits this Statement of Interest for the limited purpose of addressing Plaintiffs' Section 201 claim.

Plaintiffs' constitutional claims in their preliminary injunction papers are premised on the factual circumstances related to the COVID-19 pandemic. By contrast, Plaintiffs' claim under Section 201 is not moored to these same circumstances. Rather, Plaintiffs essentially argue that South Carolina's long-standing absentee witness requirement has been void *ab initio* on the supposed grounds that it constitutes a "test or device" prohibited by Section 201. Hence,

Plaintiffs argue that this requirement must be enjoined permanently, with no possibility of remediation or cure. Plaintiffs' claim appears to implicate absentee witness requirements on the books in at least ten other states.

Plaintiffs' Section 201 claim cannot form the basis for preliminary injunctive relief for two independent reasons. Initially, this Court as constituted cannot address Plaintiffs' Section 201 claim, which the Voting Rights Act provides may only be heard by a three-judge court. And even if this Court as constituted were able to consider the merits of Plaintiffs' Section 201 claim (and it cannot), Plaintiffs' Section 201 claim fails as a matter of law. The United States does not express a view on any other claim in this case.

PROCEDURAL BACKGROUND

South Carolina requires all absentee voters to swear or affirm that they are duly qualified to vote, that they have not voted before returning the ballot, that the ballot is theirs, and that they have not received unlawful assistance in voting. S.C. Code Ann. §§ 7-15-220, -380. A copy of the oath must be signed by the absentee ballot applicant, witnessed, and returned with the ballot. *See id.* §§ 7-15-220 to -230, -380 to -385; *see also id.* §§ 7-15-220(B), -380(B) ("Qualified voters under the Uniformed and Overseas Citizens Absentee Voters Act are exempt from witness requirements."). The witness must also sign and provide an address. *See id.* §§ 7-15-220, -380. The ballot may not be counted unless the oath is properly signed and witnessed. *Id.* § 7-15-420; *see also id.* § 7-15-230.

On April 15, Plaintiffs sued South Carolina officials alleging, among other claims, that the witness requirement to the State's absentee voter oath violates Section 201. Compl. ¶¶ 4-6, 122-128 (ECF No. 1). Among other relief, Plaintiffs seek a declaration that the witness requirement violates Section 201 and an injunction prohibiting enforcement. Compl. ¶¶ B, C-2.

On April 28, Plaintiffs moved for a preliminary injunction. Mot. for Prelim. Inj. (ECF No. 7). As relevant here, Plaintiffs argue that the witness requirement violates Section 201 because, in their view, it requires an absentee voter to "prove his qualifications by the voucher of registered voters or members of any other class" within the meaning of the Voting Rights Act. Pls.' Br. 35-37 (ECF No. 7-1) (quoting 52 U.S.C. § 10501(b)(4)).

STATUTORY BACKGROUND

Section 201 of the Voting Rights Act, 52 U.S.C. § 10501 (formerly codified at 42 U.S.C. § 1973aa), establishes that "[n]o citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State." 52 U.S.C. § 10501(a). The term "test or device" encompasses

> any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) *prove his qualifications by the voucher of registered voters or members of any other class*.

Id. § 10501(b) (emphasis added). Section 14(c)(1) of the Voting Rights Act defines the terms "vote" and "voting" to include "all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, . . . casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast." *Id.* § 10310(c)(1). An action to enforce Section 201 "shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal shall be to the Supreme Court." *Id.* § 10504.

Section 201's nationwide ban on tests and devices is an extension of the earlier ban limited to jurisdictions subject to preclearance and other special provisions of the Voting Rights Act. As originally enacted, the Voting Rights Act applied special provisions to jurisdictions that

had maintained a "test or device" on November 1, 1964, and had either less than fifty percent voter registration on that date or less than fifty percent turnout in the 1964 presidential election. Voting Rights Act of 1965, Pub. L. No. 89-110, § 4(b), 79 Stat. 437, 438 (1965) (current version at 52 U.S.C. § 10303(b)). The 1965 definition of "test or device" mirrors the definition in Section 201. *Compare* Voting Rights Act of 1965 § 4(c), 79 Stat. at 438-39 (current version at 52 U.S.C. § 10303(c)), *with* 52 U.S.C. 10501(b). Section 4(a) of the Voting Rights Act of 1965 suspended tests and devices in jurisdictions subject to the special provisions for an initial period of five years (that was later extended). *See* 79 Stat. at 438 (current version at 52 U.S.C. § 10303(a)). In 1970, Congress enacted Section 201, which at first extended the ban on tests or devices nationwide until 1975. *See* Voting Rights Act Amendments of 1970, Pub. L. No. 91-285, § 6, 84 Stat. 314, 315 (1970); *see also Oregon v. Mitchell*, 400 U.S. 112, 131-34 (1970). In 1975, Congress made Section 201 permanent nationwide. *See* Voting Rights Act Amendments of 1975, Pub. L. No. 94-73, § 102, 89 Stat. 400, 400 (1975).

The 1965 prohibition on voucher requirements, which also appears today in the provision of Section 201 invoked by Plaintiffs, addressed procedures under which "registered voters must vouch for new applicants in areas where practically no Negroes are registered and where whites cannot be found to vouch for Negroes." S. Rep. No. 89-162, pt. 3, at 16 (1965), *as reprinted in* 1965 U.S.C.C.A.N. 2508, 2553; *see also* H.R. Rep. No. 89-439, at 15 (1965), *as reprinted in* 1965 U.S.C.C.A.N. 2437, 2446.[1] Before passage of the Voting Rights Act of 1965, the United

[1] *See also* S. Rep. No. 89-162, at 12, *as reprinted in* 1965 U.S.C.C.A.N. at 2449-50 ("The voucher requirement has similarly been used to effect discrimination. Registrars have required Negroes, but not whites, to produce supporting witnesses to vouch for them. Registrars have required Negroes to produce whites to vouch for them, and registrars have helped whites, but not Negroes, in obtaining supporting witnesses."); H.R. Rep. No. 89-439, at 21, *as reprinted in* 1965

States had successfully challenged such requirements in protracted litigation. *See, e.g.*, *United States v. Logue*, 344 F.2d 290, 291-93 (5th Cir. 1965) (per curiam) (enjoining requirement that applicants put forward a registered voter to "affirm that he is acquainted with the applicant, knows that the applicant is a bona fide resident of the county, and is aware of no reason why the applicant would be disqualified from registering"); *United States v. Ward*, 349 F.2d 795, 799-802 (5th Cir. 1965) (enjoining requirement that two registered voters establish the identity of an applicant); *United States v. Manning*, 205 F. Supp. 172, 173-74 (W.D. La. 1962) (same). And Congress noted these cases when it prohibited voucher requirements. *See* S. Rep. No. 89-162, pt. 3, at 46 app'x G, *as reprinted in* 1965 U.S.C.CA.N. at 2549-50; *Hearings on H.R. 6400 before the House Subcommittee No. 5 of the Committee on the Judiciary*, 89th Cong., 1st Sess., at 33-34 tbls. B-2(a), B-3(a) (1965) (materials provided by the Department of Justice); *see also Davis v. Gallinghouse*, 246 F. Supp. 208, 217 (E.D. La. 1965) ("Congress undoubtedly meant this ban on 'vouching' to hit at the requirement in some states that identity be proven by the voucher of two registered voters, which, where all or a large majority of the registered voters are white, minimizes the possibility of a Negro registering."). Section 201 simply expanded this voucher-requirement ban so that it applied nationwide.

Section 201 serves an important role in prohibiting the covered practices within its scope, namely, those that parallel the historical, racially discriminatory voting practices described above. And courts consistently have rejected claims that would extend the ban on tests and devices, including voucher requirements, beyond the statute's proper focus. Soon after the Voting Rights Act's passage, a district court declined to stretch the prohibition to reach

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U.S.C.C.A.N. at 2452 (finding that practices such as voucher requirements kept many black voters "from ever reaching the poll tax stage").

documentary proof of residency requirements, under the theory that "voucher of . . . members of any other class," 52 U.S.C. § 10303(c)(4), might include "the class of people who issue driver's licenses, library cards, rent receipts, postmarked envelopes, etc." *Davis*, 246 F. Supp. at 217. More recently, a district court concluded that an allowance for voters who do not have identification at the polls to vote if "positively identified by two election officials," Ala. Code § 17-9-30(f), is not a prohibited voucher requirement because it is not a "requirement" at all; rather, it is a fail-safe to extend the franchise to those lacking requisite identification, *Greater Birmingham Ministries v. Alabama*, 161 F. Supp. 3d 1104, 1115-16 (N.D. Ala. 2016). *See also Greater Birmingham Ministries v. Merrill*, 284 F. Supp. 3d 1253, 1281-83 (N.D. Ala. 2017), *appeal pending*, No. 18-10151 (11th Cir. argued July 28, 2018); *cf. Ne. Ohio Coal. for the Homeless v. Husted*, 837 F.3d 612, 629 (6th Cir. 2016) (holding that a "requirement that absentee and provisional voters accurately complete address and birthdate fields . . . bears no similarity to" the tests and devices prohibited by Section 201).

ARGUMENT

I. THIS COURT AS CONSTITUTED MAY NOT ADDRESS PLAINTIFFS' SECTION 201 CLAIM.

As explained above, Section 201 claims "shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28." 52 U.S.C. § 10504. In turn, 28 U.S.C. § 2284(a) mandates that "[a] district court of three judges shall be convened when otherwise required by Act of Congress." Section 2284 also provides that a "single judge shall not … hear and determine any application for a preliminary or permanent injunction … or enter judgment on the merits." 28 U.S.C. § 2284(b)(3). The Supreme Court's interpretation of Section 2284 is clear. *See Shapiro v. McManus*, 136 S.Ct. 450, 454 (2015) ("[T]he district judge was *required* to refer the case to a three-judge court, for § 2284(a) admits of no exception, and

'the mandatory 'shall' . . . normally creates an obligation impervious to judicial discretion.'" (internal citations omitted). Therefore, this Court as constituted may not address Plaintiffs' Section 201 claim.[2]

II. THE WITNESS REQUIREMENT DOES NOT VIOLATE SECTION 201.

South Carolina's witness requirement for the absentee voter oath does not violate the first three provisions of Section 201 in that it is not a literacy test, it is not an educational requirement, and it is not a moral character requirement. Nor, contrary to Plaintiffs' position, is it a voucher requirement prohibited by Section 201's fourth and final provision.

To begin with, Plaintiffs' argument is not supported by Section 201's plain text. As relevant here, Section 201 prohibits any requirement that a voter "prove his qualifications by the voucher of registered voters or members of any other class." This provision is inapplicable here in two respects. First, the witness requirement does not—and is not intended to—"prove [a voter's] qualifications." It merely mandates that an individual confirm that she observed the voter's signing of the oath. *See Gregory v. S.C. Democratic Exec. Comm.*, 247 S.E.2d 439, 444 (S.C. 1978) (noting that the witnessing requirement helps assure "the authenticity of the absentee vote"). The witness need not attest to the voter's qualifications or to the fact that the voter has not voted before returning the ballot, is casting her own ballot, or has not received unlawful assistance in voting. *See* S.C. Code Ann. §§ 7-15-220, -380; *see also id.* § 7-5-120 (listing voter qualifications). Simply put, a witness "does not attest to the validity of the statements made in the document itself." *Butler v. Encyclopedia Britannica, Inc.*, 41 F.3d 285, 293-94 (7th Cir.

[2] Plaintiffs must affirmatively request a three-judge court to pursue their Section 201 claim. *See Shapiro*, 136 S. Ct. at 454 ("[T]he current § 2284(b)(1) triggers the district judge's duty" to commence the process for appointment of a three-judge court "'[u]pon the filing of a *request* for three judges.'" (quoting 28 U.S.C. § 2284(b)(1)) (second alteration in original)).

1994).[3] In these respects, the witness requirement fundamentally differs from a voucher requirement, which mandates that a voter must proffer an individual who can independently establish the voter's identity or qualifications. *See, e.g.*, *Ward*, 349 F.2d at 799 (noting that registrar told black voters "that they would need two electors to identify them" and would not accept "any other form of identification"). Because the witness requirement is not a test or device whereby the absentee voter must "prove his qualifications" to register or vote via another's voucher, it is not prohibited by Section 201.

The witness requirement also falls outside Section 201's scope because it does not force a voter to obtain "the voucher of registered voters or members of any other class." 52 U.S.C. § 10501(b)(4). Section 201 targeted the practice of conditioning African-American registration or voting on the acquiescence of white registered voters or another group that could withhold the franchise. *See, e.g.*, *Ward*, 349 F.2d at 799 (noting that registrar imposing voucher requirement "did not expect that any white persons would identify these Negroes"). South Carolina voters, however, may choose *any* individual as their witness. Unlike the prohibited forms of "vouching" that lead to Section 201's enactment, South Carolina's witness requirement does not limit the pool of potential witnesses to registered voters or any other relevant class. *See* S.C. Code Ann. §§ 7-15-220, -380; *see also, e.g.*, S.C. Election Comm'n, *Absentee Voting*, *at* https://www.scvotes.org/absentee-voting (last visited May 11, 2020) ("The voter must make his/her mark and have the mark witnessed by *someone chosen by the voter*.") (emphasis added).

[3] The evidentiary hearsay rule illustrates the difference between witnessing and vouching. Witness testimony that recounts an out-of-court statement is not hearsay so long as it is not offered for the truth of the matter asserted, *i.e.*, does not purport to vouch for the third-party declarant. *See* Fed. R. Evid. 801(c); *Anderson v. United States*, 417 U.S. 211, 220-21 (1974). Similarly, a prosecutor may not vouch for a witness's credibility when recounting earlier testimony by asserting that the witness testified truthfully. *See, e.g.*, *United States v. Young*, 470 U.S. 1, 18-19 (1985).

Thus, Section 201's plain text does not prohibit a flexible, straightforward witness requirement such as South Carolina's.

Subsequent federal legislation further confirms that Section 201 does not address absentee ballot witness requirements. In 2010, Congress enacted the Military and Overseas Voter Empowerment (MOVE) Act, which in part prohibits States from rejecting absentee ballots cast by members of the uniformed services, their family members, and U.S. citizens residing outside the country because those ballots did not meet state notarization mandates. *See* 52 U.S.C. § 20302(i)(1). But if Section 201 already prohibited witness requirements nationwide, that MOVE Act mandate would have been entirely unnecessary. Congress can be presumed not to enact redundant legislation. *See, e.g.*, *Miles v. Apex Marine Corp.*, 498 U.S. 19, 32 (1990) ("We assume that Congress is aware of existing law when it passes legislation."); *see also, e.g.*, *Corely v. United States*, 556 U.S. 303, 314 (2009) ("[A] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." (internal quotation marks and citation omitted)).

Plaintiffs err in suggesting that the Department of Justice has employed the Voting Rights Act broadly to block "witness requirements in the absentee voting or voter registration process." Compl. ¶ 123. At least eleven states currently require the signature of a notary or witness with a returned absentee ballot. *See* Ala. Code § 17-11-7; Alaska Stat. § 15.20.203(b)(2); La. Stat. Ann. § 18:1306(E)(2); Miss. Code Ann. § 23-15-627; Mo. Rev. Stat. § 115.283; N.C. Gen. Stat. § 163-321(a)(5); Okla. Stat. tit. 26, § 14-108; R.I. Gen. Laws § 17-20-23(c); S.C. Code §§ 7-15-220, -380; Va. Code Ann. § 24.2-706; Wis. Stat. § 6.87(4)(b). *See generally* National Conference of State Legislatures, *Verification of Absentee Ballots*, *at* https://www.ncsl.org/research/elections-and-campaigns/verification-of-absentee-ballots.aspx

(Jan. 21, 2020). Yet, based on a diligent search, the United States is unaware of any challenge brought by the Attorney General—or a private plaintiff for that matter—to any such requirements as a prohibited test or device under Section 201 of the Voting Rights Act (or the time-limited and geographically-limited ban on tests and devices in Section 4(a) of the Voting Rights Act) before this lawsuit was filed.[4]

Although Plaintiffs note that the Attorney General interposed an objection under Section 5 of the Voting Rights Act, 52 U.S.C. § 10304, to Florida legislation that would have imposed a witness requirement on absentee ballots, Compl. ¶ 123 n.83, that objection does not support their claim. The objection letter stated that, although Florida had met its burden of establishing lack of discriminatory purpose, it had not met its burden of establishing lack of retrogressive effect under Section 5, as to the measure at issue there—a more restrictive absentee witness requirement than the one at issue here.[5] And, as the Florida objection letter makes clear, the objection was not interposed based on any conclusion that the witness requirement was a prohibited test or device within the meaning of Section 4(a) or 201 of the Voting Rights Act. *See* Let. from Bill Lann Lee to Robert A. Butterworth (Aug. 14, 1998), *available at* https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/FL-1030.pdf.[6]

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[4] Subsequent to the filing of this case, private plaintiffs filed a lawsuit alleging that Alabama's absentee ballot witness requirement violates Section 201. *See People First of Ala. v. Merrill*, No. 2:20-cv-619 (N.D. Ala. filed May 1, 2020).

[5] The Florida absentee witness requirement would have required the absentee voter to provide the signature of a witness who is a registered voter in Florida, the signing of an oath promising that the witness has not witnessed more than five absentee ballots, the voter identification number of the witness, and the county where the witness is registered (or in lieu thereof, notarization of the absentee voter's signature). *See id.*

[6] Similarly, none of the other Section 5 preclearance objections and cases on which Plaintiffs rely concern voucher requirements. *See* Let. from Jerris Leonard to MacDonald Gallion (Mar. 13,

In fact, South Carolina submitted various amendments to its statutes relating to the witness requirement for absentee voting to the Attorney General for review under Section 5 of the Voting Rights Act during the time the State was covered by the preclearance requirement, and the Attorney General interposed no objection to those amendments.[7] Indeed, the Department has found no record that it interposed an objection under Section 5 to any South Carolina statutes imposing the absentee witness requirement, or that the Department otherwise sought to block the absentee witness requirement in South Carolina as a test or device. *See generally* U.S. Dep't of Justice, *Voting Determination Letters for South Carolina*, *at* https://www.justice.gov/crt/voting-determination-letters-south-carolina (cataloging objections).[8]

1970), *available at* https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/AL-1100.pdf (objecting to a literacy requirement for absentee voters); *Arcia v. Fla. Sec'y of State*, 772 F.3d 1335, 1344 (11th Cir. 2014) (addressing voter registration list maintenance); *Lodge v. Buxton*, 639 F.2d 1358, 1363 (5th Cir. Unit B 1981) (noting in challenge to at-large elections that "[c]ases involving literacy tests or poll taxes, or property ownership requirements are, by comparison, easy to decide" because the "most obvious purpose for the creation or maintenance of such systems is clearly discrimination"), *aff'd sub nom. Rogers v. Lodge*, 458 U.S. 613, 625 (1982).

[7] Exhibit 1 contains Section 5 preclearance letters related to various amendments to S.C. Code Ann. §§ 7-15-220, -380, -385 -420. *See* Let. from Gerald W. Jones to Treva G. Ashworth (Jan. 30, 1978) (Act 479/R508 of 1976); Let. from Gerald W. Jones to C. Havird Jones, Jr. (May 4, 1982) (Act 280/R283 of 1982); Let. from Gerald W. Jones to C. Havird Jones, Jr (Apr. 17, 1984) (Act 266/R272 of 1984); Let. from Gerald W. Jones to C. Havird Jones, Jr. (Aug. 3, 1987) (Act 59/R94 of 1987); Let. from Barry H. Weinberg to C. Havird Jones, Jr. (Jun. 20, 1990) (Act 357/R393 of 1990); Let. from Steven H. Rosenbaum to C. Havird Jones, Jr. (June 15, 1992) (Act 253/R260 of 1992); Let. from Elizabeth Johnson to C. Havird Jones, Jr. (May 21, 1996) (Act 227/R226 of 1996); Let. from Elizabeth Johnson to. C. Havird Jones, Jr. (Aug. 19, 1996) (Act 416/R453 of 1996); Let. From John Tanner to T. Parkin Hunter (Jun. 8, 2006) (Act 284/R309 of 2006); Let. from T. Christian Herren, Jr. to T. Parkin Hunter (Aug. 22, 2011) (Act 43/R58 of 2011).

[8] South Carolina was among the states first covered by the special provisions of the Voting Rights Act in 1965, based on determinations by the Attorney General and Director of the Census. *See* Determination of the Attorney General Pursuant to Section 4(b)(1) of the Voting Rights Act of 1965, 30 Fed. Reg. 9897 (Aug. 6, 1965); Determination of the Director of the Census Pursuant

CONCLUSION

The United States expresses no view on the constitutional claims Plaintiffs seek to advance here in support of their motion for a preliminary injunction based on factual circumstances related to COVID-19.

However, Plaintiffs' claim under Section 201 of the Voting Rights Act does not depend on conditions related to COVID-19, and instead argues that South Carolina's long-standing absentee witness requirement statutes were void *ab initio* and must be enjoined permanently, with no possibility of remediation or cure. By implication, Plaintiffs' Section 201 argument, if accepted, would appear to bar absentee witness requirements on the books in at least ten other states.

This Court currently cannot consider Plaintiffs' Section 201 claim because it is not constituted as a three-judge court. And, in any event, Plaintiffs' Section 201 claim against South Carolina's absentee witness requirement fails as a matter of law.

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to Section 4(b)(2) of the Voting Rights Act of 1965, 30 Fed. Reg. 9897 (Aug. 6, 1965). As of November 1, 1964, South Carolina maintained a literacy test for voter registration, subject to limited exemptions inequitably applied. *See* 23 S.C. Code § 62(4) (Supp. 1964); *see also* S. Rep. 89-162, pt. 3, at 4-5, 43 n.28, *as reprinted in* 1965 U.S.C.C.A.N. at 2542-43; H.R. Rep. 89-439, at 12, *as reprinted in* 1965 U.S.C.C.A.N. at 2443. South Carolina ceased to be covered by these special provisions of the Voting Rights Act when the Supreme Court concluded that the coverage formula in Section 4 of the Act was unconstitutional. *See Shelby Cty. v. Holder*, 570 U.S. 529 (2013).

Date: May 11, 2020

Respectfully submitted,

PETER M. MCCOY, JR.
United States Attorney
District of South Carolina

ERIC S. DREIBAND
Assistant Attorney General
Civil Rights Division

ELLIOTT M. DAVIS
Special Counsel

/s/ Barbara M. Bowens
BARBARA M. BOWENS (#4004)
Assistant United States Attorney
1441 Main Street, Suite 500
Columbia, S.C. 29201
(803) 929-9300
barbara.bowens@usdoj.gov

/s/ T. Christian Herren, Jr.
T. CHRISTIAN HERREN, JR.
RICHARD A. DELLHEIM
Attorneys, Voting Section
Civil Rights Division
United States Department of Justice
Four Constitution Square
150 M Street NE
Washington, D.C. 20002

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of this filing to counsel of record.

/s/ Barbara M. Bowens
BARBARA M. BOWENS
United States Attorney's Office
for the District of South Carolina
1441 Main Street, Suite 500
Columbia, SC
(803) 929-3000
barbara.bowens@usdoj.gov

EXHIBIT 1

DSD:DHH:RW:wmd
D.J. 166-012-3
A1337-1338
X5505

JAN 3 0 1978

Ms. Treva G. Ashworth
Assistant Attorney General
State of South Carolina
Wade Hampton Office Building
Post Office Box 11549
Columbia, South Carolina 29211

Dear Ms. Ashworth:

This is in reference to South Carolina Acts R508 of 1976 and R216 of 1977, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on December 1, 1977.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

Sincerely,

DREW S. DAYS III
Assistant Attorney General
Civil Rights Division

By:
GERALD W. JONES
Chief, Voting Section

U.S. Departn of Justice

Washington, D.C. 20530

WBR:CWG:ZIF:gml
DJ 166-012-3
E5697-5698

May 4, 1982

C. Havird Jones, Jr., Esq.
Assistant Attorney General
Wade Hampton Office Building
Post Office Box 11549
Columbia, South Carolina 29211

Dear Mr. Jones:

This is in reference to Act No. R283 (1982) relating to absentee registration and voting procedures for the State of South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was received on March 5, 1982.

At the outset we wish to confirm our understanding from the telephone conversation between you and Ms. Zaida Friedman of our staff that under the new procedures illiterate voters may receive the same assistance when registering or voting absentee as when registering or voting in person and as has been available in the past. With that understanding, the Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By: Gerald W. Jones
Gerald W. Jones
Chief, Voting Section

WBR:CWG:ZIF:sw:gml
DJ 166-012-3
J2552-2554

Washington, D.C. 20530

April 17, 1984

C. Havird Jones, Jr., Esq.
Assistant Attorney General
P. O. Box 1549
Columbia, South Carolina 29211

Dear Mr. Jones:

This refers to Act No. 266 (1984) which permits county political party committees to establish a county party election commission to conduct the primaries in the county; Act No. R2707 (1984) which contains election law definitions; and Act No. R2722 (1984) concerning procedures for absentee voting in the State of South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on February 17, 1984.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

U.S. Department of Justice

Civil Rights Division

WBR:SSC:MKK:jmc:gmh
DJ 166-012-3
S2284
S4393

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

August 3, 1987

C. Havird Jones, Jr., Esq.
Assistant Attorney General
P. O. Box 11549
Columbia, South Carolina 29211

Dear Mr. Jones:

This refers to Act No. R94 (1987) which changes the absentee voting procedures in the State of South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on June 2, 1987.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See Section 51.41 of the Procedures for the Administration of Section 5 (52 Fed. Reg. 496 (1987)).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By: for Lora L Fredway
Gerald W. Jones
Chief, Voting Section

U.S. Department of Justice

Civil Rights Division

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

JRD:LLT:DOW:rac
DJ 166-012-3
AB656
AF706-709

June 20, 1990

C. Havird Jones, Jr., Esq.
Assistant Attorney General
Public Interest Litigation
P. O. Box 11549
Columbia, South Carolina 29211

Dear Mr. Jones:

This refers to Act No. R.393 (1990), which amends procedures for validating absentee ballots and the notice requirements therefor, absentee ballot forms, procedures for selecting election officials, and procedures for challenging absentee ballots for the State of South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on April 23, 1990.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division

By:

for Barry H. Weinberg
Acting Chief, Voting Section

U.S. Department of Justice
Civil Rights Division

JKT:MSR:SMC:par
DJ 166-012-3
2006-4548

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

June 8, 2006

Mr. T. Parkin Hunter
Assistant Attorney General
P.O. Box 11549
Columbia, South Carolina 29211-1549

Dear Mr. Hunter:

This refers to Act R 309 (2006), which relates to the Liabilities of poll workers, the time at which absentee ballots may be counted, and election-related protests or litigation, for the State of South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on May 24, 2006.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

In addition, we note that your May 23, 2006, letter provides that Act 227 (R.226) of 1996 did not receive preclearance from our office within the time allotted by law. This is incorrect. Please see our attached preclearance letter dated May 21, 2006.

Sincerely,

John Tanner
Chief, Voting Section

Enclosure

U.S. Department of Justice
Civil Rights Division

TCH:RSB:JR:LSQ:tst
DJ 166-012-3
2011-2515

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

August 22, 2011

T. Parkin Hunter, Esq.
Assistant Attorney General
P.O. Box 11549
Columbia, South Carolina 29211-1549

Dear Mr. Hunter:

This refers to Act R58 (A43, S404) (2011), which extends the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) rules to all local, state, and federal elections; permits fax and email transmissions of ballots and voting forms to UOCAVA-eligible voters; exempts UOCAVA-eligible voters from witness requirements; and provides that certain voters are eligible to vote absentee, regardless of absence from their county of residence on election day, for the State of South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on July 6, 2011.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41 and 51.43.

Sincerely,

T. Christian Herren, Jr.
Chief, Voting Section