

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

SHENANDOAH COUNTY, VIRGINIA, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. )  
 )  
 ) JANET RENO, Attorney General )  
 ) of the United States of America )  
 ) BILL LANN LEE, Acting Assistant )  
 ) Attorney General, Civil Rights )  
 ) Division, )  
 )  
 ) Defendants. )  
 )

---

C.A. No. 1:99CV00992

(KLH, PLF, NHJ)  
(three-judge court)

**FILED**

OCT 15 1999

Clerk, U.S. District Court  
District of Columbia

STIPULATION OF FACTS

This action was initiated by Shenandoah 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.

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

1. Plaintiff Shenandoah County ("the County") is a political subdivision of the Commonwealth of Virginia. See Va. Code Ann. §1-13.2. Shenandoah 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). Shenandoah County, Virginia, is located in the Shenandoah Valley, approximately 80 miles from Washington, D.C.

2. In addition to the County itself, there are nine governmental units in Shenandoah County within the meaning of 42 U.S.C. §1973b(a)(1): the Towns of Edinburg, Mount Jackson, New Market, Strasburg, Toms Brook, and Woodstock; two sanitary districts including the Toms Brook-Maureertown Sanitary District and the Stoney Creek Sanitary District; and the Shenandoah County School Board.

3. Shenandoah 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 coverage date of the Act in Virginia (i.e., November 1, 1964).

4. According to the 1990 Census, the County has a total population of 31,636. Of this number, 359 persons (1.1%) are black and 292 (or 0.9%) are Hispanic. The voting age population, according to the 1990 Census, is 24,630. Of this number, 272 (1.1%) are black and 189 (0.7%) are Hispanic.

5. The 1990 population of the Town of Edinburg was 729, of which 0 (0%) were black, and 4 (0.5%) were Hispanic.

6. The 1990 population of the Town of Mount Jackson was 1,244, of which 12 (1.0%) were black, and 34 (2.7%) were

Hispanic.

7. The 1990 population of the Town of New Market was 1,158, of which 13 (1.1%) were black, and 16 (1.4%) were Hispanic.

8. The 1990 population of the Town of Strasburg was 2,872, of which 118 (4.1%) were black and 27 (0.9%) were Hispanic.

9. The 1990 population of the Town of Toms Brook was 168, of which 5 (3.0%) were black, and 1 (0.6%) were Hispanic.

10. The 1990 population of the Town of Woodstock was 2,597 of which 70 (2.7%) were black, and 21 (0.8%) were Hispanic.

11. The County has estimated that the 1990 population of the Stoney Creek Sanitary District was 2,184 of which 0.8% were minority.

12. The County has estimated that the 1990 population of the Toms Brook-Maurertown Sanitary District was 893 of which 0.5% were minority.

13. 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 January 1999, there were 17,930 registered voters in Shenandoah County. This number constitutes 72.8% of the county's 1990 voting age population. The number of registered voters in the County has increased over the preceding decades. In 1977, there were 11,115 registered voters in the County. By 1999, the number of registered voters had grown to 17,930.

14. The minority population within Shenandoah County is dispersed throughout the County. This dispersion is reflected in the racial composition of the County's six magisterial districts which contained the following populations as of 1990: District 1 had a total population of 5,319 of which 0.5% were minority, District 2 had a total population of 5,011 of which 0.5% were minority, District 3 had a total population of 5,335 of which 0.1% were minority, District 4 had a total population of 5,220 of which 1.9% were minority, District 5 had a total population of 5,354 of which 0.5% were minority, and District 6 had a total population of 5,397 of which 2.8% were minority.

15. The County's governing body is a six-member elected Board of Supervisors elected from six single-member districts. The County Supervisors are elected biannually and serve four-year terms. Staggered terms are used and a plurality win system is in effect.

16. The districts contain a total of 15 polling locations, located conveniently to voters across the County. All polling places are located in public buildings (e.g., public schools, fire halls, etc.) which are completely accessible to physically disabled persons.

17. The County School Board has been elected since 1995, and is elected from the same six districts as those used for the County Board of Supervisors, and the same method of election is in effect.

18. Shenandoah County contains six incorporated towns:

Edinburg, Mount Jackson, New Market, Strasburg, Toms Brook, and Woodstock. All towns have a mayor council form of government and elect their town councils at-large. The number of council members and terms of office vary and are established by town charter. With the exception of Strasburg which has eight council members, all towns have six council members. With the exception of Toms Brook which has concurrent four-year terms, all other towns have four-year terms which are staggered.

19. No minority candidates have ever sought a position on the County Board of Supervisors. Black candidates have run for seats on the town councils and some have been elected. In 1984, 1988, 1992, and 1996 black candidates were elected to the Strasburg Town Council. A black candidate was also elected to the Toms Brook Town Council in 1984 and reelected in 1988.

20. Shenandoah County contains two special districts, the Toms Brook-Maurertown Sanitary District, and the Stoney Creek Sanitary District. The Toms Brook-Maurertown Sanitary District was established by state court order dated May 23, 1990. The District is governed by the County Board of Supervisors. The District's black population is approximately 0.5%. State law provides for referendum election procedures within the sanitary district upon petition of at least fifty (50) qualified district voters. A special referendum election was held July 12, 1994. The Stoney Creek Sanitary District was created by state court order dated April 23, 1986. The District is governed by the County Board of Supervisors. The District's black population is

approximately 0.8%. Special referendum elections were held on August 26, 1986, and on February 27, 1990.

21. Shenandoah 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 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 becoming an elector. Va. Const. Art. II, Sec. 20 (1902). The literacy test was repealed by the Virginia Constitution of 1971.

22. Within the ten-year period preceding the filing of this action, Shenandoah County and the governmental units within the County have made submissions of 172 changes affecting voting for preclearance review under Section 5 of the Voting Rights Act. 42 U.S.C. §1973c.

23. Within the ten years preceding the filing of this action, Shenandoah County and four of the towns within the County have enforced voting changes prior to Section 5 preclearance. These voting changes comprised one County special election and a total of 30 annexations by the towns of Edinburg, New Market, Strasburg, and Woodstock, all of which were submitted to the Attorney General for Section 5 review during the pendency of the

present action. All of these voting changes have been precleared.

24. No Section 5 objection has ever been interposed to any change affecting voting in Shenandoah County. The County has no pending Section 5 submissions before the Attorney General.

25. Voter registration opportunities in the County are readily and equally available to all citizens. The voter registration office for the County is located in Woodstock, the County seat and a central location within the County. The voter registration office is open from 9 a.m. to 5 p.m. Monday through Friday.

26. Voters in Shenandoah County may also register by mail, and other voter registration applications are available in five towns, and at post offices throughout the County.

27. The opportunity to become a registered voter in Shenandoah County is also available under the National Voter Registration Act (the "NVRA") at DMV offices and public assistance agencies in Shenandoah County. While in past years most voters became registered at the County Board of Registrars or at one of the voter registration locations throughout the County, the implementation of the NVRA in Virginia over the last few years has changed the origin of the great majority of registration applications. Today, most of the County's new voters register through the DMV and by mail.

28. Polls open in the County at 6:00 a.m. and close at 7:00 p.m., as is the case throughout the Commonwealth.

29. Shenandoah County's three-member Electoral Board nominates a roster of persons each February to work as poll workers. The appointment of poll workers is for a one-year term. Recommendations of persons to be appointed as poll workers originate with the chairs of the local Democratic and Republican parties. In the preceding ten years, no member of a minority group has been denied an appointment to serve as a poll official.

30. There is no indication that any eligible Shenandoah County resident who has expressed an interest in becoming an election official has been denied the opportunity to do so within the past ten years. In addition, in recent years, the State's voter registration applications (including the one used at DMV and public assistance agencies throughout Shenandoah County) have included a special section soliciting persons to serve as poll officials. All voters expressing an interest in serving as a poll official on these applications have been referred to the Electoral Board for consideration and appointment.

31. According to records maintained by the County's Voter Registrar, minority voters have served as poll workers in Shenandoah County between 1990 and 1994.

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

33. No "test or device" as defined in the Voting Rights Act (42 U.S.C. §1973b(c)) has been used in the County of Shenandoah for the preceding ten years.



34. The County of Shenandoah has never 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.

35. 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.

36. There is no indication that the County has 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.

37. Shenandoah County does not employ any voting procedures or methods of election that inhibit or dilute equal access to the electoral process in the County.

38. No Federal Examiners have ever been appointed or assigned to the County of Shenandoah pursuant to Section 3 or Section 6 of the Voting Rights Act, 42 U.S.C. §1973a.

39. There are no known incidents in the County of Shenandoah where persons exercising their right to vote at the polls have been intimidated or harassed.

40. Shenandoah County has publicized the intended commencement 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). Notices have remained posted throughout the litigation process. The County has posted notices regarding the proposed settlement at each post office, the County Courthouse, the County Voter Registration Office, and will also publish the notice of its intent to file a proposed settlement in the local newspapers, whose circulation reaches persons throughout the County, by September 24, 1999.

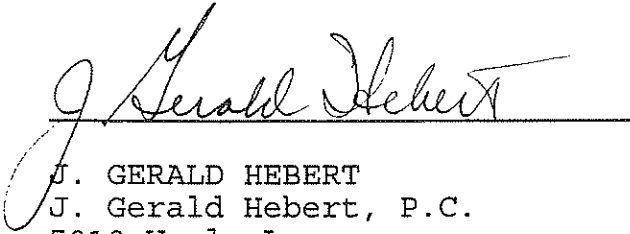
41. The United States has determined that it is appropriate to consent to a declaratory judgment in this action, pursuant to Section 4(a)(9) of the Voting Rights Act, notwithstanding the enforcement of certain voting changes prior to Section 5 preclearance. This consent is premised upon an understanding 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 the County, the fact that there are no defendant-intervenors, the affirmative steps taken by the County to increase voter participation, the fact that minority candidates have been elected to town councils within the county, and the absence of evidence of racial polarization or discrimination in the electoral process within the County. The United States'

consent also is based upon the fact that the voting changes enforced without Section 5 preclearance were submitted promptly and precleared once brought to Plaintiffs' attention, and the absence of any indication that the failure to submit those changes was intended to evade a Section 5 objection. In these circumstances, where the political subdivision seeking bailout otherwise meets the statutory requirements, the United States believes that bailout should not be denied.

Approved as to form and content:

For the Plaintiff Shenandoah County, Virginia

A handwritten signature in cursive script, reading "J. Gerald Hebert", is written over a horizontal line.

J. GERALD HEBERT  
J. Gerald Hebert, P.C.  
5019 Waple Lane  
Alexandria, VA 22304  
(703) 567-5873  
DC Bar No. 447676

For the Defendant Janet Reno  
and Bill Lann Lee:

A handwritten signature in cursive script, reading "Cynthia A. Valenzuela", is written over a horizontal line.

JOSEPH D. RICH  
ROBERT A. KENGLE  
CYNTHIA A. VALENZUELA  
Attorneys, Voting Section  
Civil Rights Division  
United States Department of Justice  
P.O. Box 66128  
Washington, D.C. 20035-6128  
(202) 514-6346

WILMA A. LEWIS  
United States Attorney