

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

THE UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	
)	
LORAIN COUNTY, LORAIN COUNTY BOARD)	<u>COMPLAINT</u>
OF ELECTIONS (“BOE”), BOE CHAIRMAN)	
ROBERT G. ROUSSEAU, and BOE MEMBERS)	
THOMAS J. SMITH, HELEN W. HURST,)	
ANTHONY B. GIARDINI, and PAUL R. ADAMS,)	
DIRECTOR, in their official capacities,)	
)	
)	
Defendants.)	
_____)	

The United States of America, Plaintiff herein, alleges:

1. The Attorney General of the United States files this action pursuant to Sections 4(e) and 12(d) of the Voting Rights Act, 42 U.S.C. §§ 1973b(e) (“Section 4(e)”) & 1973j(d), and pursuant to 28 U.S.C. § 2201, to enforce rights guaranteed by the Fourteenth and Fifteenth Amendments, with respect to the conduct of elections in Lorain County, Ohio.

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 & 1345 and 42 U.S.C. §§ 1973j(d) & (f). The events relevant to this action occurred in Lorain County, which is located within this district and division.

3. Defendant Lorain County is a political subdivision of the State of Ohio, organized pursuant to the laws of Ohio.

4. Defendant Lorain County Board of Elections (“BOE”) has statutory powers, duties, and responsibilities concerning the conduct of voter registration and elections held in Lorain County.

5. Defendants BOE Chairman Robert G. Rousseau, and Members Thomas J. Smith, Helen W. Hurst, Anthony B. Giardini, and Director Paul R. Adams, have statutory powers, duties, and responsibilities concerning the conduct of voter registration and elections held in Lorain County. They are sued in their official capacities.

6. Section 4(e)(1) of the Voting Rights Act prohibits jurisdictions from “conditioning the right to vote . . . on ability to read, write, understand, or interpret any matter in the English language” by persons educated in American-flag schools, including the Commonwealth of Puerto Rico, where the predominant classroom language is Spanish. See 42 U.S.C. § 1973b(e)(1). Under Section 4(e)(2) it is impermissible for such persons to “be denied the right to vote in any Federal, State, or local election because of [their] inability to read, write, understand, or interpret any matter in the English language.” See 42 U.S.C. § 1973b(e)(2).

7. According to the 2010 Census, Lorain County had 17,580 persons of Puerto Rican descent. The Puerto Rican population in Lorain County has grown substantially over the last two decades. According to the Census, from 1990 to 2010 the number of Puerto Ricans in the County increased by 59.9 percent. The 2010 Census also shows that although Puerto Ricans are concentrated in and around Lorain City, in 22 census tracts with over 500 Puerto Ricans, they are also spread throughout the County, as nearly half (103 out of 208) of the County’s census tracts have more than 50 Puerto Ricans.

8. According to the 2000 Census, there were 4,510 Puerto Rican residents (34.0% of the County's 13, 273 Puerto Ricans) who were born in Puerto Rico. See Census 2000, SF4, PCT 43, Sex by Place of Birth by Citizenship Status. The 2000 Census also reported that 2,499 Puerto Ricans of voting age (32.5% of all voting age Puerto Ricans) in Lorain County were limited-English proficient. See Census 2000, SF4, PCT 38, Age by Language Spoken at Home by Ability to Speak English for the Population 5 years and Over.

9. A significant number of Lorain County's voting age citizens were educated in American-flag schools in Puerto Rico in which the predominant classroom language was Spanish.

10. With the exception of some sample ballots and absentee ballot instructions that were translated for the May 2011 Primary Election, Defendants have consistently failed to translate election-related materials into Spanish, including, but not limited to, the official ballot, sample ballot, provisional ballot, absentee ballot, vote-by-mail application, election notices, and election-related information on the Lorain County Board of Elections internet site.

11. Defendants have failed to consistently recruit, appoint, train and maintain an adequate number of bilingual poll workers to provide Spanish-language assistance at the polls, including providing assistance in translating the ballot at the polls.

12. As described in paragraphs 10 and 11 above, Defendants have conditioned the right to vote of Lorain County citizens educated in Puerto Rico on their ability to read, write, understand or interpret the English language by failing to provide Spanish-language election materials and by failing to consistently and adequately provide Spanish-language assistance during elections held in Lorain County.

13. By failing to provide Spanish-language election materials and consistent, adequate Spanish-language assistance during elections, Defendants have denied Lorain County citizens who were educated in Puerto Rico the right to cast an informed vote and impaired their ability to participate effectively in the electoral process in violation of Section 4(e) of the Voting Rights Act.

WHEREFORE, Plaintiff United States of America prays that this Court enter an order:

1. Declaring that Defendants failed to fully comply with Section 4(e) of the Voting Rights Act, 42 U.S.C. § 1973b(e), by failing to provide Spanish-language election materials, information and assistance necessary to effectively participate in the electoral process to citizens educated in Puerto Rico;
2. Enjoining the Defendants, their agents and successors in office, and all persons acting in concert with them, from failing to provide Spanish-language election materials, information and assistance to citizens educated in Puerto Rico, in violation of Section 4(e), 42 U.S.C. § 1973b(e);
3. Requiring Defendants to devise and implement a remedial plan to ensure that citizens educated in Puerto Rico are provided Spanish-language election materials, information and assistance consistent with Section 4(e), 42 U.S.C. § 1973b(e); and
4. Authorizing the Director of the Office of Personnel Management to appoint federal observers for elections in Lorain County pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a).

Plaintiff further prays that this Court offer such additional relief as the interests of justice may require, together with the costs and disbursements in maintaining this action.

Date: ~~September~~ ^{October} 6, 2011



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