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Civil Action No. 83-108 VAL, 1983

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COMPLAINT

I. The Nature of the Case.

1. This is an action for declaratory and injunctive relief to enforce the provisions of the First, Thirteenth, Fourteenth and Fifteenth Amendments fo the Constitution of the United States and of §§2 and 5 of the Voting Rights Act of 1965, 42 U.S.C. §1973 and §1973c, and to prevent deprivation under color of the state law, ordinance, regulation, custome or usage of the rights, privileges and immunities secured by the aforementioned federal constitutional provisions and statute.

II. Jurisdiction.

2. The jurisdiction of this Court is invoked under Title 28 of the United States Code, §§ 1331, 1343(3), 1343(4) and 2201, this suit being authorized by Title 42 of the United States Code, §§1973 and 1983.

III. Parties.

3. Lowndes County Chapter of the National Association for the Advancement of Colored People and the Winnersville Coalition Consultants are both associations with members in the Valdosta city limits. Each organization is formed in order to allow blacks citizens more participation in representation in the political and social processes of Valdosta.

4. Plaintiffs Robert L. Banks, Jeffrey R. Perry, Wanda Denson, Onnie Phillips, John Carter, and Anna M. Tyson are black adult citizens of Valdosta, Georgia. Plaintiffs desire to participate in the electoral and political process equally with white citizens and to have their votes counted on an equal basis with those of the white citizens of Valdosta.

5. Defendants Ernest Nijem is an adult citizen and a resident of Valdosta, Georgia and is selected and acting as mayor of Valdosta with voting power in the City Council. He is sued individually and in his official capacities.

6. Defendants I. H. Tillman, Jr., Gill Autrey, William Eanes, Joann Hartman, Harold Bennett, and Ashley Hill are adult citizens and residents of Valdosta, Georgia and they are the elected and acting members of the Valdosta City Council. They are sued individually and in their official capacities.

7. Defendant Harrison Tillman is an adult citizen and resident of Valdosta, Georgia and is the Superintendent of Elections for Valdosta appointed by the City Council. Pursuant to the City Charter, Defendant Tillman is responsible for the conduct of primary and general elections in Valdosta and is sued individually and in his official capacity.

IV. City of Valdosta.

8. According to the 1980 United States Census of Population, the population of Valdosta, Georgia is 37,596, of which 22,481

(over 59%) are white people and 14,806 (over 39%) are black people. Black people constitute a minority of registered voters in the City of Valdosta.

9. There has been a history of of official discrimination against blacks in the City of Valdosta, including discrimination against black persons attempting to participate equally with whites in the local political process.

10. Black people have been unable to elect members of their race or persons who supports their views and interests to the Valdosta City Council.

11. Only one black person has ever been elected to serve as a member of the Valdosta City Council.

12. Black persons have suffered and continued to suffer from the effects of invidious discrimination and treatment in education, employment, economics, housing, public services and the administration of justice in the City of Valdosta.

13. Black persons have had less opportunity than white persons in the City of Valdosta to participate in the political process and to elect and have appointed to public office representatives of their choice.

V. Election Procedures for the City of Valdosta.

14. Pursuant to Georgia Laws 1976, p. 3188 through p. 3196, the Valdosta City Council is composed of six council people and a mayor. Six council members are not required to reside in any

specific residential district, and they voted upon at-large by the voters of the entire city

15. Pursuant to the Official Code of Georgia Ann. §21-3-407, a candidate in any municipal election in Valdosta must receive the majority of the votes cast and if no candidate receives a majority, a run-off election is required.

16. In 1963, the present system of electing council members felt requirement that they reside in specific residential districts was adopted and has been maintained through this day at Georgia Laws 1963, 3001-3002; Georgia Laws 1976, 3188. The previous system adopted in Valdosta allowed for residency wards for four of the candidates. Georgia Laws 1901, p. 675.

17. In 1963, the City of Valdosta adopted a requirement that all candidates be elected by majority vote, said requirement having been maintained since that time. Georgia Laws 1963, p. 3002; Georgia Laws 1976, p. 3194. Previous to that time, each candidate was only required to receive a plurality of the votes cast. Georgia Laws 1901, p. 672.

18. The purpose underlying the enactment and present maintenance of the existing method of elections for the Valdosta City Council which has no residency requirement for either candidates or voters, and the corresponding result of such provisions, is to ensure that areas having high concentrations of black population are thrown together with areas having low concentrations of black

population. This method of elections dilutes the voting strength of black citizens.

19. The purpose underlying the enactment and present maintenance of the majority vote requirements for the Valdosta City Council and the corresponding result to such provision is to make it more likely that minority candidates will not be elected on the first ballot and will be set against majority race candidates in a run-off election. This method of election dilutes the voting strength of black citizens.

20. The next elections for the members of the Valdosta City Council are scheduled for February, 1984.

FIRST CAUSE OF ACTION

21 The present method of electing the Valdosta City Council, including the use of elections at-large and majority vote in run-off elections, was enacted, and is being maintained presently with the racially discriminatory purpose of diluting the voting strength of black voters in the City of Valdosta so as to insure that blacks are denied equal access to the local political process in violation of rights guaranteed Plaintiffs by the First, Thirteenth, Fourteenth and Fifteenth Amendments of the United States Constitution.

SECOND CAUSE OF ACTION

22. The enforcement of the present method of electing the

Valdosta City Council, including the use of the elections at-large and majority vote and run-off elections, as a racially discriminatory result upon black citizens in violation of rights guaranteed to Plaintiffs by §2 of the Voting Rights Act of 1965.

VI. Equitable Relief.

23. This is a real and actual controversy between the parties. Plaintiffs have no adequate remedy at law other than this action for injunctive and declaratory relief. Plaintiffs are suffering irreparable injury as a result of the acts of Defendants complained of herein and that injury will continue unless declared to be unlawful and enjoined by this Court.

24. The acts of the Defendants complained of herein are maintained under color of law of the State of Georgia and under color of Defendants respective offices as officers and agents of the State.

WHEREFORE, Plaintiffs respectfully pray that this Court:

- (a) take jurisdiction of this case;
- (b) enter a declaratory judgment that the present method of electing the members of the Valdosta City Council is in violation of the First, Thirteenth, Fourteenth and Fifteenth Amendments of the Consitution of the United States and of §2 of the Voting Rights Act of 1965, and enter a permanent injunction against further enforcement of the same;

- (c) enter a permanent injunction which either adopts voting procedures submitted by the parties or itself designs such voting procedures, which provide for the election of the members of the Valdosta City Council and:
- (i) which comply with the one person-one vote requirement of the Fourteenth Amendment of the Constitution of the United States;
 - (ii) which comply with the prohibitions against racially discriminatory voting procedures either in purpose, effect, or result, as provided in §§2, 3 and 5 of the Voting Rights Act of 1965 and First, Thirteenth, Fourteenth and Fifteenth amendments of the Constitution of the United States;
 - (iii) which strike down the present election procedures and cure the present invidious effects of the existing procedures used in the election of members of the Valdosta City Council;
 - (iv) which guarantee to black citizens the opportunity to participate equally with white citizens in the local political process in the City of Valdosta;
- (d) if the redistricting plans ordered into effect by the Court is one which was designed by the Defendants,

enter an order requiring that the plan receive federal preclearance, pursuant to §5 of the Voting Rights Act of 1965, before it is enforced in any election;

(e) award Plaintiffs the cost of this action together with their attorneys fees'; and

(f) retain jurisdiction of this action and grant to Plaintiffs and further relief which may, in the discretion of this Court, be necessary and proper to insure that racially fair election procedures are employed in the selection of members of the Valdosta City Council.

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