

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS

**FILED**

U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

APR 16 2004

JAMES W. McCORMACK, CLERK  
By: \_\_\_\_\_  
DEP CLERK

UNITED STATES OF AMERICA,	)
	)
Plaintiff,	)
	)
v.	)
	)
PULASKI COUNTY, ARKANSAS;	)
CAROLYN STALEY, Pulaski County	)
Circuit-County Clerk; JERRY	)
LARKOWSKI, Chair of the Pulaski	)
County Board of Election	)
Commissioners; SALLY STEVENS	)
and CHARLES KING, members of	)
the Pulaski County Board of	)
Election Commissioners,	)
	)
Defendants.	)
	)
	)

CIVIL ACTION NO.

**4-04-CV-389 SW**

This case assigned to District Judge Wright  
and to Magistrate Judge Jones

COMPLAINT

The United States of America, Plaintiff herein, alleges:

1. This action is brought pursuant to the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. 1973gg et seq., and 28 U.S.C. 2201.
2. This Court has jurisdiction over the allegations in this complaint pursuant to 28 U.S.C. 1331, 1345 and 2201, and 42 U.S.C. 1973gg-9.
3. Defendant Pulaski County is a county within the State of Arkansas and is subject to the requirements of the NVRA.
4. Defendant Carolyn Staley is the Circuit-County Clerk for Pulaski County and the permanent registrar of voters, and is sued in her official capacity. Defendant Staley is responsible for the administration of procedures for voter registration and

the conduct of elections in Pulaski county, to which the requirements of the NVRA apply.

5. The members of the Pulaski County Board of Election Commissioners are responsible for ensuring that elections and election practices conducted by the county are in accordance with state and federal election laws, and have the legal authority to direct the permanent registrar to determine by reasonable means at any time within the whole or any part of the county whether active Record Registration Files contain the names of any persons not qualified by law to vote.

6. Defendant Jerry Larkowski is the Chair of the Pulaski County Board of Election Commissioners, and is sued in his official capacity.

7. Defendant Sally Stevens is a member of the Pulaski County Board of Elections Commissioners, and is sued in her official capacity.

8. Defendant Charles King is a member of the Pulaski County Board of Elections, and is sued in his official capacity.

9. Section 8 of the NVRA, 42 U.S.C. 1973gg-6, sets forth requirements for the administration of voter registration for elections for Federal office.

10. Pulaski County was required to implement the provisions of the NVRA beginning January 1, 1995.

11. In 1995, the Arkansas Legislature enacted legislation to amend the Constitution of the State of Arkansas to

substantially conform the voter registration procedures of Arkansas counties with the NVRA.

12. Section 8(a)(1) of the NVRA, 42 U.S.C. 1973gg-6(a)(1), requires that any eligible applicant who applies to register to vote at a voter registration agency shall be registered to vote in an election if the valid voter registration form of the applicant is accepted at the voter registration agency not later than the lesser of 30 days, or the period provided by State law, before the date of the election.

13. Section 8(a)(4) of the NVRA, 42 U.S.C. 1973gg-6(a)(4), requires that the administrator of voter registration for elections for federal office in Pulaski County conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of the death of the registrant or a change in the residence of the registrant, in accordance with subsections (b), (c), and (d) of that Section.

14. Section 8(b) of the NVRA, 42 U.S.C. 1973gg-6(b), requires that any program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office (1) shall be uniform, non-discriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) and (2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an

election for federal office by reason of the person's failure to vote.

15. Section 8(f) of the NVRA sets forth procedures for voters who change their address within the jurisdiction of the registrar . . . [i]n the case of a change of address, for voting purposes, of a registrant to another address within the same registrar's jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrant's name may not be removed from the official list of eligible voters by reason of such a change of address except as provided in subsection (d).

FIRST CAUSE OF ACTION

16. Defendants Pulaski County, Staley, Larkowski, Stevens, and King, and their employees and agents at the Pulaski County Circuit-County Clerk's office and Pulaski County Board of Election Commissioners, have failed, and continue to fail, to implement or fully implement voter registration procedures required by Section 8(a)(1) of the NVRA, 42 U.S.C. 1973gg-6(1), in the following respects:

a. Completed voter registration applications accepted at the Pulaski County Circuit-County Clerk's office have not been processed in a timely and complete manner, with the result that eligible applicants were not effectively registered and able to vote in their appropriate precincts within 30 days of acceptance, as required by Section 8(a)(1) of the NVRA, 42 U.S.C. 1973gg-6(a)(1).

b. Defendants have failed to develop and implement uniform rules and policies to govern the provision and processing of applications for voter registration for Federal office in a manner consistent with the requirements of Section 8(a) of the NVRA, 42 U.S.C. 1973gg-6(a).

c. Defendants have not enforced substantive standards or provided adequate training to ensure that agents, employees and representatives of the Pulaski County Circuit-County Clerk's office provide, collect and process completed voter registration applications in compliance with Section 8(a) of the NVRA, 42 U.S.C. 1973gg-6(a).

d. Unless and until ordered to do so by this Court, Defendants will continue to fail to provide eligible persons who apply for voter registration at the county voter registration agency an effective opportunity to register to vote in elections for Federal office in the manner provided by Section 8(a) of the NVRA, 42 U.S.C. 1973gg-6(a).

#### SECOND CAUSE OF ACTION

17. Defendants Pulaski County, Staley, Larkowski, Stevens, and King, and their employees and agents at the Pulaski County Circuit-County Clerk's office and Pulaski County Board of Election Commissioners, have failed, and continue to fail, to conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of the death of the registrant or a change in the residence of the registrant, in violation of

Section 8(a)(4) of the NVRA, 42 U.S.C. 1973gg-6(a)(4), in the following respects:

a. Defendants have failed to develop and implement uniform rules and policies governing the removal of names of ineligible voters by reason of the death of the registrant or a change in the residence of the registrant, in accordance with subsections (b), (c) and (d);

b. Defendants have not enforced substantive standards or provided adequate training to ensure that agents, employees and representatives of the Pulaski County Circuit-County Clerk's office make a reasonable effort to remove the names of ineligible voters by reason of the death of the registrant or a change in the residence of the registrant, in accordance with subsections (b), (c) and (d).

c. Unless and until ordered to do so by this Court, Defendants will continue to fail to conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official list of eligible voters by reason of the death of the registrant or a change in the residence of the registrant in accordance with subsections (b), (c) and (d).

#### THIRD CAUSE OF ACTION

18. Defendants Pulaski County, Staley, Larkowski, Stevens, and King, and their employees and agents at the Pulaski County Circuit-County Clerk's office and Pulaski County Board of Election Commissioners, have failed, and continue to fail, to ensure that any programs or activities to protect the integrity

of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for federal office shall be uniform and shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote, in violation of Section 8(b) of the NVRA, 42 U.S.C. 1973gg-6(b), in the following respects:

a. The permanent registrar of Pulaski County has conducted programs and/or activities for the removal of voters from the registration rolls for elections for Federal office that were not uniform in their application;

b. Defendants lack adequate rules and procedures governing the conduct of programs and activities to maintain an accurate and current voter registration roll for elections for Federal office to ensure that such programs and activities are uniform, nondiscriminatory and in compliance with the Voting Rights Act of 1965, 42 U.S.C. 1973 et seq.;

c. Defendants fail to enforce substantive standards or provide adequate training to ensure that agents, employees and representatives of the Pulaski County Circuit-County Clerk's office make a reasonable effort to conduct programs and activities to maintain an accurate and current voter registration roll for elections for Federal office that are uniform, nondiscriminatory and in compliance with the Voting Rights Act of 1965, 42 U.S.C. 1973 et seq.;

d. Unless and until ordered to do so by this Court, Defendants will continue to fail to conduct adequate programs and activities to maintain an accurate and current voter registration roll for elections for Federal office that are uniform and in accordance with Section 8(b) of the NVRA, 42 U.S.C. 1973gg-6(b).

WHEREFORE, Plaintiff United States prays for an order:

I. Declaring that Defendants are in violation of Section 8 of the NVRA, 42 U.S.C. 1973gg-6 et seq., which sets forth requirements with respect to the administration of voter registration for elections for Federal office;

II. Enjoining the Defendants, their agents and successors in office, and all persons acting in concert with any of them from failing or refusing to comply with the requirements of Section 8 of the NVRA, 42 U.S.C. 1973gg-6; and,

III. Ordering the Defendants, their agents and successors in office and all persons acting in concert with any of them to:

- A. Take all steps necessary to remedy the demonstrated violations of Section 8 of the NVRA, 42 U.S.C. 1973gg-6; and
- B. Provide the Court within 45 days from the date of the Court's order a plan designed to remedy the demonstrated violations of Section 8 of the NVRA, 42 U.S.C. 1973gg-6, and to affirmatively administer the registration of voters in the manner specified by Section 8 of the NVRA, 42 U.S.C. 1973gg-6, and in



compliance with the Voting Rights Act, 42 U.S.C. 1973  
et seq.

IV. Plaintiff further prays that this Court order such  
other relief as the interest of justice may require, together  
with the costs and disbursements of this action.

JOHN ASHCROFT  
Attorney General

By:



R. ALEXANDER ACOSTA  
Assistant Attorney General  
Civil Rights Division



H.E. BUD CUMMINS, III  
United States Attorney  
Eastern District of Arkansas  
Arkansas Bar #89010  
Post Office Box 1229  
Little Rock, AR 72203  
(501) 340-2600 (telephone)

JOSEPH D. RICH  
Chief, Voting Section



ROBERT A. KENGLE  
AMY H. NEMKO  
ABEL GOMEZ  
Attorneys, Voting Section  
Civil Rights Division  
Department of Justice  
950 Pennsylvania Avenue, NW  
Room 7254, NWB  
Washington, D.C. 20035-6128  
(202) 514-3232 (telephone)  
(202) 307-3961 (facsimile)