

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

UNITED STATES OF AMERICA)
)
 Plaintiff,)
)
 v.)
)
 OSCEOLA COUNTY, FLORIDA,)
 and DONNA BRYANT, Supervisor)
 of Elections,)
)
 Defendants.)
 _____)

CIVIL ACTION NO.

6:05-CV-1053-ORL-31 DAB

COMPLAINT

The United States of America, Plaintiff herein, alleges:

1. The Attorney General files this action pursuant to Sections 2 and 12(d) of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973, 1973j(d).

2. The Court has jurisdiction of this action pursuant to 28 U.S.C. 1345 and 42 U.S.C. 1973j(f).

3. Defendant Osceola County is a political subdivision of the State of Florida and exists as a charter county, organized pursuant to the laws of Florida.

4. Defendant Donna Bryant is the Supervisor of Elections of Osceola County. The Supervisor of Elections has responsibilities concerning the administration of voter registration and the conduct of elections in Osceola County. Defendant Bryant is a resident of Osceola County, Florida, and is sued in her official capacity.

5. The Board of Commissioners of Osceola County (hereafter "Board of Commissioners" or "Board") is the body established under the laws of the State of Florida that

is responsible for the governance and administration of Osceola County. Paul Owen, Atlee Mercer, Ken Shipley, Ken Smith and Bill Lane currently serve as Osceola County commissioners. Pursuant to Fla. Stat. Ann. 125.15 (West 2002), the Board of Commissioners is included in any suit against the county.

6. Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973 ("Section 2"), prohibits the enforcement of any voting qualification or prerequisite to voting or any standard, practice or procedure that has either the purpose or the result of denying or abridging the right to vote on account of race, color, or membership in a language minority group.

7. According to the 2000 Census, Osceola County has a total population of 172,493 persons, of whom 102,792 (59.6%) are non-Hispanic white persons, 50,727 (29.4%) are Hispanic persons, and 11,075 (6.4%) are black persons; and a total voting-age population of 126,279 persons, of whom 79,150 (62.7%) are non-Hispanic white persons, 34,267 (27.1%) are Hispanic persons, and 7,392 (5.6%) are black persons.

8. There has been substantial and continuing growth in the Hispanic population over the last fifteen years. According to the 1990 Census, Osceola County had a total population of 107,728 persons, of whom 12,866 (12%) were Hispanic. According to Osceola County Planning Department estimates, as of 2004, the county's population had reached 197,890, of whom 69,267 (35%) were Hispanic persons.

9. All five members of the Board of Commissioners are elected at large to four-year, staggered terms. Candidates run for numbered seats corresponding to the residency

district in which they live, and are elected at large by all the qualified voters in the county.

Candidates are nominated in party primary elections.

10. The Hispanic population of the county is sufficiently numerous and geographically compact that a properly apportioned single-member district plan for electing the Board of Commissioners can be drawn in which Hispanic persons would constitute a majority of the total population and voting-age population in one out of five districts.

11. Hispanic voters in the county are politically cohesive. Racially polarized voting patterns prevail in elections for the Board of Commissioners, and white voters have voted sufficiently as a bloc to enable them usually to defeat Hispanic voters' preferred candidates.

12. Hispanic and white voters consistently have preferred different candidates, and the candidates preferred by white voters usually defeat Hispanic voters' preferred candidates, particularly when those Hispanic-preferred candidates are Hispanic.

13. Although numerous candidates have run, no Hispanic candidate has ever been elected to the Board of Commissioners under the at-large method of election, or to any other Osceola County office elected on a countywide basis.

14. Osceola County has employed electoral features such as residency districts, staggered terms, a large election district, and a majority vote requirement that enhance the dilutive effects of the at-large election method.

15. Many Hispanic persons in Osceola County have suffered the effects of official discrimination, including a history of discrimination and neglect in voting-related activities.

16. In conducting elections in Osceola County, Defendants have failed to ensure that all Hispanic citizens with limited-English proficiency have an equal opportunity to participate in the political process and to elect the representatives of their choice.

17. The effects of discrimination on Hispanic citizens in Osceola County, including their markedly lower socioeconomic conditions relative to white citizens, continue to hinder the ability of Hispanic citizens to participate effectively in the political process in county elections.

18. Political campaigns in Osceola County, including campaigns for the Board of Commissioners, have been characterized by racial appeals.

19. The at-large election method was utilized in Board of Commissioner elections held prior to the 1994 elections, and beginning again with the 1998 elections. In 1992, the Board voted to place a referendum question on the ballot regarding whether the county should amend its home rule charter to provide for election of the Board from single-member districts.

20. In the 1992 general election, Osceola County voters approved the proposed amendment to the charter to provide for election of commissioners from single-member districts by a margin of 57 percent to 43 percent. The Board adopted the 1991 residency district boundaries as the districts from which commissioners would be elected under the single-member district method. The first Hispanic commissioner in the history of the county was elected under this single-member district system in 1996.

21. In 1994, a number of the members of the Board of Commissioners who voted to place the referendum question on the ballot in 1992 stated that they wanted to re-examine the

method of electing the Board of Commissioners. Board of Commission minutes reflect that at least some of the commissioners decided to set up a private committee to study and advocate for the return to at-large elections.

22. In 1995, a Charter Review Advisory Commission was established by the Board of Commissioners. No minority persons were appointed to the Advisory Commission. The private committee devised by county commissioners provided assistance to the county's official Charter Review Advisory Commission and advocated for the readoption of the at-large method of election. In 1996, the Charter Review Advisory Commission recommended that the Board of Commissioners place on the ballot another referendum question asking voters if they wanted to switch the method of election for the Board from single-member districts back to an at-large method of election. The Board of Commissioners accepted the recommendation and voted to place the referendum question on the ballot.

23. Upon information and belief, the members of the Board of Commissioners recognized that there was substantial growth in the Hispanic population between 1992 and 1996. Prior to the 1996 referendum vote, four of the county commissioners campaigned in favor of returning to an at-large method of election.

24. Upon information and belief, a majority of Board members in 1994-96 recognized that the growth of the Hispanic population would result in Hispanic voters achieving the ability to elect a candidate of their choice in one or more districts under the single-member district method of election.

25. In 1996, a Hispanic candidate ran in Board of Commissioners District One,

and was elected to the Board under the single-member district method of election.

26. In 2000, the Charter Review Advisory Commission appointed by the Board of Commissioners recommended against placing a referendum question on the ballot regarding adoption of a single-member district method of election.

27. In 2001, the Board of Commissioners appointed a redistricting committee to redistrict the county's residency districts. Commissioners expressed concern about the possibility they would be forced to change their method of election in the future, and the residency district plan was adopted with this concern in mind.

28. The residency districts adopted by the Board in 2001 split heavily Hispanic population concentrations.

29. Upon information and belief, Board members sought to disperse Hispanic voters among the residency districts to avoid the creation of a majority-Hispanic district in the event that the districts would be used as single-member districts in the future.

30. In 2003, the Board of Commissioners appointed a Charter Review Advisory Commission. Minutes of the Charter Review Advisory Commission show that each Board member explained to the Advisory Commission that he opposed the adoption of a single-member district method of election for Osceola County.

31. The Charter Review Advisory Commission made no recommendation for a charter amendment regarding single-member districts, but endorsed the at-large method of election.

32. Implemented in the totality of circumstances described in paragraphs 8 to 31,

the current at-large method of electing the Board of Commissioners of Osceola County has the effect of diluting Hispanic voting strength, resulting in Hispanic citizens of the county having less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice, in violation of Section 2.

33. The at-large method of electing the Board of Commissioners of Osceola County was adopted in 1996 and has been maintained since that time, for the purpose of diluting Hispanic voting strength, in violation of Section 2.

34. Unless enjoined by order of this Court, Defendants will continue to conduct elections for the Board of Commissioners using the current at-large electoral system, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. 1973.

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

- (1) Declaring that the at-large method of electing the Board of Commissioners violates Section 2 of the Voting Rights Act;
- (2) Enjoining the Defendants, their agents and successors in office, and all persons acting in concert with them, from administering, implementing, or conducting any future elections for the Board of Commissioners under the current at-large method of election; and
- (3) Ordering the Defendants to devise and schedule the prompt implementation of an election system for the Board of Commissioners that complies with Section 2 of the Voting Rights Act, 42 U.S.C. 1973.

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

ALBERTO GONZALES
Attorney General


BRADLEY J. SCHLOZMAN
Acting Assistant Attorney General
Civil Rights Division


PAUL I. PEREZ
United States Attorney
Florida Bar No. 399140


JOHN K. TANNER
Chief, Voting Section


CHRISTOPHER COATES
REBECCA J. WERTZ
TIMOTHY F. MELLETT
Attorneys, Voting Section
U.S. Department of Justice
Civil Rights Division
Voting Section, 1800G
950 Pennsylvania Avenue
Washington, D.C. 20530
(202) 307-6262