

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JOSE MORALES, on behalf of himself)
and those similarly situated)

Plaintiff,)

v.)

KAREN HANDEL, in her official)
Capacity as Georgia Secretary of State.)

Defendant.)

CIVIL ACTION
FILE NO. _____

DECLARATION OF JON M. GREENBAUM

Pursuant to 28 U.S.C. § 1746, I, Jon M. Greenbaum, hereby declare as follows:

1. My name is Jon M. Greenbaum. I am over 18 years of age and have personal knowledge of the facts stated below. I give this declaration with regard to the plaintiff's motion for a temporary restraining order and preliminary injunction in the above-styled case, and for any other reason authorized by law. I am applying for admission *pro hac vice* in the above-styled case.

2. I am an attorney licensed to practice in California and the District of Columbia, and am presently employed by the Lawyers' Committee for Civil

Rights Under Law, the national legal lead of Election Protection, a national nonpartisan voter protection program. Upon Georgia Election Protection coalition members learning of complaints concerning citizenship challenges to voter registration applicants and registered voters, I and other attorneys working for coalition members of Election Protection requested and collected documents from the United States Department of Justice, the Georgia Secretary of State and various Georgia county elections officials, either through informal request, or through a formal request pursuant to O.C.G.A. §§ 50-18-70, *et seq.* The relevant documents I received as a result of these requests are attached and described below.

3. Attached as Exhibit 1 is a true and correct copy of a letter dated October 8, 2008 from Chris Coates, Chief of the Voting Section of the Civil Rights Division, United States Department of Justice, to Thurbert Baker, Attorney General of Georgia, indicating that Georgia must submit its voter registration verification procedures for either judicial or administrative review and preclearance pursuant to Section 5 of the Voting Rights Act. I received this letter on October 8, 2008 via email from Chris Herren of the Department of Justice, as a result of an informal request.

4. Attached as Exhibit 2 is a true and correct copy of a memo dated October 8, 2008 from Annie Bright on behalf of the Clayton County Board of

Elections to Dawn Jones, a member of the Georgia Election Protection Legal Committee, indicating that Clayton County did not send letters to persons on the State no-match list, but did send a letter questioning citizenship to one individual who had requested an absentee ballot, and attaching a copy of that letter. Ms. Jones then forwarded this memo and letter to me

5. Attached hereto as Exhibit 3 is a true and correct copy of a Section 5 objected letter dated January 16, 1996 from Deval Patrick, then-head of the Civil Rights Division in the United States Department of Justice, to the Attorney General for the State of Texas, indicating that the state's practice of questioning the eligibility of an individual to vote based on information contained in state agency records could not be sustained under Section 5 of the Voting Rights Act because the information in state agency records may be outdated and not reflect the current citizenship status of the registrant. I received a copy of this letter when I was employed at the United States Department of Justice and have retained it since.

6. Attached hereto as Exhibit 4 is a true and correct copy of certain documents I received as a result of an informal request to Dennis Dunn, Assistant Attorney General, on behalf of the Secretary of State. Specifically, in addition to the cover pages reflecting the request and response, Exhibit 4 contains an April 23, 2007, letter from John Tanner, then-Chief of the Voting Rights Section of the

United States Department of Justice, to the Secretary of State, regarding the State's apparent noncompliance with the Help America Vote Act ("HAVA") in that it had not established a matching agreement with the Social Security Administration ("SSA") as required by HAVA, and a September 24, 2008 memo from the Secretary of State's Elections Chief, Wes Taylor, to County Elections Officials, describing how the matching system shows flags that should be used to question the citizenship of registrants pursuant to O.C.G.A. § 21-2-228, as well as to require voters to cast a "challenge" ballot if they had not proven their citizenship on election day. Exhibit 4 also includes a list of the voters (with personal identifying information redacted) from Cobb County who were flagged and sent letters using this process. In addition, Exhibit 4 includes a May 23, 2007 letter Stefan Ritter, Senior Assistant Attorney of Georgia to Mr. Tanner which states that Georgia's database matching system went live on May 21, 2007 and an enclosure reflecting the agreement between the Georgia Department of Driver Services and the Social Security Administration.

7. Attached hereto as Exhibit 5 is a true and correct copy of an e-mail dated October 8, 2008, received from Beth Kish on behalf of the Cobb County Board of Elections by Brian Spears, a member of the Georgia Election Protection Legal Committee, in a follow-up response to an Open Records Act Request,

indicating that 84 individuals whose citizenship had been questioned had already provided proof that they were in fact citizens. Mr. Spears then provided this e-mail to me.

8. Attached hereto as Exhibit 6 is a true and correct copy of pertinent portions of the response of Gwinnett County's Board of Elections to the Open Records Act request made by Brian Spears. It includes a September 12, 2008 memo from Wes Tailor to county election officials explaining that voters could not register to vote and participate in early voting on the same day because the registrant's citizenship must be verified first; a January 8, 2008 memo from the State Elections Division Director to county elections officials announcing the contract with Georgia's Department of Driver Services ("DDS") to help verify the accuracy of information provided in voter registration applications; and a January 14, 2008 memo from the Secretary of State describing the DDS/SSA verification process. Mr. Spears then provided these documents to me.

9. Attached hereto as Exhibit 7 is a true and correct copy of the October 3, 2008 response of Hall County to an Open Records Act request by Mr. Spears, including the list of voters in Hall County whose citizenship was questioned (identifying information was redacted).

10. Attached hereto as Exhibit 8 is a true and correct copy of an October 7, 2008 demand letter sent by Coalition Members (Lawyers' Committee for Civil Rights Under Law, Mexican-American Legal Defense Fund, and the American Civil Liberties Union) to Dennis Dunn on behalf of the Secretary of State, describing the problems raised by the above documents and other information received by coalition members.

11. Attached hereto as Exhibit 9 is a true and correct copy of an August 28, 2008 letter apologizing to a member of the military (and resident of DeKalb county) whose citizenship was questioned when he requested an absentee ballot. This was provided by Linda Lattimore, on behalf of the DeKalb County Board of Elections, to Dawn Jones, on October 3, 2008, in response to an informal request, and subsequently provided to me.

12. Attached hereto as Exhibit 10 is a true and correct copy of an August 20, 2008 memo from Wes Tailor on behalf of the Secretary of State to county elections officials describing list maintenance procedures, including procedures applied to persons moving from county to county. This memo was provided on Election Protection Coalition members and forwarded to me.

13. Attached hereto as Exhibit 11 is a true and correct copy of a September 25, 2008 form letter from Beth Kish, Registration Manager of Cobb

County, to an unidentified addressee stating that the Cobb County had received notification that the addressee may not be qualified to vote because the addressee may not be a citizen; that Cobb County had set a hearing date for October 13, 2008; and that if the addressee did not provide proof of citizenship at or before the hearing, the addressee would not be allowed to vote. The letter was provided to Election Protection coalition members by Ms. Kish in response to an informal request and subsequently provided to me.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 9th day of October, 2008.



JON M. GREENBAUM