

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. 1:08-CV-3172

[PROPOSED] ORDER

Based upon the evidence presented to the three-judge panel on October 22, 2008 and the evidence of record submitted in this case, the Court finds that the Secretary of State has implemented a class of voting changes in violation of Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c.

In light of the fact that the Court is now issuing an injunction pursuant to Section 5 of the Voting Rights Act, the Court will defer consideration of Plaintiff's claim under the National Voter Registration Act ("NVRA"), 42 U.S.C. § 1973gg, *et seq.* See *Connor v. Waller*, 421 U.S. 656 (1975). In the event the Department of Justice preclears the state's submission of its data base matching system prior to

the November 2008 election, the state would still be precluded by the National Voter Registration Act, 42 U.S.C. § 1973gg-6(c)(2)(A), from using the data base matching system to purge voters prior to the date of the November 4, 2008 election.

It is therefore ORDERED, ADJUGED and DECREED that:

1. Defendant Karen Handel is enjoined from further application of the unprecleared voting changes, which include the use of unprecleared data base matching to determine citizenship based on the Department of Driver's Services ("DDS") data for voter eligibility determinations, until such voting changes are precleared.
2. Defendant Secretary of State shall direct all county boards of election to cease using the above data base matching as the basis for challenging or otherwise questioning all voters' and applicants' for registration eligibility based on the citizenship information contained in the DDS database in the absence of preclearance.
3. Defendant Secretary of State shall direct all county boards of registrars to notify all voters and applicants for registration who were challenged or otherwise required to prove their citizenship (based on citizenship information contained in the DDS database) that they are no longer being challenged or required to prove

their citizenship on that basis. Plaintiff shall provide Defendants with a proposed draft letter.

4. Authorize or require registrants or applicants for registration who were the subject of a citizenship review by a county board of registrars based on citizenship information contained in the DDS database, where that review has not been resolved based on documentary evidence presented to the board, who seek to vote early, by absentee ballot, or in person, to cast paper ballots, as authorized by O.C.G.A. § 21-2-334. The paper ballots shall be segregated and would be counted if the Department of Justice failed to preclear the state's submission of its data base matching system prior to the November 2008 election.

5. In the event the Department of Justice preclears the state's submission in whole or in part prior to the November 2008 election, the counties would proceed with ballots pursuant to and consistent with state law challenge ballot procedures. O.G.C.A. 21-2-230.

DATED: October 20, 2008,

Respectfully submitted,

/s/ ELISE SANDRA SHORE

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CERTIFICATE OF COMPLIANCE

This is to certify that the foregoing document was prepared using 14 pt
Times New Roman font.

This 23rd day of October, 2008.

/s/ Elise Sandra Shore
ELISE SANDRA SHORE

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have this the 23rd day of October, 2008, electronically filed the foregoing **PLAINTIFF'S PROPOSED ORDER** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all parties to this matter via electronic notification or otherwise:

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/s/ ELISE SANDRA SHORE
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