

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

<hr/>)	
STATE OF FLORIDA,)	
)	
Plaintiff)	
)	
v.)	
)	
UNITED STATES OF AMERICA and)	
ERIC H. HOLDER, Jr., in his official)	
capacity as Attorney General of the United)	
States,)	
)	
Defendants,)	
)	
FLORIDA STATE CONFERENCE OF THE)	
NAACP, <i>et al.</i> ,)	NO. 1:11-CV-01428
)	(CKK-MG-ESH)
Defendant-Intervenors,)	THREE JUDGE COURT
)	
KENNETH SULLIVAN, <i>et al.</i> ,)	
)	
Defendant-Intervenors,)	
)	
and)	
)	
NATIONAL COUNCIL OF LA RAZA, and)	
LEAGUE OF WOMEN VOTERS OF)	
FLORIDA,)	
)	
Defendants-Intervenors.)	
)	
<hr/>)	

UNITED STATES' NOTICE TO THE COURT

Following this Court's Order of September 6, 2012 (ECF No. 159), the State of Florida gave notice to this Court on September 7, 2012 (ECF No. 160) that it had made an administrative submission to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c, regarding certain early voting changes in the five covered counties in Florida (Collier,

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Hardee, Hendry, Hillsborough, and Monroe Counties). The United States hereby files this notice to advise the Court regarding the Attorney General's determination relating to the State of Florida's recent administrative submission.

On September 6, 2012, the State of Florida submitted to the Attorney General, for administrative review under Section 5, the enabling provisions of section 39 of Chapter 2011-40, and the early voting schedule for the five covered counties pursuant to section 39 of chapter 2011-40, consistent with the Court's Opinion of August 16, 2012 (ECF No. 149). On September 12, 2012, the Attorney General informed the State of Florida that he would interpose no objection under Section 5 to the submitted set of voting changes. Under this schedule, the five covered counties will offer the maximum 96 hours of early voting over an eight-day period, with hours from 7 a.m. to 7 p.m., and that schedule will be the benchmark against which any subsequent early voting changes proposed by the covered counties must be reviewed. *See* ECF No. 158. A copy of that letter is attached to this notice.

The granting of administrative preclearance under Section 5 by the Attorney General for the enabling provisions of section 39 of Chapter 2011-40 and the proposed early voting schedules for the covered counties moots Count III of Florida's Third Amended Complaint seeking judicial preclearance for this Court for the submitted set of early voting changes.¹ *See Georgia v. Holder*, 748 F. Supp. 2d 16, 17 (D.D.C. 2010) (three-judge court); *see also* Stipulation of Dismissal as to Count II of Plaintiff's Second Amended Complaint. ECF No. 85.

As Counts I and III of the State's Third Amended Complaint are now moot, and the Court has ruled in favor of the State as to Count II, *see* August 16, 2012 Order (ECF No. 148),

¹ Likewise, if the Court permits the State to file its Fourth Amended Complaint, the two counts relating to early voting in that document (Counts III and IV) are also now moot.

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the Court need not reach the State's alternative constitutional claims (Counts IV and V of the Third Amended Complaint). Hence, all remaining claims in this action are moot. The United States will confer with the parties on a stipulation of dismissal.

Date: September 12, 2012

Respectfully submitted,

RONALD C. MACHEN, JR.
United States Attorney
District of Columbia

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

/s/ John Albert Russ IV

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Exhibit 1



U.S. Department of Justice

Civil Rights Division

TCH:RSB:MSR:KG:par
DJ 166-012-3
2012-4822
2012-4862-4866

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

September 12, 2012

Daniel E. Nordby, Esq.
General Counsel
500 South Bronough Street, R. A. Gray Building
Tallahassee, Florida 32399-0250

Dear Mr. Nordby:

This refers to Section 39 of Chapter 2011-40 (H.B. 1355), which makes changes to in-person early voting procedures, and the subsequent early voting plans, which will provide for the maximum of 96 hours of early voting, including 12 hours of early voting per early voting day, on a 7 a.m. to 7 p.m. schedule, during the eight-day period from the tenth day to the third day preceding an election, for Collier, Hardee, Hendry, Hillsborough, and Monroe Counties, Florida, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submissions on September 6, 2012.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. *Procedures for the Administration of Section 5 of the Voting Rights Act of 1965*, 28 C.F.R. 51.41.

Section 39 of Chapter 2011-40 includes provisions that are enabling in nature. Therefore, any changes affecting voting that are adopted pursuant to this legislation will be subject to Section 5 review (e.g., if an individual covered county seeks to implement any change different from the early voting schedule precleared herein for any future election, including changing the total number of, or the daily schedule for, early voting hours). 28 C.F.R. 51.15.

Because the Section 5 status of these changes are before the court in *State of Florida v. United States*, Civil Action No. 1:11-cv-01428 (D.D.C.), we are providing a copy of this letter to the Court and counsel of record in that case.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Christian Herren, Jr.", written over a horizontal line.

T. Christian Herren, Jr.
Chief, Voting Section