

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

DORIS POWELL,)
)
 Plaintiff,)
)
 v.)
)
 THE STATE OF ALABAMA;)
 JEFFERSON COUNTY ELECTION)
 COMMISSION; ALAN KING, MIKE)
 HALE, and ANNE-MARIE ADAMS,)
 in their official capacities as members)
 of the Jefferson County Election)
 Commission,)
)
 Defendants.)

CIVIL ACTION NO. 2:08-cv-01345-LSC

WLLIAM A. BELL'S MOTION TO DISMISS IN PART

William A. Bell ("Bell") hereby moves pursuant to dismiss in part the Relief sought by plaintiff in her Complaint as follows.

1. When confronted with a non-precleared plan, a “district court may determine only whether § 5 covers a contested change, whether § 5's approval requirements were satisfied, and if the requirements were not satisfied, what temporary remedy, if any, is appropriate.” *Lopez v. Monterey County*, 519 U.S. 9, 24 (1996). Once a jurisdiction has submitted its plan to either the DOJ or the District of Columbia, “§ 5 provides no further remedy.” *Id.*

2. In this case, Bell acts within the confines of this Court's limited role by only seeking to change the remedy sought by Plaintiff in this case. Bell seeks only to dismiss those portions of paragraphs C(1) and D of plaintiff's prayer for relief seeking to enjoin defendants from sending the ballot for the District 1 Commissioner's election to the printer beginning

September 14, 2008 and from holding the election if preclearance of the statutes in question has not been obtained.

3. There is no reason that the ballot cannot be sent if preclearance has been sought but not yet obtained. Should such relief be granted, and preclearance subsequently received prior to the November 4, 2008 election, the election will be nonetheless prevented due to the absence of available ballots.

WHEREFORE, premises considered, William A. Bell respectfully requests that the Court dismiss or modify that portion of the relief seeking to enjoin printing the ballots for the November 4, 2008 election.

/s/ Michael K. K. Choy
Michael K.K. Choy (CHO001)

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