

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

RICHARD GOODEN, et al.,)	
)	
Plaintiffs,)	
)	
VS.)	CASE NO.: 2:05-CV-02562-wma
)	
NANCY WORLEY, etc., et al.,)	
)	
Defendants.)	

**DEFENDANTS ANITA GIBSON, WALTER LONG, AND MOLLY MEADOWS' IN
THEIR OFFICIAL CAPACITIES AS HOUSTON COUNTY, ALABAMA, VOTER
REGISTRARS, ANSWER TO PLAINTIFFS' COMPLAINT**

COME NOW Defendants Anita Gibson, Walter Long, and Molly Meadows, in their official capacities as Houston County Voter Registrars, to answer the Plaintiffs' Complaint as follows:

INTRODUCTION

1. This paragraph does not make a factual allegation and therefore, no response is necessary from these Defendants. To the extent a response is appropriate, the allegation is denied.

PLAINTIFFS

2. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

3. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

4. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

5. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

6. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

7. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

DEFENDANTS

8. Admitted.

9. Admitted that Nell Hunter is the Jefferson County Voter Registrar. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the remaining allegations; therefore, the allegations are denied.

10. Defendants admit that Gibson, Long and Meadows are the Houston County, Alabama, Voter Registrars, but have insufficient information with which to respond to the remaining allegations, therefore, the allegations are denied.

JURISDICTION

11. This paragraph does not contain factual allegations; therefore, no response is required from these Defendants. To the extent a response is required from these Defendants, the allegations are denied.

RELEVANT STATUTORY AND CONSTITUTIONAL PROVISIONS AND CASES

12. Admitted.

13. Admitted, although the definitions may or may not be consistent.

14. Admitted; the case cited speaks for itself.

15. Admitted; the case cited speaks for itself.
16. Admitted; the case cited speaks for itself.
17. Admitted; the case cited speaks for itself.
18. Admitted; the statute cited speaks for itself.

FACTS

19. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

20. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

21. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

22. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

23. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

24. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

25. Admitted.

26. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

27. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

28. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

29. Admitted; the Opinion speaks for itself.

30. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

31. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

32. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

33. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

34. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

35. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

Alabama's Denial of the Franchise to Plaintiff Gooden

36. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

37. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

38. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

39. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

40. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

41. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

42. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

Alabama's Denial of the Franchise to Plaintiff Jones

43. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

44. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

45. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

46. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

47. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

Alabama's Denial of the Franchise to Plaintiff Doss

48. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

49. The first allegation in this paragraph calls for a legal conclusion, and is therefore not susceptible to be admitted or denied. Defendants Gibson, Long and Meadows deny that they informed Plaintiff Doss that the "Defendant Secretary of State had directed them not to register individuals with felony convictions who had not obtained a Certificate of Eligibility, without regard to whether or not such felony convictions involved moral turpitude."

50. Admitted, assuming that Mr. Doss was dealt with according to normal procedure.

Effect of Statewide Practices

51. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

52. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

CAUSE OF ACTION

53. Defendants Gibson, Long and Meadows adopt and incorporate their above responses in paragraphs 1-51 by reference.

54. Denied.

55. Denied.

56. Defendants Gibson, Long and Meadows have insufficient information with which to respond to the allegations contained in this paragraph; therefore, the allegations are denied.

57. Denied.

58. Denied.

PRAYER FOR RELIEF

59. This paragraph does not make a factual allegation; therefore, no response is required from these Defendants. To the extent a response is required, the allegation is denied.

60. This paragraph does not make a factual allegation; therefore, no response is required from these Defendants. To the extent a response is required, the allegation is denied.

61. This paragraph does not make a factual allegation; therefore, no response is required from these Defendants. To the extent a response is required, the allegation is denied.

62. This paragraph does not make a factual allegation; therefore, no response is required from these Defendants. To the extent a response is required, the allegation is denied.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Defendants Gibson, Long and Meadows, did not implement any change in a “standard, practice or procedure with respect to voting” that required pre-clearance within the meaning of 42 U.S.C. § 1973(c).

SECOND DEFENSE

The Court lacks subject matter jurisdiction to the extent that the Plaintiffs’ Complaint does not allege an ongoing violation of federal law by Defendants Gibson, Long or Meadows. Idaho v. Coeur d’Alene Tribe of Idaho, 521 U.S. 261, 296 (1997).

THIRD DEFENSE

The Court lacks jurisdiction to issue a declaratory judgment as to any past violations of federal law. Green v. Mansour, 474 U.S. 64, 73 (1985).

FOURTH DEFENSE

This Court lacks jurisdiction to compel state officials to comply with state law. Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89, 106, 117 (1985).

FIFTH DEFENSE

This Court should abstain from rendering a decision in this case under the authority of Railroad Comm’n v. Pullman Co., 312 U.S. 496 (1941), on the grounds that this case involves difficult and unsettled issues of state law. Hawaii Housing Authority v. Midkiff, 467 U.S. 229, 236 (1984).

SIXTH DEFENSE

Section 17-4-124 of the Code of Alabama (1975) provides a remedy to challenge denial of voter registration. Thus, there is a comprehensive state statutory scheme that affords adequate relief to the Plaintiffs under state law, and in fact, the Plaintiffs’ claims are the subject of an

ongoing state court proceeding. To the extent that the Plaintiffs have failed or refused to comply with the provisions of state law, the Court should abstain from rendering a decision.

SEVENTH DEFENSE

The Plaintiffs are estopped to re-litigate claims asserted in previous judicial or quasi-judicial proceedings and are estopped to offer testimony inconsistent with that given in any proceeding.

EIGHTH DEFENSE

The Plaintiffs' claims are moot.

NINETH DEFENSE

This Court should abstain from rendering a decision in this case under the authority of Burford v. Sun Oil Co., 319 U.S. 315 (1943).

TENTH DEFENSE

The Plaintiffs have failed to exhaust the administrative, judicial and appellate remedies available to them under state law. Code of Alabama, § 17-4-124 (1995).

ELEVENTH DEFENSE

The action against Gibson, Long, and Meadows, is “insubstantial or frivolous” and does not require that a three-judge court be convened. U.S. v. Landry Parrish School Bd., 601 F.2d 859, 863 n.6 (5th Cir. 1979) (citing Broussard v. Perez, 572 F.2d 1113, 1118 (5th Cir. 1978)).

TWELFTH DEFENSE

The Complaint fails to state a cause of action upon which relief can be granted inasmuch as the Voting Rights Act was enacted for the purpose of eliminating racially discriminatory voting practices, not felon disenfranchisement. Johnson v. Governor of Florida, 405 F.3s 1214 (11th Cir. 2005).

Respectfully submitted on this the 31st day of January, 2006.

s/Bart Gregory Harmon

Kendrick E. Webb, Bar No.: WEB022
Bart Gregory Harmon, Bar No.: HAR127
Attorneys for Defendants Anita Gibson, Walter
Long, and Molly Meadows
Webb & Eley, P.C.
7475 Halcyon Pointe Drive (36117)
Post Office Box 240909
Montgomery, Alabama 36124
Telephone: (334) 262-1850
Fax: (334) 262-1889
E-mail: bharmon@webbeley.com

CERTIFICATE OF SERVICE

I certify that on **January 31, 2006** I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: **Edward Still, Esq. [Edward Still, Esq. still@votelaw.com], Norman J. Chachkin, Esq. [nchachkin@naacpldf.org], Margaret L. Fleming, Esq. [mfleming@ago.state.al.us], and John J. Park, Jr., Esq. [jjpark@ago.state.al.us]**, and I hereby certify that I have mailed by the United States Postal Service the document to the following non-CM/ECF participants:

Mr. Nell Hunter
Jefferson County Voter Registrar
Jefferson Co. Courthouse – North Annex
Suite A-410
716 Richard Arrington Jr. Blvd., North
Birmingham, AL 35203

Mr. Jeffrey M. Sewell
Assistant County Attorney for Jefferson
County
280 Jefferson County Courthouse
716 Richard Arrington Jr. Blvd., North
Birmingham, AL 35203

s/Bart Gregory Harmon

Of Counsel