

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

TOWN OF LAKE PARK, FLORIDA, and
COMMISSIONERS PATRICIA PLASKET-
OSTERMAN, G. CHUCK BALIUS, JEFF
CAREY and ED DALY, in their official
capacity as members of the Lake Park Town
Commission, and DESCA DUBOIS, in her
official capacity as Mayor of Lake Park.

Defendants.

09-80507

CIV-MARRA

CIVIL ACTION NO.

CLERK OF COURT
JOHN S. JOHNSON

FILED by AJB D.C.

MAR 31 2009

STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - MIAMI

COMPLAINT

The United States of America, plaintiff herein, alleges:

1. The Attorney General files this action pursuant to Sections 2 and 12(d) of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973, and 42 U.S.C. § 1973j(d). Section 2 prohibits the enforcement of any voting qualification or prerequisite to voting or any standard, practice, or procedure that results in the denial or abridgement of the right to vote on account of race, color, or membership in a language minority. Plaintiff challenges the at-large method of electing the Town of Lake Park Commission on the grounds that it dilutes the voting strength of black citizens in violation of Section 2.

JURISDICTION

2. The Court has jurisdiction of this action pursuant to 28 U.S.C. § 1345 and 42 U.S.C. § 1973j(f).

PARTIES

3. Defendant Town of Lake Park (the "Town") is a political and geographical subdivision of the State of Florida.

4. Defendants Patricia Plasket-Osterman, Chuck Balius, Jeff Carey and Ed Daly are elected members of the Commission for the Town of Lake Park (the "Commission"), the body established under the laws of the State of Florida and Article IV of the Charter for the Town. Defendant Desca Dubois, Mayor of Lake Park, serves as a fifth voting member of the Commission.

ALLEGATIONS

5. According to the 2000 Census, the Town has a total population of 8,721 of whom 4,256 (48%) are black. The percentage of black citizens who are of voting age is thirty-eight percent. White voting age citizens comprise a fifty-three percent majority.

6. The Commission is composed of four members who are elected at-large to three-year staggered terms. The Defendant Desca Dubois, Mayor of Lake Park, serves as a fifth voting member of the Commission in legislative matters.

7. Racially polarized voting patterns prevail in elections in the Town. No black candidate for the Commission has ever won an election since Lake Park was incorporated in 1923. Black voters voting for the Commission are politically cohesive. White bloc voting

usually results in the defeat of candidates who are preferred by black voters. White voters have consistently voted as a bloc so as to defeat every black candidate.

8. The black population of the Town is sufficiently numerous and geographically compact that a properly apportioned single-member district plan for electing the Defendant Commission can be drawn in which black persons would constitute a majority of the total population, voting age population, and citizen voting age population in at least one district.

9. Black persons in Lake Park and throughout Palm Beach County have suffered from a history of official discrimination. Lake Park has engaged in a variety of official discrimination against blacks including, but not limited to, racially discriminatory code enforcement policies, zoning decisions and ordinances, actions by the Lake Park Police Department to prevent blacks from entering the Town after sundown, and threats to exercise eminent domain powers with a racially discriminatory purpose.

10. Significant socioeconomic disparities exist between white and black residents of the Town. Such disparities have the effect of limiting black participation in the Town's at-large elections.

11. Lake Park elections are characterized by the use of practices and procedures that impair black electoral success. These include, but are not limited to, staggered terms, a majority vote requirement and placement of polling locations outside of minority-communities. Other features in the Town, such as gated communities, further impair the ability of black candidates to campaign and be elected.

12. Slating by various residential condominium associations occurs in Lake Park, and black candidates for the Lake Park Town Commission are not given access to this slating process.

13. Political campaigns in the Town have been characterized by subtle and overt racial appeals.

14. No black candidate has ever been elected to a seat on the Commission.

CAUSE OF ACTION

15. Under the totality of the circumstances, the at-large method of electing the Commission has the effect of diluting black voting strength, resulting in black citizens being denied an opportunity equal to that afforded to other members of the electorate to participate in the political process and to elect representatives of their choice, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

16. Unless enjoined by order of this Court, Defendants will continue to conduct elections for the Commission under the present method of election that denies black citizens the opportunity to participate equally with white citizens in the political process and to elect candidates of their choice, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

PRAYER FOR RELIEF


WHEREFORE, the United States of America prays that the Court enter an order:


- (1) Declaring that the at-large method of electing the Commission members violates Section 2 of the Voting Rights Act;
- (2) Enjoining Defendants, their agents and successors in office, and all persons acting in concert with any of them, from administering, implementing, or conducting any


future elections for the Town of Lake Park under the current at-large method of electing commissioners;

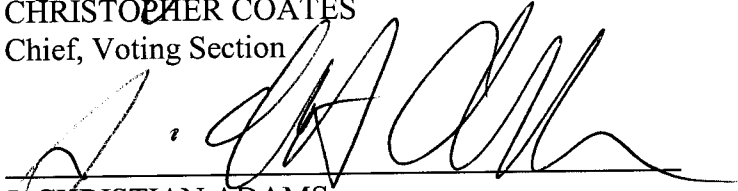
- (3) Ordering the implementation of an election system for the Town that complies with Section 2 of the Voting Rights Act, 42 U.S.C. § 1973; and
- (4) Ordering such additional relief as the interests of justice may require, together with the costs and disbursements in maintaining this action.

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Attorney General


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Acting Assistant Attorney General
Civil Rights Division


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United States Attorney
Southern District of Florida
Jeffrey H. Sloman
First Assistant United States Attorney


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Attorneys for United States of America

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Veronica Harrell-James, AUSA 305-961-9327
99 NE 4th Street, 3rd Floor
Miami, Florida 33132

*** ALSO SEE COMPLAINT FOR OTHER ATTORNEYS

DEFENDANTS

TOWN OF LAKE PARK, AND COMMISSIONERS PATRICIA PLASKET-OSTERMAN, ET AL...

County of Residence of First Listed Defendant WPB
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, INDICATE LOCATION OF TRACT OF LAND INVOLVED.

Attorneys (If Known)

Thomas J. Baird, Attorney at Law
11891 U.S. Hwy. One, Suite 100
N. Palm Beach, FL 33408

FILED by ASS D.C.

MAR 31 2009

STEVEN M. LARIMORE
CLERK U.S. DIST. CT
S. D. of FLA. - MIAMI

(d) Check County Where Action Arose: ☐ DADE ☐ MONROE ☐ BROWARD ☒ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ FORTECHUELL HIGHLANDS**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

Violation of Voting Rights Act of 1965, 42 USC Sections 1973, et seq.,

LENGTH OF TRIAL via _____ days estimated (for both sides to try entire case)

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

3-31-09

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT

WAIVED

APPLYING IFP _____