

**FILED**

**MAR - 8 2011**

*Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia*

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLUMBIA

BEDFORD COUNTY, VIRGINIA,  
County Administration Building  
122 East Main Street  
Bedford, VA 24523

Plaintiff,

v.

ERIC HOLDER,  
Attorney General of the  
United States of America;  
THOMAS E. PEREZ,  
Assistant Attorney General,  
Civil Rights Division, United States  
Department of Justice, Washington, DC,

Defendants.

Case: 1:11-cv-00499  
Assigned To : Huvelle, Ellen S.  
Assign. Date : 3/8/2011  
Description: 3-Judge Court

Three-Judge Court Requested

**COMPLAINT FOR DECLARATORY RELIEF**  
**UNDER THE VOTING RIGHTS ACT**

The Plaintiff Bedford County alleges that:

1. This is an action brought for declaratory relief pursuant to Section 4 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973b (hereinafter "Section 4").

This Court has jurisdiction over this action pursuant to 28 U.S.C. §1343(a)(4), 28 U.S.C. §2201, 42 U.S.C. §1973b, and 42 U.S.C. §1973l(b).

2. Plaintiff Bedford County is a political subdivision of the Commonwealth of Virginia and a political subdivision of a state within the meaning of Section 4(a) of the Voting Rights Act, 42 U.S.C. §1973b(a)(1).

3. Bedford County, Virginia is located at the foot of the Blue Ridge Mountains in the heart of central Virginia.

4. Bedford County is a covered jurisdiction subject to the special provisions of the Voting Rights Act, including Section 5 of the Act. 42 U.S.C. §1973c. Under Section 5, the County is required to obtain preclearance from either this Court or from the Attorney General for any change in voting standards, practices, and procedures since the Act's 1965 coverage date for Virginia.

5. Bedford County is governed by a seven-member Board of Supervisors elected from seven single-member districts by the voters of Bedford County. Each represents an election district of about 9,800 citizens. The supervisors' election terms are staggered.

6. According to the 2010 Census, Bedford County has a total population of 68,676 persons. Of this number, blacks comprise 3,942 (5.74%) of the total population, and Hispanics constitute 1,090 (1.59%) of the total population. The voting age population of the County, according to the 2010 Census, is 53,371, of whom 3,113 (5.83%) are black and 662 (1.24%) are Hispanic.

7. Historically, there have been black board members of Bedford County's governing body. At the present time, one of the seven members of the Bedford County Board of Supervisors is black.

8. Since its inception in 1965, the Voting Rights Act has allowed States, which are subject to these special provisions of the Act, to exempt themselves from coverage under the Act's special remedial provisions, if they can satisfy standards established in the Voting Rights Act. This exemption process is known as "bailout".

9. In 1982, Congress made changes in the exemption standards of the Voting Rights Act. As amended in 1982, Section 4 of the Voting Rights Act provides that States,

as well as political subdivisions within those States that are covered under the special provisions of the Act, are entitled to a declaratory judgment in this Court granting an exemption from the Act's special remedial provisions if, during the ten years preceding the filing of the action:

- A) no test or device has been used either for the purpose or with the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, within the State or political subdivision seeking a declaratory judgment;
- B) no final judgment has been entered by any court determining that the political subdivision has denied or abridged the right to vote on account of race, color, or membership in a language minority group;
- C) no Federal examiners have been assigned to the political subdivision;
- D) all governmental units within the political subdivision have complied with the preclearance provisions of Section 5 of the Voting Rights Act, 42 U.S.C. §1973c; and
- E) the Attorney General has not interposed any objection to any proposed voting change within the political subdivision and no declaratory judgment has been denied with regard to such a change by this Court under Section 5.

10. As described herein, plaintiff Bedford County has fully complied with the provisions of Section 4 of the Act.

11. As a political subdivision of the Commonwealth of Virginia, plaintiff Bedford County has been subject to certain special remedial provisions of the Voting Rights Act, including the provisions of Section 5 of the Act, 42 U.S.C. §1973c. Under Section 5 of the Act, known as the 'preclearance' provisions, covered jurisdictions, including Bedford County, are required to seek and obtain preclearance from either this Court or from the United States Attorney General of any change affecting voting, and such preclearance must be obtained prior to implementation.

12. In the ten years preceding the filing of this action, Bedford County has made timely preclearance submissions to the United States Department of Justice pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. §1973c.

13. Within the ten years preceding the filing of this action, Bedford County has not enforced any voting change prior to Section 5 preclearance. The Attorney General has never interposed a Section 5 objection to any change affecting voting in Bedford County. Bedford County has never sought judicial preclearance of any voting changes in this Court.

14. Voter registration opportunities as well as opportunities to fully participate in the political process in Bedford County are readily and equally available to all citizens. The number of persons registered to vote in the County as of 2011 is 47,072, which is 88% of the County's 2010 voting age population. In addition, the number of minorities working at the polls has risen since 2000, with minorities comprising between 4.5% and 7.1% of all poll officials in the last five years. These percentages of minority poll officials are roughly commensurate with the minority population's share of the County's voting age population (7.07%).

15. No person in Bedford County has been denied the right to vote on account of race, color, or membership in a language minority group for at least the preceding ten years.

16. No "test or device" as defined in the Voting Rights Act (42 U.S.C. §1973b(c)) has been used in Bedford County as a prerequisite to either registering or voting for at least the preceding ten years.

17. No final judgment of any court of the United States has determined that denials or abridgments of the right to vote on account of race or color have occurred in Bedford County, nor has the County entered into any consent decree, settlement or agreement resulting in any abandonment of a voting practice challenged on such grounds. There are no pending actions against Bedford County alleging such denials or abridgments of the right to vote.

18. No voting practices or procedures have been abandoned by the County or challenged on the grounds that such practices or procedures would have either the purpose or the effect of denying the right to vote on account of race or color.

19. The Plaintiff Bedford County has not employed any voting procedures or methods of election that inhibit or dilute equal access to the electoral process by minority voters in the County. Minority voters in Bedford County are not being denied an equal opportunity to elect candidates of their choice to any office in the County.

20. Federal examiners have never been appointed or assigned to Bedford County under Section 3 of the Voting Rights Act, 42 U.S.C. §1973a.

21. Because there has not been any known intimidation or harassment of persons exercising rights protected under the Voting Rights Act in Bedford County within the last ten years, the County has not had any occasion to take any action eliminating such activity.

22. Pursuant to 42 U.S.C. §1973b, the County has “publicize[d] the intended commencement ...of [this] action in the media serving [the District] and in the appropriate United States post offices.” Notices of the bailout were also posted on the County’s website, as well as in county offices, courthouse, and libraries. Notice of the

bailout was published in The News and Advance in Lynchburg, The Bedford Bulletin in Bedford, and The Roanoke Times in Roanoke.

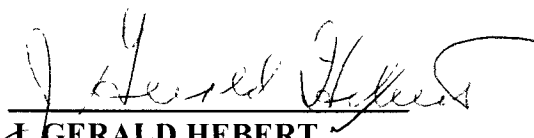
23. The allegations set forth in paragraphs 13 through 22, above, if established, entitle plaintiff Bedford County to a declaratory judgment under Section 4 of the Voting Rights Act, 42 U.S.C. §1973b, exempting the County and all governmental units within the County from the special remedial provisions of the Voting Rights Act.

WHEREFORE, plaintiff Bedford County respectfully prays that this Court:

- A) Convene a three-judge court, pursuant to 28 U.S.C. §2284 and 42 U.S.C. §1973b, to hear the claims raised in plaintiff's complaint;
- B) Enter a declaratory judgment that plaintiff Bedford County is entitled to a bailout from the special remedial provisions of the Voting Rights Act; and
- C) Grant such other relief as may be necessary and proper as the needs of justice may require.

Respectfully submitted,

**FOR THE PLAINTIFF BEDFORD COUNTY:**

A handwritten signature in black ink, appearing to read "J. Gerald Hebert", is written over a horizontal line.

**J. GERALD HEBERT**

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**PLAINTIFF'S UNOPPOSED MOTION TO CONVENE THREE-JUDGE COURT**

The plaintiff Bedford County, Virginia, through counsel, respectfully moves this Court for entry of an order requesting the convening of a three-judge court. As grounds for this motion, the plaintiff would show unto the Court that:

1. Plaintiff Bedford County, Virginia, has filed this action pursuant to Section 4 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973b. Plaintiff's action seeks a declaratory judgment from this Court granting the County an exemption, known as a "bailout", from the special remedial provisions of the Voting Rights Act.

2. A three-judge court is required under Section 4 of the Voting Rights Act: "A district court of three-judges shall be convened to hear and determine the action." See 42 U.S.C. §1973b.



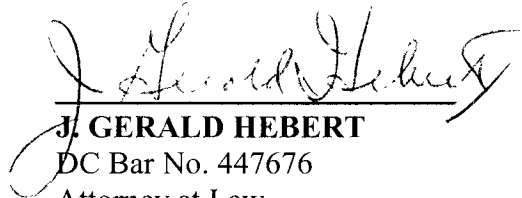
3. A memorandum of points and authorities accompanies this motion, and a proposed order is respectfully submitted for the Court's consideration.

4. Counsel for defendants has advised plaintiff's counsel that defendants do not oppose this motion.

WHEREFORE, Plaintiff respectfully prays that this Court will grant this motion and enter the attached order requiring the clerk of this Court to notify the Chief Judge of the United States Court of Appeals for the D.C. Circuit that a three-judge court is required to hear and determine this action.

Respectfully submitted,

**FOR THE PLAINTIFF BEDFORD COUNTY:**



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DC Bar No. 447676

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