

IN THE
UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

UNITED STATES OF AMERICA,
PLAINTIFF,

v.

CIVIL ACTION NO. 9334

WINNICE J. P. CLEMENT,
REGISTRAR OF VOTERS OF
WEBSTER PARISH, LOUISIANA;
AND THE STATE OF LOUISIANA,
DEFENDANTS.

PLAINTIFF'S PROPOSED FINDINGS
OF FACT, CONCLUSIONS OF LAW,
AND DECREE

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IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

UNITED STATES OF AMERICA,)
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Plaintiff,) CIVIL ACTION NO. 9334
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v.) PLAINTIFF'S PROPOSED
) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
WINNICE J. P. CLEMENT,) AND DECREE
REGISTRAR OF VOTERS OF)
)
WEBSTER PARISH, LOUISIANA;)
AND THE STATE OF LOUISIANA,)
)
Defendants. `

Proposed Findings of Fact

1. This suit was filed on February 18, 1963, by the Attorney General of the United States under the Civil Rights Act of 1957, as amended (42 U.S.C. 1971). The Complaint charged the defendants with acts and practices which have deprived citizens of the United States of the right to register to vote in Webster Parish, Louisiana, without distinction of race or color.

2. The defendants in this case are Winnice J. P. Clement, Registrar of Voters of Webster Parish, and the State of Louisiana. Mrs. Clement has been the Registrar of Voters in Webster Parish since 1940.

As Registrar of Voters her function is to receive applications for registration from prospective electors and to determine whether or not they are qualified to register to vote. Mrs. Clement maintains her office at Minden, Louisiana, in Webster Parish, and also resides in Webster Parish.

3. In 1960, there were 15,713 white persons and 7,045 Negroes of voting age in Webster Parish.

4. In October 1956 there were 12,957 white persons and 1,773 Negroes registered to vote in Webster Parish. Starting on January 1, 1957, all voters in Webster Parish had to re-register. By December 31, 1960, there were 12,250 white persons and only 130 Negroes registered.

5. In 1961, a new registration period began in Webster Parish. By June 30, 1963, just prior to the trial of this case, there were 8,914 white persons and 229 Negroes registered to vote. As of December 11, 1963, there were 11,142 white persons and 430 Negroes registered to vote in Webster Parish.

6. Between January 1957 and September 1962, and again in February and March, 1963, the defendants used the oral interpretation test as a device to discriminate against Negroes. The defendants administered the oral test only to Negroes; it was not administered to white applicants. Professionally trained Negroes were rejected on the basis of the oral test while white persons with sixth grade educations and less were registered

without taking the test at all. The registrar reintroduced the oral test in 1963, at a time when large numbers of Negroes began to apply and were successfully completing the citizenship test, and again she used the oral test as a device to discriminate against Negroes.

- (a) Thirty-one Negro witnesses testified that they took and failed the oral test at least once. Twenty-seven white witnesses testified that they registered without taking the oral test. This is the only record available on the administration of the oral test. The deputy registrar and a registration assistant who worked in the Springhill area never administered the oral test to anyone.
- (b) Among the Negroes who were denied registration for failing the oral test were three public school principals, four public school teachers, a dentist, and an insurance agent. At the same time, white persons with sixth grade, fifth grade, and even second grade educations

successfully registered without having
to take the test.

(c) The defendants discontinued using the oral test in September 1962, but reintroduced it in February 1963, immediately following a six-week period in which Negro registration had doubled. In February and March 1963, the oral test was administered only to Negroes, and those who failed the test were not allowed to fill out application forms. Defendants' purpose in reintroducing the oral test and rejecting Negro applicants was to deny registration to Negroes on account of their race; its reintroduction had the effect of discouraging Negroes from attempting to register.

7. From January 1957 until at least March 1963, the defendants employed the following procedures to delay and hinder the registration of Negroes but did not impose such procedures on white applicants:

(a) For at least two years prior to September 1962, the deputy registrar discriminatorily refused to process the applications of Negroes when she was

alone in the office, but throughout that period processed the applications of white persons in the absence of the registrar.

- (b) The defendants require Negro applicants to wait outside the registrar's office and enter one-at-a-time, but allow white persons to enter as many as four at a time. The one-at-a-time rule is invoked as to Negroes even when two registrars are in the office. Under this practice Negroes have been denied an opportunity to attempt to register because of time limitations that would not have been denied them if the registrars had treated them as they do white applicants.
- (c) The defendants have required some Negroes but not white applicants to produce two witnesses to identify them before allowing them to register. This requirement was unreasonable and arbitrary and was for the purpose of delaying and hindering the registration of the Negro applicant and not for the purpose of assuring the registrar of the applicant's true identity and residence.

8. Since September 13, 1962, the defendants have used the application form as a device to discriminate against Negro applicants for registration to vote in Webster Parish. Between September 13, 1962, and June 25, 1963, one white person and twenty-four Negroes were rejected because of "errors" or omissions on the application form although each of these applicants passed the multiple-choice "citizenship" test which has been in use since September 1962.

(a) The defendants use the application form as a test for Negroes but not for white persons. Negro applicants, including school teachers, have been rejected for inconsequential errors or omissions without being given an opportunity to correct their forms. White applicants are given whatever help they need to complete their forms correctly. Of the 527 white persons who applied between September 13, 1962, and June 25, 1963, only one was rejected on the basis of the application form. That rejection occurred on September 18, 1962, less than one week after the defendants' new system went into effect. Of the 178 Negro

applicants who were allowed by the defendants to fill out application forms in the same period, twenty-four were rejected for "errors" or omissions on their application forms, although every one of the twenty-four passed the multiple-choice test.

- (b) The registrar and her deputy do not consider the application form as a test. It is their practice to return incomplete or erroneous forms to applicants and instruct them in completing or correcting the forms. In doing so, the registrars are specific about the errors or omissions that require correction.

9. On September 13, 1962, the defendants commenced using the multiple-choice "citizenship" test. As of August 31, there were 8,349 white persons and only 98 Negroes registered to vote in Webster Parish. Thus 53% of the adult white population and 1% of the adult Negro population were registered to vote when the new test went into effect.

10. The acts of the defendants heretofore described in these findings have deprived Negro citizens in Webster Parish of the right to register to vote on account of their race or color. Such deprivations have been and are pursuant to a pattern and practice of discrimination.

11. The maximum requirements and standards which have been required of white voters in Webster Parish since 1957 are the following:

- (a) The applicant is a citizen and 21 years of age or older at the time he registers;
- (b) The applicant has resided in the State, Parish and precinct the required period;
- (c) The applicant is not disqualified by reason of bad character or conviction of a disqualifying crime insofar as those disqualifications may be determined from the completed application form;
- (d) Applicant is literate in that his handwriting is legible;
- (e) The applicant, since September 1962, answers correctly at least four of six multiple-choice questions on government.

Proposed Conclusions of Law

1. This Court has jurisdiction of this action under 42 U.S.C. 1971(d) and under 28 U.S.C. 1345.

2. The Attorney General is authorized to institute this action on behalf of the United States under 42 U.S.C. 1971(c) to obtain preventive relief against acts and practices by the defendants which would deprive other persons of rights and privileges secured by 42 U.S.C. 1971(a).

3. The State of Louisiana is properly joined as a party defendant pursuant to Section 601(b) of the Civil Rights Act of 1960, 42 U.S.C. 1971(c).

4. Acts and practices of the defendant registrar which violate 42 U.S.C. 1971(a) are also acts and practices of the defendant State. Civil Rights Act of 1960, Sec. 601(b).

5. 42 U.S.C. 1971(a) forbids any distinctions in the voting process, including registration for voting, based upon race or color.

6. The fact that Negro registration declined between 1956 and 1960 from 1,770 to 130 while white registration showed no appreciable decline at all, and the fact that since 1961 white registration has proceeded at the same rate as in prior periods while Negro registration remained token only, creates the presumption that Negro citizens have been deprived of

the right to vote without distinction of race or color; and in the absence of proof by the defendants that the rejected Negroes were not qualified under the standards and requirements applied to the accepted white persons, discrimination must be found.

7. The practice of using the interpretation test or any other test as a device to discriminate against Negroes is in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

8. The use of the application form as a test for Negroes but not for white applicants is in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

9. The practice of denying registration to Negro applicants on account of errors or omissions on their application forms while registering white applicants who have made similar errors or omissions on their applications is in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

10. The practice of denying registration to applicants on account of errors or omissions on their application forms where, despite these errors and omissions, their applications show them to possess all

of the substantive qualifications and none of the disqualifications under Louisiana law, is wholly unreasonable and arbitrary and in violation of the due process clause of the Fourteenth Amendment to the Constitution of the United States.

11. The practice of denying registration to Negro applicants on account of errors or omissions on their application forms while registering white applicants who have been aided and assisted in filling out their application forms is in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

12. The practice of denying Negroes an opportunity to attempt to register through the imposition of procedures and requirements that are not imposed upon white applicants is in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

13. Where highly qualified Negro applicants are discriminatorily rejected, it must be assumed that large numbers of Negroes otherwise qualified to vote were discouraged from attempting to register by the discriminatory acts of the registrar.

14. The provisions of Louisiana law which require that applicants for registration be able to understand and give a reasonable interpretation of the

United States or Louisiana Constitution are in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the United States Constitution.

15. The imposition of any new registration requirement at a time when a majority of adult white persons are permanently registered and will not be subjected to the new requirement and a relatively small percentage of adult Negroes have become registered due to prior acts of discrimination is a violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States; and, in the absence of a complete re-registration of voters in Webster Parish, the new "citizenship" test may not be used there as a voter qualification requirement.

(a) No test can be imposed which by reason of previous registration will exempt most of the white persons from it and subject most of the Negroes to it.

(b) A State may not seal the effects of discrimination into the voting system by adopting exclusionary or burdensome registration requirements.

(c) Absent complete-registration, a State may not adopt new and more stringent registration requirements until past discrimination has been corrected by affording the persons discriminated against, including those discouraged from attempting to register, the same opportunity to become registered as had been enjoyed by white persons during the period of the discriminatory acts.

16. Negro citizens of Webster Parish are "otherwise qualified by law to vote" within the meaning of 42 U.S.C. 1971(a) if they possess all the qualifications and none of the disqualifications under Louisiana law, as those qualifications and disqualifications are actually applied by the Registrar of Voters of Webster Parish in registering other persons.

Plaintiff's Proposed Decree

Pursuant to the Findings of Fact and Conclusions of Law entered this date:

1. This Court finds specifically that the defendants have engaged in acts and practices which have deprived Negro citizens in Webster Parish, Louisiana of the right secured by 42 U.S.C. 1971(a), and that the deprivations of this right have been pursuant to a pattern and practice of racial discrimination.

2. It is ORDERED, ADJUDGED and DECREED that the defendant State of Louisiana and the defendant Winnice J. P. Clement, Registrar of Voters of Webster Parish, Louisiana, their agents, officers, employees, successors in office and all persons in active concert with them be and each hereby is enjoined from engaging in any act or practice which involves or results in distinctions of race or color in the registration of voters in Webster Parish, Louisiana. Specifically, each of said defendants and persons is enjoined from:

- (a) Applying different and more stringent registration qualifications, requirements, procedures and standards to Negro applicants for registration than those which have been applied to white applicants

since January 1, 1961, in determining whether or not such applicants were or are qualified to register to vote in Webster Parish, Louisiana.

(b) Failing to register applicants who meet the following qualifications:

- (1) He is a citizen of not less than 21 years of age;
- (2) He has resided in the State, Parish and precinct the required period; and
- (3) He is not disqualified by reason of bad character or conviction of a disqualifying crime;
- (4) He is literate in that his handwriting is legible.

(c) Using the application form (L.R.-1) in any manner or for any purpose different from and more stringent than that for which it has been used in registering white persons in Webster Parish since January 1,

1961. Specifically, the application form is to be used to obtain and record essential information from which it can be determined whether applicants possess the qualifications set forth in subparagraph (b)(1)-(3) above. The application form is not to be used as an examination or test. No applicant for registration whose application form shows that he meets the substantive qualifications prerequisite to voting under Louisiana law shall be denied registration because of errors or omissions on his application form.

- (d) Requiring any applicant for registration to understand or interpret any portion of the Constitution.
- (e) Requiring applicants to read or write any portion of the preamble to the Constitution of the United States.
- (f) Requiring applicants for registration to take or pass the so-called "citizenship" test which was put into use in Webster Parish in the Fall of 1962.

3. It is further ORDERED that said defendants in applying the above qualifications shall comply with the following standards and procedures:

- (a) Applicants who possess these qualifications must be registered, and it is the duty of the Registrar to determine whether the applicants possess these qualifications.
- (b) If from the information contained in the application form the Registrar is unable to determine whether the applicant possesses the qualifications of citizenship, age, residence, or if the Registrar is unable to determine whether the applicant is disqualified by reason of bad character or conviction of a disqualifying crime, then the Registrar should obtain the necessary information either by pointing out the deficiency to the applicant and permitting him to supply the necessary information on his application form, or by questioning the applicant and noting the necessary information on his form. If the information supplied by the applicant on his application form

would disqualify him from registration if true, the registrar shall call this fact to his attention to insure that the information is correct and if it is incorrect permit the applicant to correct his answers if he so desires. It is the duty of the registrar to determine whether the applicant is qualified for registration to vote and the Registrar cannot justify the rejection of any applicant on the ground that the Registrar does not have sufficient information about the applicant from which to determine whether the applicant is qualified, unless the applicant refuses to furnish the necessary information after the insufficiency has been called to his attention.

4. It is further ORDERED that the defendant Registrar shall notify each rejected applicant for registration of the specific reason for his rejection.

6. It is further ORDERED that defendant Registrar make available at the office of the registrar all registration records of Webster Parish, Louisiana, for inspection and photographing by agents of the United States at any and all reasonable times.

The costs incurred in this proceeding to date are hereby taxed against the defendants.

Done this day of , 1963.

UNITED STATES DISTRICT JUDGE