

OCT 25 2002

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

JAMES W. McCORMACK, CLE  
By: \_\_\_\_\_ DEP CLI

ADAM R. COPELAND; REBBECA )  
FULLER; JOHN DANIEL HAYS, JR.; )  
SARAH HUCKABEE; and JENNIFER D. )  
THOMPSON, )

Plaintiffs, )

v. )

SHARON PRIEST, in her official )  
capacity as Secretary of State )  
of the State of Arkansas; and )  
RHONDA L. WILLIAMS, in her )  
official capacity as County )  
Clerk of Clark County, )  
Arkansas, )

Defendants. )

4-02-CV-00675 GTE

Civil Action No. \_\_\_\_\_

This case assigned to District Judge E. J. G. G. G.  
and to Magistrate Judge G. J. G. G.

COMPLAINT - CLASS ACTION

NATURE OF THE CASE

1. This is an action brought under 42 U.S.C. § 1983 to enforce rights guaranteed to the plaintiffs by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The plaintiffs seek declaratory and injunctive relief requiring the defendants to restore to the voting rolls all persons rejected or purged as a result of the unconstitutional application of Section 7-5-201(b)(6) of the Arkansas Code, which has been interpreted to disenfranchise students and other persons living in university housing.

#### JURISDICTION AND VENUE

2. This Court has original jurisdiction over this case pursuant to Article III of the United States Constitution and 28 U.S.C. §§ 1331 and 1343(a)(3).

3. This suit is authorized by 42 U.S.C. § 1983.

4. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

5. Venue is proper in the Eastern District of Arkansas pursuant to 28 U.S.C. § 1391(b).

#### PARTIES

6. Plaintiff Adam R. Copeland is an adult citizen and resident of Clark County, Arkansas, and a student at Ouachita Baptist University. He registered to vote in Clark County using a university address, and his registration was properly accepted by the voter registration officials in Clark County.

7. Plaintiff Rebbecca Fuller is an adult citizen and resident of Clark County, Arkansas, and a student at Ouachita Baptist University. She registered to vote in Clark County using a university address, and her registration was properly accepted by the voter registration officials in Clark County.

8. Plaintiff John Daniel Hays, Jr., is an adult citizen and resident of Clark County, Arkansas, and a student at Ouachita Baptist University. He registered to vote in Clark County using a

university address, and his registration was properly accepted by the voter registration officials in Clark County.

9. Plaintiff Sarah Huckabee is an adult citizen and resident of Clark County, Arkansas, and a student at Ouachita Baptist University. She registered to vote in Clark County using a university address, and her registration was properly accepted by the voter registration officials in Clark County.

10. Plaintiff Jennifer Diane Thompson is an adult citizen and resident of Clark County, Arkansas. She is married to a student at Ouachita Baptist University but is not a student herself. She registered to vote in Clark County using a university address, and his registration was properly accepted by the voter registration officials in Clark County.

11. All of the plaintiffs meet the qualifications for voters set forth in Section 7-5-201(a) of the Arkansas Code.

12. Defendant Sharon Priest is the Secretary of State of the State of Arkansas. She is the chief election official of the State of Arkansas and serves as the chairman and secretary of the State Board of Election Commissioners. She is charged by statute with assuring the uniform application of voter registration laws throughout the State of Arkansas. She is sued in her official capacity only.

13. Defendant Rhonda L. Williams is the County Clerk of Clark County, Arkansas. She is the chief voter registrar in Clark County.

and is charged by statute with processing voter registration applications and maintaining the list of registered voters in Clark County. She is sued in her official capacity only.

14. The defendants, both personally and through the conduct of their agents, servants and employees, were and are acting under color of state law at all times relevant to this action.

#### FACTS

15. On October 22, 2002, Circuit Judge John A. Thomas of the Circuit Court of Clark County, Arkansas, Judge Thomas issued a writ of mandamus ordering defendant Williams to stop accepting voter registration applications from "persons present in the County for the purpose of attending a university as a student." Judge Thomas further ordered defendant Williams immediately to purge from the voter rolls all persons, other than university staff, "listing as their address a university post office box, university dormitory, or other university owned student housing."

16. On or about the same day, defendant Williams began to comply with Judge Thomas' order.

17. Each of the plaintiffs has received, or believes that he or she will receive, notification from defendant Williams that they have been purged from the list of registered voters as a result of Judge Thomas' order.

18. The next election in Arkansas is scheduled for November 5, 2002.

19. Early voting in the November 5 election has already begun.

20. The deadline for registering to vote in the November 5 election has already passed.

21. Unless enjoined by this Court, none of the plaintiffs will be able to vote in the November 5 election and to have that vote counted.

#### CLASS ACTION ALLEGATIONS

22. This action is properly maintainable as a class action under Rule 23(b) (1) & (2) of the Federal Rules of Civil Procedure because (1) the prosecution of separate actions by individual members of the class would create a risk of adjudications that would, as a practical matter, be dispositive of the interests of the other members of the class not parties to the adjudications; and (2) the defendants has acted on grounds generally applicable to the class.

23. The plaintiff class is comprised of all persons (other than university staff) who registered to vote in Clark County using a university address.

24. The plaintiff class numbers approximately 1,000 people.

25. The claim of the named plaintiffs are typical of the claim of the class.

26. All of the named plaintiffs are adequate representatives of the class in that they successfully registered to vote in Clark

County using a university address prior to Judge Thomas' order and are represented by counsel experienced in the field of voting rights.

CLAIM ONE

27. Section 7-5-201(b)(6) of the Arkansas Code, as applied by defendant Williams, violates rights guaranteed to the plaintiffs by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, as enforced by 42 U.S.C. § 1983.

RELIEF

28. A real and actual controversy exists between the parties.

29. The plaintiffs have no adequate remedy at law other than this action for declaratory and injunctive relief.

30. The plaintiffs are suffering irreparable harm as a result of the violations complained of herein, and that harm will continue unless declared unlawful and enjoined by this Court.

WHEREFORE, the plaintiffs respectfully pray that this Court:

- (1) take original jurisdiction over this case;
- (2) certify this case as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure;
- (3) enter a declaratory judgment that Section 7-5-201(b)(6) of the Arkansas Code, as applied by defendant Williams, violates rights guaranteed to the plaintiffs by the Equal Protection Clause of the Fourteenth Amendment to the

- United States Constitution, as enforced by 42 U.S.C. § 1983;
- (4) enjoin the defendants from failing to enforce Section 7-5-201(b)(6) of the Arkansas Code in a manner consistent with the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;
  - (5) enjoin the defendants from failing to restore to the voting rolls all persons rejected or purged as a result of the defendants' unlawful application of Section 7-5-201(b)(6) of the Arkansas Code;
  - (6) award the plaintiffs the cost of this action together with their reasonable attorneys' fees pursuant to 42 U.S.C. § 1988; and,
  - (7) retain jurisdiction of this action and grant the plaintiffs any further relief which may in the discretion of this Court be necessary and proper.

Respectfully submitted,

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