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UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

EVELYN A. BLACKMOON, ROBERT)
W. COURNOYER, and ALAN FLYING)
HAWK)

CIV. 05-4017

Plaintiffs,)

CONSENT DECREE

v.)

CHARLES MIX COUNTY; CARROL)
ALLEN, KEITH MUSHITZ, AND)
SHARON DRAPEAU in their official)
capacities as members of the Charles Mix)
County Commission; and ANGELA)
MEYERINK, in her official capacity as)
Auditor of Charles Mix County,)

Defendants.)

Plaintiffs, Evelyn A. Blackmoon, Robert W. Cournoyer, and Alan Flying Hawk, filed their Complaint on January 27, 2005. To avoid the expense of further litigation and trial, both parties entered into mediation before the Honorable Magistrate Judge John E. Simko and have come to an agreement. The Parties have submitted the following to the Court for approval as a Consent Decree. By entering into this Consent Decree, Defendants do not admit liability on any of the claims being settled herein.

Accordingly, based on the consent and agreement of the parties and this Court's previous finding of a violation of the Fourteenth Amendment in Charles Mix County, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. The Court authorizes the appointment of federal observers pursuant to 42 U.S.C. § 1973a(a) until December 1, 2014. If the federal observers reveal any problems with the election process, such problems will not re-open this case. Any problems

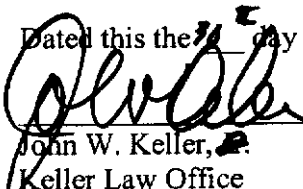
revealed by federal observers must be addressed in a new lawsuit or by means other than through this case.

2. The Court retains jurisdiction over this action pursuant to 42 U.S.C. § 1973a(c) until December 1, 2024; and during such period no voting qualification or prerequisite to voting or standard, practice, or procedure with respect to voting different from that in force or effect in Charles Mix County on January 27, 2005 (“voting changes”) shall be enforced unless and until the Defendants obtain preclearance as provided in 42 U.S.C. § 1973a(c); provided, however, that
 - a. the Court’s jurisdiction under this provision shall not extend to voting changes adopted or enacted by any political subdivision within Charles Mix County, as the Parties have agreed that the Defendants are not required to seek preclearance for any laws adopted or enacted by any political subdivision within Charles Mix County; and
 - b. the Court’s jurisdiction under this provision shall extend to voting changes enacted or adopted by the State of South Dakota only until December 1, 2014, subject to the following provisions:
 - i. The Defendants’ obligation to seek preclearance of state voting changes is satisfied by notifying the Department of Justice that they wish to adopt or incorporate the preclearance submission filed by the State of South Dakota for a particular voting change. Defendants are not independently obligated to seek or obtain preclearance of state voting changes if the State of South Dakota does not file submissions.

- ii. Charles Mix County is obligated, however, to preclear state voting laws until December 1, 2024, if the County itself proposes voting legislation to the state legislature, or proposes legislation to the state legislature through the South Dakota County Commission Association. Charles Mix County also must preclear state voting laws until December 1, 2024, if the County itself lobbies for the law with the state legislature. If the South Dakota County Commission Association lobbies for a bill, representing Charles Mix County as a member, that does not obligate Charles Mix County to preclear a voting change. The County can satisfy these obligations to seek preclearance by incorporating or adopting the State of South Dakota's submissions to the Department of Justice.
 - c. Defendants will not be found in violation of the consent decree for enforcing unprecleared emergency voting changes if they are unable to obtain preclearance in advance of an electoral proceeding, but this provision does not affect the Defendants' ultimate obligation to seek preclearance even after the electoral proceeding occurs.
3. The Court finds that the three-member redistricting plan approved in its Memorandum Opinion and Order dated July 12, 2006 (Doc. 84), does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color or in contravention of the voting guarantees set forth in 42 U.S.C. § 1973b(f)(2).


4. In furtherance of the efforts to compromise and settle, the parties stipulate and agree that the element of intentional wrongdoing by the Defendants, their predecessors, and subsequent parties has not been resolved by admission or adjudication. This settlement agreement should not be cited by any party as precedent or proof to resolve such questions in other cases.
5. Defendants have agreed to pay Plaintiffs the amount of \$110,000 (\$82,000 in attorneys' fees, \$4,920 in service taxes, and \$23,080 in expenses) as a reasonable award of fees, costs and expenses for past, present and future attorney's fees, costs and expenses, except that the parties acknowledge that a claim for future fees by Plaintiffs will be limited to services specifically associated with a successful challenge to enforce this Consent Decree. The parties acknowledge that in the event Plaintiffs commence a proceeding to enforce the Consent Decree which the Court determines to be frivolous, the Defendants may be entitled to an award of attorneys' fees and expenses.
6. This decree is binding on the parties, their successors, agents, attorneys and assigns.
7. This action shall be administratively closed and is removed from the Court's docket.

Dated this the 31st day of NOVEMBER, 2007.



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Dated this the 30th day of November, 2007.



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COUNSEL FOR PLAINTIFFS

COUNSEL FOR DEFENDANTS

Pursuant to stipulation, and for good cause shown, IT IS SO ORDERED.



Hon. Lawrence L. Piersol
United States District Judge

Dated this 4th day of December, 2007.