

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

KENNETH HALL

Plaintiff,

and

BYRON SHARPER

Intervenor-Plaintiff,

v.

STATE OF LOUISIANA, et al

Defendants.

CIVIL ACTION NO.: 3:12-cv-657

BAJ/RLB

INTERVENOR-PLAINTIFF BYRON SHARPER'S SUPPLEMENTAL COMPLAINT

1. Furthermore, this multiple-and-penumbra based constitutional and statutory complaint is an action to enjoin, declare, find liability, and remedy past, present, ongoing, and future state and local governmental officials' voluminous, repeated, and unlawful actions, chiefly violations exhibited by the separate and at times concerted conduct of various Louisiana state officials and municipal officers of the United States Constitution's majority rule principle, the Fourteenth and Fifteenth Amendments to the United States Constitution.
2. This is an action to find liability under the Civil Rights Act of 1871, as amended, 42 U.S.C. §1983; and to find, remedy, declare, and to enjoin violations of Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973 and violations of Section 5 of the Voting Rights Act of 1965 as amended 42 U.S.C. 1973c; and to enforce rights guaranteed by Sections 2 and 5 of the Voting Rights Act and the Fourteenth and Fifteenth Amendments to the United States Constitution. Further to enforce human, civil, and

voting rights guaranteed to Intervenor-Plaintiff, Byron Sharper, future citizens and qualified electors of Baton Rouge by laws of the United States.

JURISDICTION AND VENUE

3. Pursuant to 42 U.S.C. §§ 1973, 1973a, 1973b, 1973c, 1973j; 28 U.S.C. §1345, and 28 U.S.C. §2284, this Court has jurisdiction to afford Intervenor-Plaintiff Sharper the judicial relief he seeks for violation of his and others' rights protected by the aforesaid constitutional and statutory provisions. The Legislature of Louisiana convenes and drafts state laws of Louisiana within this judicial district, the Middle District of Louisiana, and Baton Rouge is the place where the events giving rise to the claims occurred.
4. Venue is proper in this jurisdiction pursuant to 28 U.S.C. §1391(b).

FACTS ALLEGED

5. All factual allegations, particularly those specified in all paragraphs of the Original Third-Party Complaint are re-alleged herein as if set out fully herein. These allegations do not replace, nor supersede any of the allegations within the original Intervenor-Plaintiff's complaint.
6. Section 2 of the Voting Rights Act, as amended, 42 U.S.C. §1973, 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 or color.
7. The Judicial Election Plan's sub-district method of electing the City Court judges dilutes the voting strength of Baton Rouge's African-American citizens, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. §1973.

8. City Court is composed of five judges, all of whom are elected from two sub-districts to six-year concurrent terms. Election Section 1 voters elect two judges and Election Section 2 voters elect three judges.
9. Racially polarized voting patterns prevail in elections held in Election Section 2 for City Court. African-American voters voting for candidates in Election Section 2 are politically cohesive. White bloc voting usually results in the defeat of candidates who are preferred by African-American voters in this election section. Specifically, in last fall's elections in Divisions C and E, City Court elections, white voters consistently voted as a bloc so as to defeat both African-American-preferred candidates. Additionally, in elections for state-level judgeships (Court of Appeal for the First Circuit, 2nd District, Sub-district 1, Division B and the Louisiana Supreme Court, District 5), White voters in Election Section 2 have consistently voted as a bloc so as to defeat every African-American-preferred candidate in the 2012 judicial elections.
10. The African-American population of Baton Rouge is sufficiently numerous and geographically compact that a properly apportioned five single-member district plan for electing Defendant City Court can be drawn in which African-Americans would constitute a majority of the total population and voting age population in no less than three districts.
11. The dilutive effect of the sub-district feature of electing Defendant City Court judges is enhanced by the use of multi-member sub-districts, majority vote, run-off, anti-single shot voting, and a place system combined with the fact that African-Americans constitute a numerical supermajority of citizens and qualified electors in the City of Baton Rouge.
12. African-Americans in the City of Baton Rouge have suffered from a history of official discrimination.

13. City Court elections and other local area judicial elections are marked by substantial racial polarization.
14. Significant socioeconomic disparities exist between White and African-American residents of Baton Rouge. Such disparities have the effect of limiting African-American participation in Baton Rouge's City Court elections.
15. Recent City Court, Appellate Court and Supreme Court elections occurring within East Baton Rouge Parish have been marked by racial appeals.
16. Social, civic, and political life in the city of Baton Rouge, City Court's jurisdiction, is divided along racial lines. This racial separation results in African-American candidates for City Court in Section 2 having less opportunity than White candidates to solicit the votes of the majority voters, who are White in Section 2.
17. Most African-Americans citizens residing and voting in Election Section 2 are largely concentrated, very low in income, and are citizens with less education in the same district with Whites with high income and more education to create the illusion of a non-polarized and non-segregated district.
18. Defendants City Court, the City of Baton Rouge, the parish of East Baton Rouge, and the State of Louisiana, are each charged with the responsibility of ensuring that its election laws, as applied, comply with Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973c ("Section 5").
19. Defendants City Court, the parish of East Baton Rouge, the city of Baton Rouge, and the State of Louisiana all have legislative authority to modify the challenged Judicial Election Plan and each have separate and/or joint responsibility to remedy the alleged violations of Section 2 of the Voting Rights Act, 42 U.S.C. §1973.

20. The Defendants named in the original Intervenor-Plaintiff's complaint have authority under Louisiana law to enact or administer voting qualifications or prerequisites to voting, or standards, practices, or procedures with respect to voting different from those in force or effect on November 1, 1964.
21. The State of Louisiana, the parish of East Baton Rouge, the City of Baton Rouge, and City Court are each subject to the preclearance requirements of Section 5.
22. Section 5 states that any "voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting" different from that in force or effect in the State of Louisiana, Parish of East Baton Rouge, City of Baton Rouge, Louisiana and City Court on November 1, 1964, may not be lawfully implemented unless the State of Louisiana, or other appropriate authority with the power to enact or administer voting changes such as the Parish of East Baton Rouge, the City of Baton Rouge, or City Court, obtains a declaratory judgment from the United States District Court for the District of Columbia that the changes 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. However, such change may be implemented without such judgment if it has been submitted to the United States Attorney General, and the Attorney General has not interposed an objection within sixty days. 42 U.S.C. §1973c.

CAUSES OF ACTION

23. Under the totality of the circumstances, the sub-district election system for electing Defendant City Court, enhanced by the use of multi-member sub-districts, majority vote, run-off, anti-single shot voting, and place system, has the effect of diluting African-American voting strength, resulting in African-American citizens being denied an

opportunity equal to that afforded to other members of the electorate to participate in the political process and elect representatives of their choice, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

24. The totality of the circumstances of Defendants' actions has resulted in African American voters, African American candidates and those who support them having "less opportunity than other members of the electorate to participate in the political process and to elect the representatives of their choice." 42 U.S.C. §1973.
25. The Judicial Election Plan as applied with the sub-district election system for electing Defendant City Court, enhanced by the use of multi-member sub-districts, majority vote, run-off, and place system, has the effect of race and residence discrimination against African-Americans, and diluting African-American voting strength, resulting in African-American citizens, voters, and those who support them being denied an opportunity equal to that afforded to other members of the electorate to participate in the political process and elect representatives of their choice, in violation of 42 U.S.C. § 1983 and the Fourteenth and Fifteenth Amendments to the United States Constitution.
26. Unless enjoined by order of this Court, Defendants will continue to conduct elections for City Court under the present method of election that denies African-American citizens and voters and those who support them the opportunity to participate equally with white citizens and voters in the City Court 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 Intervenor-Plaintiff prays that the Court enter an order:

27. Declaring that the sub-district method of electing judges of the Baton Rouge City Court, utilizing two sub-districts with a structurally induced method of elections, which reduces minority opportunity to elect preferred candidates, violates Section 2 of the Voting Rights Act;
28. Enjoining Defendants City Court, the parish of East Baton Rouge, the city of Baton Rouge, and the State of Louisiana, 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 Baton Rouge City Court under the current sub-district method of electing judges;
29. Ordering Defendants Baton Rouge City Court, the parish of East Baton Rouge, the city of Baton Rouge, and the State of Louisiana to devise and implement an election system for the City Court that complies with Section 2 of the Voting Rights Act, 42 U.S.C. §1973; and
30. Ordering such additional relief as the interests of justice may require, together with the costs and disbursements in maintaining this action.

Date, 20th day of May 2013.

RESPECTFULLY SUBMITTED:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of May, 2013, a true and correct copy of the foregoing “Plaintiff-Intervenor Byron Sharper Supplemental Complaint” was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent by operation of the Court’s electronic filing system to all counsel of record.

Baton Rouge, Louisiana, this 20th day of May, 2013.

/s/ Ronald R. Johnson
RONALD R. JOHNSON