

ORIGINAL

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

JAMES E. LARGE, GARY COLLINS, EMMA)
LUCILLE MCADAMS, PATRICIA BERGIE,)
and PETE CALHOUN,)

Plaintiffs,)

v.)

FREMONT COUNTY, WYOMING; DOUG)
THOMPSON, LANNY APPLGATE, JANE)
ADAMSON, GARY JENNINGS, and PAT)
HICKERSON, in their official)
capacities as members of the)
Fremont County Board of)
Commissioners; and JULIE FREESE, in)
her official capacity as County)
Clerk of Fremont County, Wyoming,)

Defendants,)

No. 05 CV 270J

COMPLAINT

I. The Nature of the Case

Receipt # 307435
Summons: issued
 not issued

1. This is an action to enforce Section 2 of the Voting Rights Act of 1965, 42 U.S.C. §1973, and the Fourteenth and Fifteenth Amendments of the Constitution of the United States. Plaintiffs seek declaratory and injunctive relief against continued use of the existing at-large method of electing the Board of County Commissioners of Fremont County, Wyoming, on the grounds that it dilutes the voting strength of Native Americans.

II. Jurisdiction

2. Plaintiffs invoke the jurisdiction of this Court under 28 U.S.C. §§1331, 1343(a)(3) and (4), and 2201, this suit being authorized by 42 U.S.C. §§1973j(f) and 1983.

III. Parties

3. Plaintiffs James E. Large, Gary Collins, Emma Lucille McAdams, Patricia Bergie, and Pete Calhous are Native Americans, tribal members, registered voters, and reside within Fremont County on the Wind River Indian Reservation.

4. The plaintiffs desire to participate in the electoral and political processes of Fremont County on an equal basis with other residents.

5. The plaintiffs, as American Indians, are members of a language minority and are protected by Section 2 of the Voting Rights Act, 42 U.S.C. §§ 1973, 1973b(f)(2), and 1973aa-1a.

6. Defendant Fremont County is a political body and

subdivision of the State of Wyoming.

7. Defendants Doug Thompson, Lanny Applegate, Jane Adamson, Gary Jennings, and Pat Hickerson are residents of Fremont County and are the elected members of the Board of County Commissioners of Fremont County. They are sued in their official capacities as County Commissioners

8. Defendant Julie Freese is the County Clerk of Fremont County, Wyoming, and has the responsibility of conducting elections for the Board of County Commissioners. She is sued in her official capacity only.

IV. Facts

9. The total population of Fremont County is 35,804 persons, of whom 7,113 (19.9%) are Native Americans. Native Americans are 16.3% of the voting age population (VAP) of the county.

10. The Board of County Commissioners consists of five members elected from the county at-large. Terms of office are staggered and are for four years. Elections are partisan.

11. The next election for the Board of County Commissioners is scheduled for 2006.

12. Native Americans in Fremont County are sufficiently numerous and geographically compact that they would constitute a majority in one or more single-member districts for the election of the Board of County Commissioners.

13. Native Americans in Fremont County have organized themselves collectively for political activity.

14. Native Americans in Fremont County and Wyoming have common socio-economic characteristics, a common and distinct history, a distinct tribal status, a unique political status under the treaties, laws, and executive orders of the United States, and a special trust relationship with the United States.

15. Candidates preferred by Native Americans in Fremont County are usually defeated by the white majority voting as a bloc.

16. Historically, Native American residents of Fremont County and Wyoming have been subject to private as well as official discrimination on the basis of race, tribal, and language minority status, including discrimination in attempting to exercise their right of franchise and to participate equally with other residents in the political processes.

17. Native American residents of Fremont County and Wyoming bear the effects of discrimination on the basis of race and tribal status in education, housing, employment, and health services which have resulted in a lower socio-economic status which hinders their ability to participate effectively in the political process.

18. Native Americans in Fremont County are politically cohesive in that they tend to vote as a bloc.

19. Voting in Fremont County is racially polarized.

20. Because of the at-large method of elections and polarized voting, Native Americans have been discouraged from running for the Board of County Commissioners.

21. Native Americans in Fremont County have less opportunity than other residents to participate in the political processes and to elect candidates of their choice.

22. The policy underlying at-large elections for the Board of County Commissioners is tenuous.

23. The at-large method of elections for the Board of County Commissioners denies or abridges the right of plaintiffs and Native Americans to vote on the basis of race or color, or membership in a language minority.

24. The defendants' actions complained of herein are under color of law of the State of Wyoming.

25. Plaintiffs desire to participate in the political process and to elect candidates of their choice to the Board of County Commissioners.

First Cause of Action

26. The at-large method of electing the Board of County Commissioners of Fremont County has the result and effect of denying or abridging the right of Native Americans to vote on account of race or color or membership in a language minority in violation of plaintiffs' rights guaranteed by Section 2 of the

Voting Rights Act, 42 U.S.C. §1973.

Second Cause of Action

27. The at-large method of electing the Board of County Commissioners of Fremont County was enacted or is being maintained with the discriminatory purpose of diluting the voting strength of Native Americans in violation of plaintiffs' rights guaranteed by Section 2 of the Voting Rights Act, 42 U.S.C. §1973, and the Fourteenth and Fifteenth Amendments.

V. Equitable Relief

28. A real and actual controversy exists between the parties. Plaintiffs have no adequate remedy at law other than this action for declaratory and injunctive relief. Plaintiffs are suffering irreparable injury as a result of the violations complained of herein and that injury will continue unless declared unlawful and enjoined by this Court and unless a full and complete remedy is adopted for the dilution of their voting strength.

WHEREFORE, plaintiffs respectfully pray that this Court:

- (1) take jurisdiction of this case;
- (2) enter a declaratory judgment that the existing method of electing the Board of County Commissioners of Fremont County violates Section 2 of the Voting Rights Act, and the Fourteenth and Fifteenth Amendments, and enter a permanent injunction against its further use;

(3) enjoin defendants from conducting any future elections for the Board of County Commissioners of Fremont County under the existing at-large system;

(4) enjoin defendants from failing to conduct elections for the Board of County Commissioners of Fremont County in a timely fashion pursuant to a redistricting plan that complies with Section 2 of the Voting Rights Act and the Constitution of the United States;

(5) in the event defendants fail or are unable to conduct elections in a timely fashion pursuant to a redistricting plan that complies with Section 2 of the Voting Rights Act and the Constitution of the United States, implement a court ordered redistricting plan and schedule of elections;

(6) award plaintiffs the cost of this action together with their reasonable attorneys' fees pursuant to 42 U.S.C. §§ 19731(e) and 1988; and,

(7) retain jurisdiction of this action and grant plaintiffs any further relief which may in the discretion of this Court be necessary and proper to ensure that timely and lawful procedures are used in elections for the Board of County Commissioners of Fremont County.

Respectfully submitted,

Laughlin McDonald

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