

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

DEMOCRATIC NATIONAL COMMITTEE
and DEMOCRATIC PARTY OF THE
UNITED STATES
1625 Massachusetts Avenue, N.W.
Washington, D.C.

NEW JERSEY DEMOCRATIC STATE
COMMITTEE
329 West State Street
Trenton, New Jersey

VIRGINIA L. PEGGINS.
12 Faircrest Avenue
Trenton, New Jersey

LYNETTE MONROE
699 Rutherford Avenue
Trenton, New Jersey

Plaintiffs,

v.

REPUBLICAN NATIONAL COMMITTEE
301 First Street, S.E.
Washington, D.C.

NEW JERSEY REPUBLICAN STATE
COMMITTEE
28 West State Street
Trenton, New Jersey

ALEX HURTADO
301 First Street, S.E.
Washington, D.C.

RONALD C. KAUFMAN
301 First Street, S.E.
Washington, D.C.

JOHN A. KELLY
3645 Kanawha Street, N.W.
Washington, D.C.

Defendants.

)
) Hon. Dickinson R. Debevoise,
) USDJ
)
) Civil Action No. 81-3876
)

ORIGINAL FILED
FEB 11 1982
ANGELO W. LOCASCIO, CLERK

AMENDED COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF
AND FOR DAMAGES

1. This is an action, arising chiefly from the
activities of the defendants' National Ballot Security Task

- 2 -

Force, for declaratory and injunctive relief and damages against the defendants for their efforts to intimidate, threaten and coerce duly qualified black and Hispanic voters from voting and from urging and aiding other black and Hispanic duly qualified persons to vote in the State of New Jersey. Plaintiffs seek a declaratory judgment that the actions of the defendants violate the Fourteenth and Fifteenth Amendments to the United States Constitution and 42 U.S.C. §§ 1971(a)(1), 1971(a)(2), 1973i(b), 1983 and 1985(3). Plaintiffs also request that this Court enjoin the defendants from engaging in activities to intimidate, threaten or coerce minority voters, and award the plaintiffs compensatory and punitive damages for defendants' unlawful interference with their rights to vote and to equal protection of the laws.

JURISDICTION

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343. Plaintiffs' action for declaratory and injunctive relief and damages is also authorized by 28 U.S.C. §§ 2201 and 2202 and by 42 U.S.C. § 1988.

PLAINTIFFS

3. Plaintiff Democratic National Committee is the governing body of plaintiff Democratic Party of the United States ("Democratic Party"), an unincorporated membership association. Their principal place of business is 1625 Massachusetts Avenue, N.W., Washington, D.C. 20036. The members and supporters of the Democratic Party include in excess of eight million black and Hispanic duly qualified voters throughout the several states and the District of Columbia, approximately 250,000 of whom reside in the State of New Jersey. These black and Hispanic members and

- 3 -

supporters include persons who were intimidated and harassed by the defendants and who suffered harm as alleged in this Complaint, as well as persons who will be similarly harmed in the future if defendants' illegal activities are not enjoined as requested in this Complaint. The Democratic National Committee and the Democratic Party and its members and supporters have a direct interest in (1) the integrity of the electoral process; (2) maintaining an equal opportunity for all candidates and their supporters; (3) insuring that all voters are free to participate in elections on an equal basis and free from intimidation, threat, or coercion; and (4) insuring compliance with the laws violated by the defendants which preserve and protect the foregoing interests. Plaintiffs Democratic National Committee and the Democratic Party accordingly sue to vindicate their own interests and the rights of their members who have been harmed by defendants' conduct and who will be similarly harmed in the future unless the relief requested in this Complaint is granted.

4. Plaintiff New Jersey Democratic State Committee is an unincorporated association organized under the laws of the State of New Jersey in accordance with N.J.S.A. 19:5-4. Its principal place of business is 329 West State Street, Trenton, New Jersey. Its members and supporters include approximately 250,000 black and Hispanic duly qualified voters in the State of New Jersey. These black and Hispanic members and supporters include persons who were intimidated and harassed by defendants as alleged in this Complaint. The New Jersey Democratic State Committee and its members and supporters have a direct interest in (1) the integrity of the electoral process; (2) maintaining an equal opportunity for all candidates and their supporters; (3) insuring that all voters are free to participate in elections

- 4 -

on an equal basis and free from intimidation, threats or coercion; and (4) insuring compliance with the laws violated by defendants which preserve and protect the foregoing interests. Plaintiff New Jersey Democratic State Committee accordingly sues to vindicate its own interests and the rights of its members who have been harmed by defendants' conduct.

5. Plaintiff Virginia L. Feggins is black, a citizen of the United States, a duly qualified voter in the State of New Jersey, and resides at 12 Faircrest Avenue, Trenton, New Jersey. Plaintiff Feggins is a member of the Democratic National Committee and the Democratic Party and a member and vice-chair of the New Jersey Democratic State Committee. As such, she shares in the interests described in paragraphs 3 and 4 above. In addition, Ms. Feggins herself was harmed directly by defendants' efforts to intimidate, harass, and coerce duly qualified black and Hispanic voters in the State of New Jersey, as described in paragraph 3 below.

6. Plaintiff Lynette Monroe is black, a citizen of the United States, a duly qualified voter in the State of New Jersey, and a member of the Democratic Party. She resides at 699 Rutherford Avenue, Trenton, New Jersey. Plaintiff Monroe was stopped by members of the defendants' National Ballot Security Task Force when she attempted to vote in the general election on November 3, 1981. She was asked if she had her voter registration card and was told that if she did not have the card she could not vote. The members of the National Ballot Security Task Force standing outside of the polling place at which Plaintiff Monroe was entitled to vote turned her away, preventing her from casting her ballot. Ms. Monroe was thus harmed directly by defendants' efforts to intimidate, harass, and coerce duly

- 5 -

qualified black and Hispanic voters in the State of New Jersey, as described in paragraph 33 below.

DEFENDANTS

7. Defendant Republican National Committee is an unincorporated association. Its principal place of business is 301 First Street, S.E., Washington, D.C. It has engaged in and continues to engage in systematic and continuous business in the State of New Jersey, including the activities challenged in this complaint.

8. Defendant Alex Hurtado is the political director of the Republican National Committee. His principal place of business is 301 First Street, S.E., Washington, D.C. As political director, defendant Hurtado directs the political activities of the defendant Republican National Committee, including those of the National Ballot Security Task Force challenged in this Complaint.

9. Defendant Ronald C. Kaufman is the regional political director for the Republican National Committee for the region that includes New Jersey. He resides at 65 Linfield Street, Holbrook, Massachusetts. Defendant Kaufman's principal place of business is 301 First Street, S.E., Washington, D.C. As regional political director, defendant Kaufman supervised the activities of the National Ballot Security Task Force in New Jersey.

10. Defendant John A. Kelly is employed by the defendant Republican National Committee and was the director of the activities of the National Ballot Security Task Force in New Jersey. Defendant Kelly resides at 3645 Kanawha Street, N.W., Washington, D.C. Defendant Kelly was deputized as a Deputy

- 6 -

Sheriff in the State of New Jersey to assist him in his activities in connection with the National Ballot Security Task Force which are challenged in this Complaint.

11. Defendant New Jersey Republican State Committee is an unincorporated association organized under the laws of the State of New Jersey in accordance with N.J.S.A. 19:5-4. Its principal place of business is 28 West State Street, Trenton, New Jersey. The defendant New Jersey Republican State Committee actively participated through its officers, employees, and agents in the activities of the National Ballot Security Task Force in New Jersey.

RELEVANT STATE STATUTORY AND
CONSTITUTIONAL PROVISIONS AND PRACTICES

12. Under New Jersey law, citizens of the United States who are eighteen years of age and who will have resided in New Jersey for 30 days before an election are entitled to register to vote, unless they are mentally impaired, convicted of a violation of the New Jersey Election Code, Title 19 N.J.S.A., or serving a sentence or on parole or probation for commission of a state or federal crime. N.J.S.A. 19:4-1. Once registered, voters are entitled to cast their ballot. This is the case even if at any time they have moved within the same election district, or if they have moved within their county subsequent to the closing of the registration rolls. N.J.S.A. 19:31-11.

13. The supervisors of elections in New Jersey follow a specifically prescribed procedure prior to each election to prevent ineligible voters from casting a ballot without interfering with the right to vote of those eligible to do so. A sample ballot, which is requested not to be forwarded but instead returned to the sender if not delivered, is sent to each

- 7 -

registered voter at the address listed on his registration. Thereafter, a first class letter is sent to all voters whose sample ballots are returned, informing them that the sample ballot was returned, inquiring what their present address is, and requesting that they fill out a change of address card if they have moved.

14. Those persons who move to another address in the same district may simply file a change of address and are not prevented from voting. Voters who do not respond to the inquiry described in paragraph 13 above are put on the superintendent's challenge list, and poll workers are instructed to challenge such voters if they appear to vote on election day. A voter who does so appear and is challenged will be permitted to vote in accordance with N.J.S.A. 19:31-11 if he signs an affidavit asserting that he still resides at the same address, that he resides at a new address in the same district, or that he has moved to an address within the county since the close of registration. Otherwise, he will not be permitted to vote.

15. Voters who are placed on the superintendent's challenge list, and who do not appear at the polls, are dropped from the current registration rolls after notice in accordance with N.J.S.A. 19:32-39.

16. The procedures for purging and challenging voters described in paragraphs 13 through 15 above were followed prior to the 1981 general election by the supervisors of election in the areas in which the defendants engaged in the activities complained of in this pleading.

17. In addition to the procedures described in paragraphs 13 through 15 above to prevent fraudulent voting, the New Jersey statutes provide for a method of challenging

- 8 -

unqualified voters at the polls. Challenges to voters at the polls on election day may be made by appointed challengers, candidates and district election board members. N.J.S.A. 19:7-1, 7-2, 15-8. Two challengers in each district may be appointed from each political party appointed by the candidate. Challengers must be registered voters in the county, and must be appointed no later than the Tuesday before the election, N.J.S.A. 19:7-3.

18. Permits to act as challengers, and badges for the challengers, are then issued by the county board of elections to persons appointed as challengers, N.J.S.A. 19:7-4 and 7-6.

19. No more than one (1) challenger from each party may be present at any polling place, unless given express permission by the district board of election. N.J.S.A. 19:7-6.1.

20. Challengers when in a polling place must display their badges at all times which shall show on whose behalf the challenger is acting. N.J.S.A. 19:7-6.

OPERATIVE FACTS

21. The defendants did not resort to the carefully prescribed procedures described in paragraphs 13-20 above for insuring that only qualified voters cast a ballot in the November 3, 1981 general election in New Jersey. Instead, they engaged in an extra-legal activity which has been employed by defendant Republican National Committee for a number of years, under the guise of ballot security, to harass and intimidate duly qualified black and Hispanic voters for the purpose and with the effect of discouraging these voters from casting their ballots in federal and state elections. In the November, 1981 general election in New Jersey, the operation was conducted under the name "National Ballot Security Task Force."

- 9 -

22. As part of their activities described in paragraph 21, the defendants selected predominantly black and Hispanic precincts in New Jersey for the activities of the National Ballot Security Task Force.

23. As part of their efforts to disenfranchise black and Hispanic voters in New Jersey under the guise of the National Ballot Security Task Force, the defendants in September of 1981 mailed letters to those persons appearing on outdated voter registration lists who resided in predominantly black or Hispanic districts in New Jersey. The envelopes for those letters requested that they not be forwarded if not delivered at the original address, but instead returned to the sender. The defendants received back in excess of 45,000 letters from the mailings that were not forwarded, which they then converted into challenge lists. At the end of October, 1981, less than two weeks before the election, representatives of the defendant Republican committees delivered these challenge lists to the various Commissioners of Registration and requested that the persons on the lists be removed from the voter registration rolls.

24. After receipt of the challenge lists described in paragraph 23 above from the defendants' representatives, the Commissioners of Registration checked the lists. They discovered that the lists had been based upon outdated voter registration rolls. The persons on the challenge lists, in fact, had either already been purged from the rolls, re-registered to vote, or transferred their registration to a new address. The appropriate election officials then notified defendants' representatives that they had used outdated voter registration lists for mailing and refused to purge the properly registered voters remaining on the registration rolls.

- 10 -

25. Although defendants had been informed that they had used out of date registration lists, and that many of the persons appearing on these challenge lists had registered or were otherwise qualified to vote, the defendants persisted in their efforts to prevent these properly registered black and Hispanic voters from casting their ballots in the general election held in New Jersey on November 3, 1981. Defendants Republican National Committee and New Jersey State Republican Committee first publicly announced on or about October 26, 1981 through the news media their plans to attempt to disqualify these duly registered black and Hispanic voters from voting in the New Jersey general election held on November 3, 1981.

26. To assist in their effort to disenfranchise duly registered black and Hispanic voters, the defendants then hired county deputy sheriffs and local policemen to patrol the targeted predominantly black and Hispanic polling places. Defendant Kelly himself was deputized as a deputy sheriff to further defendants' efforts. Officials of local police agencies assisted in recruiting county deputy sheriffs and local policemen for this purpose.

27. On Tuesday, November 3, 1981, defendants' representatives placed posters in and around polling places for predominantly black and Hispanic precincts in New Jersey. These posters measured approximately 20" x 30". The print was in bright red ink with some letters 5" tall. The poster was headed:

WARNING

THIS AREA IS BEING PATROLLED BY THE

NATIONAL BALLOT

SECURITY TASK FORCE

IT IS A CRIME TO FALSIFY A BALLOT OR

TO VIOLATE ELECTION LAWS.

- 11 -

It offered a reward of \$1,000 for information leading to the arrest and conviction of anyone violating the New Jersey election laws, and contained a toll-free long-distance number to be called. Nowhere did the poster indicate that it was a partisan political document of the defendants. The posters were displayed within the targeted polling places and within 100 feet of the exterior entrance to said polling places in violation of state law, N.J.S.A. 19:34-15.

28. The defendants then fielded an army of workers on election day, including the deputy sheriffs and local policemen described in paragraph 26 above, to appear at the targeted polling places prominently displaying revolvers, two-way radios, and armbands, with the words "National Ballot Security Task Force" printed thereon.

29. Through the actions of the National Ballot Security Task Force including the police officers described in paragraph 26 above, which operated under defendants' direction and control and pursuant to policies and procedures which they had established, defendants obstructed and interfered with the operations of the targeted polling places in predominantly black and Hispanic precincts in a number of ways, including, but not limited to, disrupting the operations of polling places, harassing poll workers, stopping and questioning prospective voters, refusing to permit prospective voters to enter the polling places, ripping down signs of one of the candidates, and forcibly restraining poll workers from assisting, as permitted by state law, voters to cast their ballots.

30. The defendants' actions and those of their employees and agents as described in paragraphs 21-29 above were undertaken under color of state law and constitute state action.

- 12 -

31. The defendants' actions as described in paragraphs 21-30 above were restricted to predominantly black and Hispanic precincts in New Jersey.

32. The actions and conduct of defendants as described in paragraphs 21-31 above were part of a conspiracy by defendants designed to intimidate, harass, and coerce black and Hispanic voters not to vote, and were undertaken with the intent to deprive blacks and Hispanics in the State of New Jersey of their rights to equal protection of the laws and their right to vote.

33. The actions and conduct of defendants as described in paragraphs 21-32 above have had the effect of intimidating, harassing, and coercing duly qualified black and Hispanic voters in the state of New Jersey, including plaintiffs Feggins, Monroe, and other members of plaintiff Democratic Party, in attempting to exercise their right to vote and to participate in the political process. Defendants' conduct has actually deprived plaintiffs Monroe and other members of plaintiff Democratic Party of their right to vote. Plaintiffs Feggins, Monroe, and other members of plaintiff Democratic Party have also suffered psychological and emotional pain, anguish and frustration as a result of defendants' conduct.

34. The defendants will continue to engage in the actions described in paragraphs 21-33 above across the country unless restrained from doing so by this Court.

FIRST CAUSE OF ACTION

35. Paragraphs 1 through 34 of this Complaint are incorporated herein by reference.

36. The actions of defendants described in paragraphs 1 through 34 above violate the Fourteenth and Fifteenth

- 13 -

Amendments to the Constitution, which protect the right to vote from discrimination on account of race and guarantee to all persons equal protection of the laws.

SECOND CAUSE OF ACTION

37. Paragraphs 1 through 34 of this Complaint are incorporated herein by reference.

38. The actions of defendants described in paragraphs 1 through 34 above violate 42 U.S.C. § 1973i(b), which prohibits any person, whether or not acting under color of law, from acting to intimidate, threaten or coerce, or from attempting to intimidate, threaten, or coerce any person from voting or attempting to vote or from urging or aiding any person to vote or attempt to vote.

THIRD CAUSE OF ACTION

39. Paragraphs 1 through 34 of this Complaint are incorporated herein by reference.

40. The actions of defendants described in paragraphs 21 through 34 above violate 42 U.S.C. §§ 1971(a)(1) and 1971(a)(2), which protect the right to vote from discrimination based on race by persons acting under color of law.

FOURTH CAUSE OF ACTION

41. Paragraphs 1 through 40 of this Complaint are incorporated herein by reference.

42. The actions of defendants described in paragraphs 21 through 40 above violate 42 U.S.C. § 1983, which prohibits persons acting under color of state law from depriving persons of rights protected by the Constitution and civil rights statutes including 42 U.S.C. §§ 1971 and 1973i.

- 14 -

FIFTH CAUSE OF ACTION

43. Paragraphs 1 through 42 of this Complaint are incorporated herein by reference.

44. The actions of defendants described in paragraphs 21 through 42 above violate 42 U.S.C. § 1985(3), which prohibits two or more persons, whether or not acting under color of state law, from acting jointly to deprive any person or class of persons of equal protection of the laws.

IRREPARABLE INJURY

45. As a direct consequence of defendants' actions as described in paragraphs 21 through 44 above, plaintiffs have and will continue to suffer immediate and irreparable injury. The ability of plaintiffs Democratic National Committee and Democratic Party and New Jersey State Democratic Committee and their members to achieve their purposes and to protect the interests set forth in paragraph 3 of this Complaint has been and will be impaired by the violations of law charged in this Complaint. The ability of the members of plaintiffs Democratic National Committee, Democratic Party, and New Jersey State Democratic Committee to participate in the federal electoral process as candidates, campaign workers, contributors of lawful amounts to candidates and political committees, and voters is substantially impaired by defendants' actions.

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court:

46. Declare that defendants' actions as described in paragraphs 21 through 34 above abridge and deny the Fourteenth and Fifteenth Amendment rights and statutory rights (42 U.S.C. §§ 1971(a)(1), 1971(a)(2), and 1983) of plaintiffs and their

members by invidiously discriminating on the basis of race in the electoral process.

47. Declare that the defendants' actions as described in paragraphs 21 through 34 above abridge and deny the plaintiffs' statutory rights protected by 42 U.S.C. §§ 1973i(b) and 1985(3).

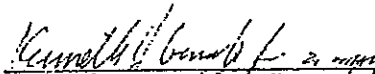
48. Issue preliminary and permanent injunctions enjoining the defendants from committing actions similar to those described in paragraphs 21 through 34 of this Complaint in the future.

49. Award the plaintiffs \$10,000,000 in compensatory and punitive damages for the deprivation of the right to vote and to equal protection of the laws caused by the unlawful and unconstitutional actions described in paragraphs 21 through 34 of this Complaint.

50. Award the plaintiffs their attorneys' fees and costs and disbursements incurred in this action, as provided in 28 U.S.C. § 1920 and 42 U.S.C. § 1988.

51. Grant to plaintiffs and against defendants such other and further relief as the Court may deem just and proper.


Respectfully submitted,


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AMENDMENT TO AMENDED COMPLAINT
FOR DECLARATORY AND INJUNCTIVE
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Defendants.)

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Plaintiffs, by their attorneys, Baumgart & Genova, and Sonosky,
Chambers, Sachse & Guido, having been ordered by the Court to
file an amendment to their Complaint, and having been granted leave
to do so, hereby amend their Complaint, and their Amended Complaint
by striking therefrom any and all demands for money damages which
specify a fixed amount therefor, by substituting in paragraph
(1) one, subsection (2) two of the Complaint the following:

(2) award the plaintiffs compensatory and punitive money damages for the unlawful interference with the right to vote.

and by substituting into paragraph (42) forty-two of the Complaint, the following:

(42) Award the plaintiffs compensatory and punitive money damages for the deprivation of the right to vote by the unlawful and unconstitutional actions described in paragraphs 20 through 32 of this Complaint.

and by substituting into paragraph (49) forty-nine of the Amended Complaint, the following:

(49) Award the plaintiffs compensatory and punitive money damages for the deprivation of the right to vote and to equal protection of the laws caused by the unlawful and unconstitutional action described in paragraphs 21 through 34 of this Complaint.

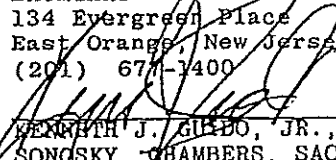


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