

Extra Copy

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
STATE OF ALABAMA, et al.,)
)
Defendants.)
_____)

CIVIL ACTION NO. 1677-N

ORDER

7/26/62

For the third time since the trial of this case in March, 1961 the parties have appeared before this Court for the hearing of motions.

The plaintiff has moved this Court to order the registrars of Bullock County, Alabama to observe explicit requirements in the registration of voters in Bullock County. After reviewing the stipulation between the attorneys for the registrars and for the government, the affidavit of Gerald Stern and the exhibits attached thereto, and the records of the Bullock County Board of Registrars the Court grants this motion.

The factual issue raised by the motion is what explicit registration requirements and standards have been generally applied in the past to qualify voters

in Bullock County. From January 1, 1952 through 1960, 867 white applicants were registered to vote in Bullock County. This represents over 96 percent of all white persons who applied for registration to vote during this period. Of the 867 persons registered 570 or 63 percent were registered between January 1, 1952 and August 14, 1954.

These white applicants who applied for registration to vote from January 1, 1952 through 1960 were registered if they possessed the following qualifications:

- (a) they were citizens of not less than 21 years of age,
- (b) they had resided in the state two years, in the county one year, and in the precinct three months,
- (c) they embraced the duties and obligations of citizenship as demonstrated by their willingness to take and sign the Oath.
- (d) they were not disqualified by reason of bad character, conviction of a disqualifying crime, insanity, or idiocy, and
- (e) they were able to read and write.

The Board of Registrars determined whether each applicant possessed these qualifications from the information obtained through the use of the application form. Since 1952 the Board has used the same application form -- the "Application for Registration, Questionnaire and Oath".

The Registrars used this form in a reasonable way. They were concerned with the substantive qualifications

of the white applicants. These applicants were presumed to be qualified and the application form was used to verify this fact, as it should have been. The applicants were not turned away for failing to supply the information necessary to determine whether they possessed these qualifications. When necessary they were given assistance, apparently to assure the Board that the applicants met the requirements. The Registrars themselves filled out over 100 applications for applicants between 1952 and 1954.

By the use of these standards, over 96 percent of all white applicants who applied for registration from 1952 through 1960 were registered to vote.

Applicants who possessed the above qualifications were registered and the Board was not concerned with technical imperfections in the application form. The evidence shows that from 1952 through 1960 white applicants have been registered to vote although their application forms contained:

- (a) Errors or omissions in the Supplemental Application,
- (b) Errors or inconsistencies on the application forms,
- (c) Incorrect answers to the residence questions,
- (d) Errors in answer to the belief questions.

Thus, the application form and questionnaire was not used as an examination or test of the applicant's intelligence or understanding. At most it was used as a means to determine whether the applicant was literate.

These qualifications and standards which have been applied to white registrants in the past are established by the evidence, the stipulation, the affidavit of Gerald Stern, and Exhibits 1 and 2. Exhibits 1 and 2 are notebooks containing photographic copies of records of the Bullock County Registrars between 1952 and 1960. Exhibits 1 and 2 have been furnished to the attorneys for the Board of Registrars and filed with the Court and are incorporated herein and made a part of the findings in this case.

These being the qualifications for registration to vote which have been applied in Bullock County; now therefore

IT IS ORDERED that the defendants, their agents and successors, in conducting the registration of voters in Bullock County be required to apply hereafter to all applicants for registration to vote in Bullock County, Negro and white alike, the following qualifications:

The applicant should be registered if;

- (a) he is a citizen of not less than 21 years of age;
- (b) he has resided in the State two years, in the county one year, and in the precinct three months;
- (c) he embraces the duties and obligations of citizenship as demonstrated by his willingness to take and sign the Oath;
- (d) he is not disqualified by reason of bad character, conviction of a disqualifying crime, insanity or idiocy, and
- (e) he is able to demonstrate his ability to read and write by answering questions on the application form and questionnaire.

IT IS FURTHER ORDERED that said defendants, in applying the above qualifications shall comply with the following standards:

1. Applicants who possess these qualifications must be registered, and it is the duty of the Board to determine whether the applicants possess these qualifications.
2. If from the information contained on the application form the registrars are unable to determine whether the applicant possesses the qualifications of citizenship, age, or residence as set forth above, or if they are unable to determine whether the applicant is disqualified by reason of bad character, conviction of a disqualifying crime, insanity or idiocy, then the registrars should obtain within a reasonable time the necessary information either by pointing out the deficiency to the applicant and permitting him to supply the necessary information on his application form, or by questioning the applicant and noting the necessary information on his form. If information supplied by the applicant on his application form disqualifies him under any one of the above grounds, the registrar should call this fact to his attention to insure that the information is correct.
3. If the applicant is willing to take the Oath he possesses the qualification that he embrace the duties and obligations of citizenship. It is the duty of the Board to administer the Oath to the applicant and to have the applicant sign it in the proper place if he is willing to do so. An applicant who takes the Oath cannot be denied registration for errors or omissions in his answers to the loyalty and belief questions in the questionnaire which are inconsistent with his sworn Oath.
4. If the applicant is literate he possesses the qualification that he be able to read and write. If the applicant's answers on the application form are legible and his answers on the application form demonstrate that he read the questions, then he has satisfied the requirement that he be able to read and write. This determination must be one of reasonableness and fairness. The application form cannot be used as a test for the purpose or to form the basis of rejecting applicants. Instead it must be used as a means to obtain essential information to facilitate the registration of applicants. Rejection Notices sent to applicants who are rejected for their inability to read and write shall specifically state that fact.

These standards and procedures as set forth in the preceding four paragraphs are in accordance with those

used by the Bullock County Board of Registrars in registering white persons during the period 1952 through 1960.

IT IS FURTHER ORDERED that the defendants forthwith notify each of the applicants listed in Appendix A hereof that he may, if he so desires, make a new application for registration to vote within fifteen days of the mailing of such notice by appearing with a supporting witness or voucher at the office of the Registrars of Voters of Bullock County, at the Courthouse in Union Springs, Alabama.

Appendix A consists of applicants who were not registered as of July 16, 1962 listed by the plaintiff in its motion for an order requiring the registrars to register certain applicants, said motion having been denied.

The qualifications of these applicants as well as all applicants for registration in Bullock County from this day on shall be judged and determined in accordance with this order.

The previous orders entered in this case remain in effect and the Court retains jurisdiction for purposes of enforcing, modifying or extending all such orders, including this order, entered in this case.

Done this _____ day of July, 1962.

United States District Judge

APPENDIX A

<u>Names</u>	<u>Addresses</u>
Babers, Annie B.	Rt. 1, Box 73, Fitzpatrick, Ala.
Broadnex, Lillie M.	Rt. 5, Box 171, Troy, Ala.
Brundidge, Willie B.	Rt. 1, Box 84, Linwood, Ala.
Dervin, Jr., George J.	301 S. Baskin St., Union Springs, Ala
Downing, Henry	Rt. 3, Box 233, Union Springs, Ala.
Foster, Anna Mae D.	Rt. 1, Box 61, Midway, Ala.
Gochett, Linton J.	Rt. 2, Box 47, Union Springs, Ala.
Gosha, Orell	Rt. 1, Box 90, Perote, Ala.
Hall, Julia T.	Rt. 3, Box 3, Union Springs, Ala.
Harris, Georgia L.	Thompson Sta., Ala.
Hough, Laura	Rt. 1, Box 184, Union Springs, Ala.
Howard, Willie	Rt. 2, Box 14, Union Springs, Ala.
Hubbard, William	Union Springs, Ala.
Johnson, Hattie J.	Rt. 3, Box 165, Union Springs, Ala.
Jones, Minnie R.	Fitzpatrick, Ala.
Lewis, Pearl	P.O. Box 153, Hurtsboro, Ala.
Loman, Bennie	719 Parker St., Union Springs, Ala.
Martin, General	Union Springs, Ala.
Mitchell, Clemmie J.	Union Springs, Ala.
Neal, Lonza	Rt. 1, Box 156, Union Springs, Ala.
Patrick, Jerome	Rt. 1, Box 101, Midway, Ala.
Sanders, Annie P.	202 Underwood Ave., S.W. Union Springs, Ala.
Tarver, Annie B.	Rt. 1, Box 24, Midway, Ala.
Tarver, George W.	Rt. 1, Box 57, Midway, Ala.
Walker, Gennie P.	Rt. 2, Box 198, Midway, Ala.