

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LOUISIANA HOUSE OF)	
REPRESENTATIVES,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:11-cv-00770
)	
UNITED STATES and ERIC HOLDER,)	Three-judge court (ABJ-JWR-JDB)
Attorney General of the)	
United States,)	
)	
Defendants.)	
_____)	

BRIEF IN SUPPORT OF DEFENDANTS’ UNOPPOSED MOTION TO DISMISS

Defendants United States and Eric Holder, in his official capacity as the Attorney General of the United States (“Attorney General”), in the above-styled case, in support of their Motion to Dismiss, state as follows:

STATEMENT OF FACTS

Section 5 of the Voting Rights Act requires that jurisdictions subject to its requirements submit changes affecting voting to the Attorney General or to this Court for a determination that the voting change “neither has the purpose nor will have the effect of denying or abridging the right to vote” on account of race, color or language minority status, prior to the change being implemented. 42 U.S.C. 1973c. This determination is commonly known as “preclearance.” Louisiana is one of the jurisdictions subject to Section 5. 28 C.F.R. Part 51, App. Redistricting plans constitute one of the types of voting changes covered by the Section 5 requirement. *Georgia v. United States*, 411 U.S. 526 (1973).

On April 21, 2011, the Louisiana House of Representatives (“Louisiana”) filed this action

under Section 5 seeking judicial preclearance of its 2011 redistricting plan for the Louisiana House of Representatives, embodied in House Bill 1(Docket #1). On that same day, Louisiana also made a submission of the identical legislation to the Attorney General, seeking administrative preclearance under Section 5. By letter dated June 20, 2011, the Attorney General advised Louisiana, in response to its administrative submission, that he did not interpose any objection under Section 5 to House Bill 1 (Docket #12). Counsel for Defendants has spoken to counsel for Louisiana, who advises that Plaintiff does not oppose this motion to dismiss.

ARGUMENT

This case should be dismissed pursuant to Fed. R. Civ. P. 12(b)(1), for lack of subject matter jurisdiction. There is no longer a case or controversy between Louisiana and the Defendants, and this case is moot.

The Voting Rights Act provides two routes for Section 5 preclearance. 42 U.S.C. 1973c. Jurisdictions may seek preclearance from this Court judicially or from the Attorney General through the administrative review process. *Id.* Louisiana sought preclearance both from this Court and the Attorney General of its 2011 House redistricting plan. As shown by Docket #12, the Attorney General has given notice on June 20, 2011, that he does not object under Section 5 to House Bill 1 submitted administratively by the State. Therefore, the State's claim in its Complaint is moot and should be dismissed under Fed. R. Civ. P. 12(b)(1).

In light of the administrative preclearance of the State's 2011 House redistricting plan by the Attorney General, nothing remains for the Court's decision in this case. Once a jurisdiction receives administrative preclearance of a voting change from the Attorney General as the State has here, the decision of the Attorney General is not subject to judicial review. *Morris v. Gressette*, 432 U.S. 491, 504-505 (1977) ("Since judicial review of the Attorney General's

actions would unavoidably extend this period, it is necessarily precluded.”); *Allen v. State Bd. of Elections*, 393 U.S. 544, 549-550 (1969). This precise situation has arisen a number of times previously, where the Attorney General has administratively precleared the identical voting change also at issue in a judicial preclearance action pending before this Court. In these circumstances, this Court has recognized under *Morris* that administrative preclearance renders the declaratory judgment action to be moot under Section 5. Most recently, in *Georgia v. Holder*, 748 F. Supp. 2d 16 (D.D.C. 2010), this Court dismissed a Section 5 declaratory judgment action as moot in an almost identical situation, where the State of Georgia had obtained preclearance from the Attorney General of legislation identical to that pending before the Court. Indeed, this Court has already recognized, in its May 16, 2011 Order denying the State’s Motion to expedite these proceedings, that the Attorney General’s preclearance of House Bill 1 would moot the complaint in this case. May 16, 2011 Order, p. 2 (Docket # 11), citing *Berry v. Doles*, 438 U.S. 190, 192-93 (1978) (per curiam).

Based on the Attorney General’s administrative preclearance of Louisiana House Bill 1, there is no further relief to be had under Section 5, and this case should be dismissed as moot.

CONCLUSION

In light of the Attorney General’s administrative preclearance of Louisiana House Bill 1 embodying the 2011 Louisiana House redistricting plan, there is nothing more for this Court to address in this proceeding. Therefore, the Attorney General requests that this Court enter an order dismissing this action pursuant to Fed. R. Civ. P. 12(b)(1). A proposed order is attached.

Date: June 20, 2011.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on June 20, 2011, I served a copy of the foregoing Brief in Support of Defendants' Unopposed Motion to Dismiss through the Court's ECF system on the following counsel of record for Plaintiff:

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