

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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

**RESPONSE OF DEFENDANTS**  
**IN OPPOSITION TO PLAINTIFF'S MOTION TO EXPEDITE**

Defendants United States and Eric Holder, Attorney General of the United States (collectively, "the Attorney General"), submit the following opposition to the Motion to Expedite (Docket #3) filed by Plaintiff Louisiana House of Representatives ("Louisiana").

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, Louisiana made a submission to the Attorney General, seeking administrative preclearance under Section 5, of its 2011 redistricting plan for the Louisiana

House of Representatives, embodied in House Bill 1. Section 5 provides the Attorney General 60 days to review a completed submission from a covered jurisdiction. In this instance, the 60-day review period under Section 5 for this submission ends June 20, 2011.

On the same day that Louisiana submitted House Bill 1 to the Attorney General for administrative preclearance, Louisiana also filed this action under Section 5 seeking judicial preclearance for the identical legislation (Docket #1). Pursuant to Rule 12(a)(2) of the Federal Rules of Civil Procedure, the Attorney General has 60 days from the date of service of Louisiana's complaint upon the United States Attorney to file an answer or other responsive pleading, and hence, that deadline is also likely to be approximately June 20, 2011.

On April 22, 2011, Louisiana filed its Motion to expedite the disposition of this action, requesting that this Court convene a Rule 16 scheduling conference as soon as possible to establish various expedited dates for responding to the Complaint, conducting and completing discovery and other pretrial activities, and trial. Louisiana's stated rationale for seeking expedited proceedings is to accommodate its upcoming fall election schedule for the State House of Representatives, which commences with the beginning of the candidate qualification period on September 6, 2011, and continues toward an October 22, 2011 primary election and a November 19, 2011 general election. See <http://www.sos.louisiana.gov/Portals/0/elections/pdf/Calendar2011ElectionswithSPECIALS2.pdf>.

For the reasons more fully set forth below, this Court should deny Louisiana's request for an expedited schedule in this matter. Louisiana's interest in expedition can be reasonably met by allowing the United States the normal 60-day period for answering the Complaint in this action, a period of time that coincides with the time allotted by Section 5 for the administrative review of Louisiana's redistricting plan.

As noted, Louisiana has already initiated the administrative review procedures under Section 5, and the Attorney General has already begun such review. Requiring an answer to the Complaint on a complicated statewide redistricting plan within 30 days, as proposed by Louisiana, is unrealistic and inconsistent with both the Section 5 statutory review period and the normal time under the Federal Rules of Civil Procedure for the United States to answer a complaint in federal court. Administrative review of House Bill 1 is ongoing. Should the Attorney General determine that Louisiana has met its burden of establishing that the redistricting plan has neither a discriminatory purpose nor will have a discriminatory effect under Section 5, this case will be moot. *Berry v. Doles*, 438 U.S. 190, 193 (1978) (“If approval is obtained, the matter will be at an end”); *Georgia v. Holder*, 748 F. Supp. 2d 16 (D.D.C. 2010) (“Thus, once the Department of Justice grants administrative preclearance, any pending judicial preclearance action becomes necessarily moot”).

Because this matter could be definitively concluded within 60 days through the administrative preclearance process, the immediate commencement of expedited proceedings would unnecessarily and prematurely divert judicial resources, as well as unnecessarily divert the resources of the Attorney General and Louisiana from seeking to timely conclude this matter administratively. Moreover, if by the end of the 60-day review period the Attorney General determines either to object to the plan, or that Louisiana needs to provide additional information to complete its submission, he may then be in a position to narrow the areas in contention significantly in his answer to the Complaint. This Court could then promptly hold a scheduling conference and expedite pretrial and trial dates to accommodate Louisiana’s elections schedule. As noted, Louisiana’s candidate qualifying period begins on September 6 – more than two months after the end of the 60-day administrative review period.

The Attorney General understands Louisiana's concern that Section 5 review of its proposed House redistricting plan be completed prior to the fall 2011 election cycle. Indeed, the Attorney General has, for this reason, maintained close contact with Louisiana over the course of the last two years, including in-person meetings with representatives from the Louisiana House on several occasions, in anticipation of Louisiana's election schedule.

Louisiana's interest in timely review of its plan can be accommodated through the ordinary administrative review process it has already sought, and does not require the Court to expedite a parallel proceeding that will unnecessarily divert judicial and party resources. Louisiana's request for an expedited schedule should therefore be denied. If, by June 20, 2011, the Attorney General has not completed his review of House Bill 1 under Section 5, the Court would still have ample opportunity to schedule a Rule 16 conference to expedite these proceedings and bring any disputed issues to trial in time for a resolution in advance of Louisiana's fall election schedule.

Date: April 28, 2011.

RONALD C. MACHEN, JR.  
United States Attorney  
District of Columbia

Respectfully submitted,

THOMAS E. PEREZ  
Assistant Attorney General  
Civil Rights Division

*/s/ Brian F. Heffernan*

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**CERTIFICATE OF SERVICE**

I hereby certify that, on April 28, 2011, I served a copy of the foregoing Response through the Court's ECF system on the following counsel of record for Plaintiff:

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*/s/ Brian F. Heffernan*

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