

**SUBMISSION NO. 2011-2775:  
COMMENT UNDER SECTION 5 OF THE VOTING RIGHTS ACT**



February 13, 2012

VIA E-MAIL

T. Christian Herren, Jr.  
Chief, Voting Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Room 7254-NWB  
Washington, D.C. 20530

Re: Comment Under Section 5 of the Voting Rights Act on  
Submission No. 2011-2775 -- Texas's Photo Voter ID Law

Dear Mr. Herren:

We write regarding the most recent submission by the State of Texas in which it provided race and ethnicity data regarding registered voters who possess either a driver's license or state identification card. Like its earlier submissions, the State has again failed to meet its burden of showing that the photo voter identification bill, SB 14, does not have a discriminatory effect on minority voting strength. In fact, the State's own data establishes that voters of color are less likely than White voters to possess either form of identification. Therefore, we again strongly urge the Department of Justice to interpose an objection to Texas's photo voter identification law.

In its January 11, 2012, submission, the State provides two sets of data, labeled as Exhibits A and B. Exhibit A shows all registered voters who provided driver's license or state identification ("ID") card information on

their voter registration application, as well as other voters the State was able to match to a license or state ID. *See* Declaration of Leland Beatty (“Beatty Dec.”) at ¶ 4 (Feb 3, 2012). Exhibit B contains information regarding registered voters who match to a driver’s license or state ID, regardless of what they included on their voter registration application. *See* Beatty Dec. at ¶ 5. All of this information was broken down by county, race, those Hispanics who registered after 2009, and those voters with a Spanish surname. *Id.* at ¶ 3. However, this data, which the State produced after repeated requests, does not provide any analysis with respect to racial disparities in the possession of such identification.

While the State carries the burden of conducting such an analysis, our own review of the data, as conducted by our expert, Leland Beatty, supports the basis for our opposition to preclearance. Mr. Beatty analyzed the State’s information by taking the total registered voters by race and surname, and then calculating the number of registered voters by race and surname who possess a Texas driver’s license or state ID. *See* Beatty Dec. at ¶ 7-10. The results prove that African-American and Spanish surnamed voters are less likely to possess a driver’s license or state ID as compared to White/Other Race voters. Specifically,

- Exhibit A shows 12.6% of Spanish-surnamed voters and 6.0% of African-American voters do not have a driver’s license or state ID, compared to 3.0% of White/Other Race voters. In other word, Spanish-surnamed voters are 4.2 times as likely and African-American voters are 2 times as likely as White/Other Race voters, based on the data provided in Exhibit A, to be without a driver's license or state ID. Beatty Dec. at ¶ 14.
- Exhibit B shows 36.9% of Spanish-surnamed voters and 17.9% of African-American voters do not have a driver’s license or state ID, compared to 11.1% of White/Other Race voters. In other words, Spanish-surnamed voters are 3.3 times as likely and African-American voters are 1.6 times as likely as White/Other Race voters, based on the data provided in Exhibit B, to be without a driver's license or state ID. Beatty Dec. ¶ 15.

So instead of proving that the Act will not have a discriminatory effect on African-Americans and Latinos, the State’s own evidence proves it will.

For this reason alone, and/or any one of those outlined in our Sept. Comment Letter and/or our Comment Letter II, preclearance must be denied. *See State of Georgia v. Ashcroft*, 195 F. Supp. 2d 25, 74 (D.D.C. 2002) (preclearance must be denied when the State does not meet its burden of proof).

We thank you in advance for your full and careful consideration of this matter.

Respectfully submitted,

/ s /

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