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ONE HUNDRED TWELFTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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September 24, 2012

The Honorable Eric H. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
Washington, D.C. 20530

Dear Attorney General Holder,

We are troubled by a report that Justice Department political appointees ignored and overruled career Voting Section experts' recommendation that South Carolina's voter ID law be approved. Accordingly, we request all documents and communications pertaining to the Department's decision to oppose the law and pursue costly litigation. We are concerned that scarce funds are likely being wasted opposing common sense legislation that was cleared by the Department's own nonpartisan experts.

In 2011, South Carolina passed Act R54 requiring voters to present a photo ID at polls. The ID is free and anyone with a reasonable impediment in obtaining one may still vote after completing an affidavit. However, before implementing this common sense measure, South Carolina was required to submit it to the Justice Department for approval. The reason is section 5 of the Voting Rights Act says jurisdictions cannot change their election procedures without prior Justice Department or court approval if those jurisdictions had low minority voter turnout back in the 1972 elections.

According to a recent report, South Carolina's law was reviewed by expert civil rights analysts, a veteran attorney reviewer, the deputy chief in charge of Section 5 enforcement, and ultimately the section chief. The data showed the difference in voter ID possession between blacks and whites was less than 1.6%. Additionally, voters who lacked ID could still cast a ballot as long as they swore to an affidavit verifying their identity. Career staff prepared extensive detailed memos on this and recommended preclearance.<sup>1</sup>

Nevertheless, says the report, citing a DOJ source, Assistant Attorney General Tom Perez and Deputy Assistant Attorney General Matthew Colangelo overruled the recommendation and ordered the Department to object. Thus, on December 23, 2011, despite the well-reasoned recommendation of these career employees, DOJ disregarded their recommendation and rejected the law. South Carolina sued in federal court to reverse the decision.

<sup>1</sup> <http://pjmedia.com/jchristianadams/2012/09/11/doj-documents-argued-for-sc-voter-id-approval/?singlepage=true>

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In 2005, then Senator Obama wrote Attorney General Gonzales that he was worried “political appointees have ignored the decisions and recommendations of career attorneys in voting rights cases.”<sup>2</sup> The context was the preclearance of Georgia’s voter ID law. We assume President Obama would be equally outraged if the same problem festered in his own Justice Department and would move swiftly to discipline those involved.

Accordingly, we ask you to assist the Committee in conducting oversight of DOJ’s enforcement powers with respect to voting rights and election law by providing all DOJ documents regarding, discussing or otherwise relevant to the Department’s preclearance decision on the South Carolina law, including the memos recommending preclearance and any documents discussing the decision to disregard that recommendation. We must understand the Department’s rationale for fighting this law when experts within DOJ deemed it acceptable. Taxpayer dollars are not meant to be spent on partisan projects by the Administration. Therefore we also request an estimate of DOJ’s costs to date in defending its decision before the federal court.

Thank you very much.

Sincerely,



Lamar Smith  
Chairman  
Committee on the Judiciary



Lindsey O. Graham  
United States Senator



Trey Gowdy  
United States Representative

cc: The Hon. John Conyers, Jr., Ranking Member, Committee on the Judiciary

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<sup>2</sup> Letter from the Honorable Barack Obama, U.S. Senator and the Honorable Chris Dodd, U.S. Senator, to the Honorable Alberto Gonzales, U.S. Attorney General (Nov. 30, 2005.)