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ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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May 28, 2009

Ms. Loretta King  
Acting Assistant Attorney General  
Civil Rights Division  
U.S. Department of Justice  
Washington DC 20530

Dear Ms. King,

It has come to my attention that on Election Day 2008, several members of the New Black Panther Party intimidated voters at a polling place in Philadelphia. These members brandished a baton in a threatening manner and made verbal threats to potential voters. After investigating the incident, the Civil Rights Division filed a complaint against the New Black Panther Party and several of its members for violations of Section 11(b) of the Voting Rights Act, which prohibits any "attempt to intimidate, threaten, or coerce" any voter and those aiding voters.

I understand that neither the New Black Panther Party nor its members filed a response to the complaint or any motion. As a result, the federal judge directed the Division to file a motion for a default judgment against the Party and its members. Instead of submitting the default judgment against the Party and its members to the court for signature, however, I understand the Division voluntarily moved to dismiss the complaint, even though it had effectively won the case.

This case was an uncontested lawsuit against defendants including one who, by the terms of the Division's own complaint, had "made statements containing racial threats and racial insults at both black and white individuals," and who "made menacing and intimidating gestures, statements, and movements directed at individuals who were present to aid voters." That individual, Jerry Jackson, had been carrying credentials as a member of the local Democratic committee. The Division sought relief only against the one defendant who carried and waived a baton on Election Day, and not against Mr. Jackson, and it sought only to enjoin that defendant from "displaying a weapon within 100 feet of any open polling location" in Philadelphia.

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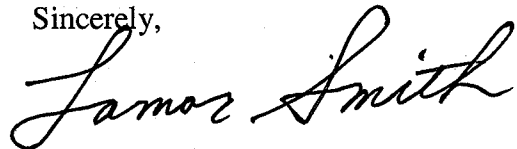
These actions raise a number of troubling questions. For example, why did the Civil Rights Division voluntarily dismiss a lawsuit that it had effectively already won, against defendants who were physically threatening voters? Is the Division concerned that this dismissal will encourage the New Black Panther Party, or other groups, to intimidate voters? Why did the Division seek such limited relief against a defendant who was actually carrying and brandishing a weapon at a polling station on Election Day? What role did the change of administrations play in the unusual resolution of voluntarily dismissing a case on which the Division had already prevailed?

In an effort to obtain answers to these and related questions, I request that the appropriate employees of the Division brief my staff regarding this lawsuit and the circumstances surrounding its dismissal. I am also requesting all non-privileged documents relating to the Division's dismissal of the suit.

Please respond to Crystal Jezierski, minority chief oversight counsel, or Paul Taylor, minority chief counsel on the Subcommittee on the Constitution, Civil Rights, and Civil Liberties at (202) 225-6906 by June 19 to arrange the briefing and the document delivery.

Thank you for your prompt consideration of this request.

Sincerely,



Lamar Smith  
Ranking Member

cc: The Honorable Ron Weich  
The Honorable John Conyers, Jr.  
The Honorable Jerrold Nadler  
The Honorable F. James Sensenbrenner, Jr.