



July 14, 2010

VIA E-MAIL AND HAND DELIVERY

Thomas Perez, Esq.
Assistant Attorney General
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Assistant Attorney General Perez:

On July 6, 2010, the U.S. Commission on Civil Rights heard testimony from former career Department attorney J. Christian Adams. This testimony raised serious concerns as to whether the Civil Rights Division's enforcement policies are being pursued in a race-neutral fashion and further calls into question the Department's decision to change course in the New Black Panther Party litigation. By testifying, Mr. Adams fulfilled his obligation to comply with the Commission's lawful subpoena. Regrettably, in the face of the Department's intransigence regarding the Commission's investigation and its unwillingness to enforce the Commission's lawful and long-standing subpoena despite the Department's obvious conflict of interest, Mr. Adams was forced to resign before he could comply with the Commission's subpoena for his testimony.

On May 14, 2010, you testified before the Commission regarding the New Black Panther Party litigation and enforcement of voting rights by the Department. During that hearing, you were asked whether you would investigate charges that supervising attorneys or political appointees in your Division made statements indicating that the Administration should not or would not bring voting rights cases against blacks or other minorities because of their race. May 14, 2010 USCCR Hearing Trans. at 37, 63-64. You stated that if the Commission had such a statement it should "bring such a statement to [the Department's] attention." *Id.* at 64. Based on your representation and in light of the information set forth below, the Department should review Mr. Adams' testimony and undertake an investigation to determine whether his allegations are accurate. The sworn testimony also demonstrates the Commission's need to obtain the same information and pursue its investigation to its logical conclusion.

Mr. Adams' testimony raises grave questions regarding whether managers and other political and career attorneys in the Civil Rights Division believe in the "color-blind" enforcement of civil rights laws, specifically, whether they should be enforced against all Americans equally and whether those protections apply with equal force to citizens of all races. For example, Mr. Adams relayed a conversation he had with members of Voting Section management who indicated to him that one of your senior political deputies—Deputy Assistant Attorney General Julie Fernandes— informed them that the Voting Section is "in the business of doing traditional civil rights work," that "cases are not going to be brought against black defendants [for] the benefit of white victims," and "that if somebody wanted to bring these cases, it was up to the U.S. Attorney, but the Civil Rights

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Division wasn't going to be bringing [them]." Testimony of Mr. Adams, July 6, 2010 USCCR Hearing Trans. at 61-63.

Additionally, Mr. Adams testified that at a Department meeting which he and other members of the Voting Section attended, Ms. Fernandes announced that Section 8 of the National Voter Registration Act (the federal "Motor Voter" law) would no longer be enforced.¹ "We have no interest in enforcing this provision of the law. It has nothing to do with increasing turnout, and we are just not going to do it," she is alleged to have stated. *See id.* at 63-64. The Voting Section of the Civil Rights Division is the primary federal entity charged with enforcing the Motor Voter law. If Mr. Adams' testimony is to be believed, a senior official in the one federal division responsible for enforcing the Motor Voter law announced a policy of non-enforcement with respect to a lawfully-adopted Congressional statute.

Mr. Adams's testimony then chronicled instances depicting a culture of pervasive hostility to the equal enforcement of civil rights protections in the Civil Rights Division beyond the comments attributed to Ms. Fernandes. These examples are contained in the attached unedited transcript, which we are providing at this time because of the serious nature of the allegations raised. They include, but are not limited to, career attorneys allegedly refusing to work on the voting rights case involving Ike Brown in Noxubee County, Mississippi, because Mr. Brown—who was ultimately convicted of voting rights violations—was black; others expressed the opinion that voting rights laws should be selectively enforced so as to only protect minorities. There are also alleged incidents of retaliation against Mr. Coates and other staff who worked on cases involving black defendants.

In addition to raising concerns of widespread hostility at the Division to the equal application of civil rights laws, Mr. Adams's testimony also raises troubling questions concerning the rationale offered for the Department's near-total dismissal of the New Black Panther Party litigation. In his testimony before the Commission, Mr. Adams painted a disturbing picture in which (i) beginning in January 2009, Mr. Coates's authority was substantially subverted by Mr. Rosenbaum; (ii) an outside interest group purportedly was aware that the Panther case was to be dismissed before such possibility was raised with the trial team; (iii) the responsible acting Deputy Assistant Attorney General making the decision to dismiss the charges as to three of the defendants (Mr. Rosenbaum) admitted that his decision was reached without any review of the supporting factual memoranda and research compiled by the trial team; and (iv) after the dismissal of the case over Mr. Coates' objection, his authority over the Voting Section was effectively stripped. In each instance, the allegations raise the question of whether the facts and the law actually controlled the decision making in the New Black Panther Party matter, or whether other factors were at play. They also cast doubt on whether voting rights laws are applied in a race-neutral fashion at the Division. The alleged unequal administration of justice by the Division on the basis of race falls squarely within this Commission's mandate to investigate.

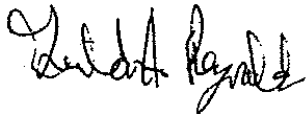
¹ Section 8 requires state election officials to periodically update their voter rolls—for example, by removing deceased persons and felons from the rolls and updating the information of those who have changed addresses or moved permanently out of the jurisdiction—to ensure their accuracy. Such measures contribute to the orderly conduct of elections and lessen the opportunity for vote fraud.

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Given the extraordinary testimony of Mr. Adams, we request that the Department reconsider its unwillingness to allow Mr. Coates to testify before the Commission. Mr. Coates' testimony is vital to our investigation because he is in the best position to corroborate, deny, or provide additional information regarding the matters described by Mr. Adams. As far back as November 2009, the Commission served a subpoena on Mr. Coates, who in his capacity as former Chief of the Voting Section and member of the New Black Panther Party trial team, appears to be a primary witness on the matters addressed by our investigation. In fact, the Department has previously allowed Mr. Coates to appear before the Commission in June 2008 regarding the Department's enforcement of laws against voter intimidation and voter fraud. We renew our request that the Department cooperate with the Commission's lawful subpoena and make Mr. Coates available to testify. Please contact our General Counsel, David Blackwood, as to Mr. Coates' availability by July 21, 2010.

It is with great regret that I must alert you to evidence of the possible unequal administration of justice in the Civil Rights Division. However, the Commission is charged under 42 U.S.C. §1975a(a)(2) with pursuing such claims. It is a statutory responsibility the agency does not undertake lightly. I sincerely hope you will pursue and investigate these charges and provide the Commission with the witnesses it needs to complete its important work.

Sincerely,



Gerald A. Reynolds
CHAIRMAN

cc: Vice Chair Abigail Thernstrom
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Commissioner Gail Heriot
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