

DECLARATION OF JOSEPH D. RICH

I, Joseph D. Rich, pursuant to 28 U.S.C. § 1746, declare as follows:

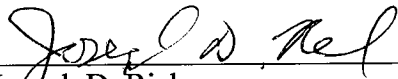
1. I am Director of the Fair Housing Project at the Lawyers' Committee for Civil Rights Under Law and have been in this position since May, 2005. From 1968 –April 2005 I was an attorney in the Department of Justice's Civil Rights Division and held career management positions from 1973- 2005 as Deputy Chief of the Educational Opportunities Section from 1973-1986, Deputy Chief of the Housing and Civil Enforcement Section from 1987-1999 and Chief of the Voting Section from 1999-2005.
2. I previously submitted a declaration to the Commission on August 23, 2010 to correct false statements made about my role in the *United States v. Ike Brown* case in (1) an affidavit submitted to the United States Commission on Civil Rights by Mr. Hans von Spakovsky on July 15, 2010; (2) hearsay testimony given to the Commission by Mr. J. Christian Adams on July 6, 2010; and (3) statements made by Commissioner Todd Gaziano at the July 6, 2010 hearing.
3. This declaration is to respond to testimony by Christopher Coates before the Commission on September 24, 2010 concerning the *United States v. Ike Brown* case.
4. Mr. Coates asserts in his testimony that (a) sometime in the winter of 2003-2004 he wrote a preliminary memorandum recommending that the Voting Section go forward with an investigation of possible violations of the Voting Rights Act committed during the August 2003 Noxubee County primary and argued that a civil injunction against the alleged wrongdoers was the best way to proceed, and (b) that I forwarded his memo to my supervisors but deleted his recommendation to initiate an investigation. What this testimony does not mention is that by the winter of 2003-2004, the Criminal Division had already been referred the matter to investigate whether Brown's actions violated any federal election crimes laws. As I explained in my August 23rd declaration, both before and after the August 5, 2003 primary election in Noxubee County which was monitored by five attorneys from the Voting Section, including Mr. Coates, memos from the Voting Section were sent to the Election Crimes Branch of the Criminal Division's Public Integrity Section to ensure close coordination in the Department's consideration of this matter. Furthermore, shortly after review of an August 19, 2003 twenty seven page report prepared by all attorneys who monitored the election, I recommended to my supervisors that the matter be referred to the Criminal Division for investigation before any civil investigation was initiated. This recommendation was approved. As noted in the August 23rd declaration, it is standard practice in the Department that any civil investigation of a matter is put on hold pending completion of a criminal investigation of the same matter.
5. Mr. Coates does not mention in his testimony that at the time the Voting Section's recommendation as to how to proceed was being formulated shortly after the August 5, 2003 primary, I discussed with him that it was my judgment that the best way to proceed was to have the matter first investigated as a potential criminal matter given the seriousness of the allegations of wrongdoing by Ike Brown. Accordingly, I indicated to Mr. Coates that

my recommendation as to how we should proceed would be to refer the matter to the Criminal Division for investigation. It was for this reason that the recommendation that I prepared for my supervisors as to how to proceed did not contain Mr. Coates' recommendation to first launch a civil investigation. In short, Mr. Coates was aware that my recommendation would be to first refer the matter to the Criminal Division for investigation.

6. Mr. Coates also fails to discuss another point in my August 23 declaration, i.e. that in mid 2004, approximately nine months after referral of the matter to the Criminal Division in September 2003, there was a meeting with Criminal Division attorneys at which it was decided that no criminal action would be taken by the Criminal Division and that the Voting Section would then initiate a civil investigation. At this meeting I did not disagree with this course of action. Mr. Coates then proceeded to investigate the matter in the summer of 2004 and prepare a justification memorandum in the late summer or early fall of 2004 in which he recommended that the filing of a civil action under the Voting Rights Act be approved. Mr. Coates does not dispute the statements in my declaration that I reviewed his justification memo and forwarded it with my concurrence to my supervisors, and that subsequently this recommendation to file a civil suit was approved by my supervisors. Both he and I signed the complaint filed in the case on February 17, 2005.
7. Mr. Coates' testimony contradicts the assertion in Hans von Spakovsky's July 15 affidavit that I deleted from the justification memo prepared by Coates a recommendation that the Department file a civil lawsuit against Mr. Ike Brown. Rather, Mr. Coates explicitly "underscore[s]" that the memorandum he was discussing in his testimony "was not the subsequent justification memorandum that sought approval to file the case in Noxubee" (Testimony, p. 4)

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 20, 2010
Washington DC



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