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## Justice Must Address Lawlessness Uncovered by Christopher Coates

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retweet Friday's testimony before the U.S. Commission on Civil Rights by Christopher Coates — a career Justice Department lawyer and supervisor —



knocked down the Potemkin Village that the Obama administration has built to obscure why Justice officials dismissed a voter-intimidation case against two members of New Black Panther Party in Philadelphia.



Coates, former chief of the Voting Section in the Civil Rights Division, testified that Justice officials purposefully dropped the New Black Panthers case because they didn't want to enforce the Voting Rights Act against minority defendants accused of violating the law.

Coates' sworn testimony to the independent Civil Rights Commission supported accusations made previously in testimony by J. Christian Adams, a former career lawyer in the Voting Section.

In a long and detailed opening statement, Coates sought to confirm the truth of Adams' charges.

Most disturbing was Coates' description of a culture of animus within the Civil Rights Division toward race-neutral enforcement of federal voting rights laws. He described an atmosphere of harassment directed at lawyers and paralegals who worked on the NBPP case, and on an earlier case filed in Noxubee, Mississippi, against Ike Brown, a twice-convicted felon and political activist who runs Noxubee County. Like the defendants in the

Philadelphia case, he is black.

Lawyers and other staff within the Voting Section also refused to work on the Brown case, Coates testified, because they did not believe the Justice Department should prosecute blacks or other racial minorities — no matter what law they violated. Coates testified that he had complained about this attitude and unwritten policy to Assistant Attorney General for Civil Rights Thomas Perez, a political appointee.

When Perez testified before the Civil Rights Commission, he said no such policy or problem existed.

Coates, in a lawyerly manner, dismantled the Obama administration's justifications for dismissing the case against the New Black Panthers accused of intimidating white voters on Election Day 2008:

“ To understand the irrationality of these articulated reasons for gutting this case, one only has to state the facts in the racial reverse.

*Assume that two members of the KKK, one of which lived in an apartment building that was being used as a polling place, showed up at the entrance in KKK uniform, and that one of the Klansman was carrying a billy stick. Further assume that the two Klansmen were yelling racial slurs at black voters who were a minority of people registered to vote at this polling place, and the Klansmen were blocking ingress to the polling place. Assume further that a local policeman comes on the scene and determines that the Klansman with the billy club must leave, but that the other Klansman could*

*stay because he was certified as a poll watcher for a local political party.*

*In those circumstances does anyone seriously believe that the Assistant Attorney General for Civil Rights would contend that on the basis of the facts and law, the CRD [Civil Rights Division] did not have a case under the VRA [Voting Rights Act] against this hypothetical Klansman because ... he was allowed to stay at the polling place by a local police officer because he was a poll watcher?*

*I certainly hope Mr. Perez would not find that hypothetical case lacking in merit, and I will guarantee you that Ms. King, Mr. Rosenbaum, Mr. Kappelhoff, and Ms. Clarke would not either. However, such reasons are a part of the publicly articulated grounds for the CRD's decision to instruct me to dismiss a significant portion of the NBPP case.*

Coates also recounted directives received from political appointee Julie Fernandes, deputy assistant attorney general for Civil Rights. He supported Adams' testimony that Fernandes made it clear in meetings with Voting Section staff that the Obama administration was interested only in filing “traditional types” of voting rights cases that would “provide political equality for racial and language minority voters.” Coates testified that everyone in the room understood what that meant: “No more cases like the Ike Brown or NBPP cases.”

Coates also testified that in another meeting with Voting Section staff, Fernandes said the Obama administration was not interested in enforcing the provision of Section 8 of the National Voter Registration Act that requires

states to maintain voter registration lists by regularly removing ineligible voters — for instance, the names of voters who have died or moved away.

In September 2009, Coates testified, he sent a memorandum to Fernandes and the “Front Office” of the Civil Rights Division (the assistant attorney general’s political staff) in which he recommended opening investigations of eight states that appeared to be in non-compliance with the list-maintenance procedures. He did not get approval for the project, and it has yet to be acted on, Coates said — suggesting political appointees are not pursuing possible violations of law.

Prosecutorial discretion does not allow prosecutors “to decide not to do any enforcement of a law enacted by Congress because political appointees determined that they are not interested in enforcing the law,” Coates testified. “That is an abuse of prosecutorial discretion.”

Coates made another incident public for the first time. He testified that when he became chief of the Voting Section in 2008, he began asking job applicants a new question after seeing experienced employees refuse to work on the Ike Brown case. He would ask applicants “whether they would be willing to work on cases that involved claims of racial discrimination against white voters, as well as cases that involved claims of discrimination against minority voters,” Coates testified.

Coates added that he “did not want to hire people who were politically or ideologically opposed to the equal enforcement of the voting statutes the Voting Section is charged with enforcing.”

When Loretta King was named acting assistant attorney general for Civil Rights after President Obama’s inauguration, Coates testified, she called him to her office. King had heard about the question Coates was asking. She “specifically instructed” Coates that he “was not to ask any other applicants whether they would be willing to, in effect, race-neutrally enforce the VRA.”

King took offense that Coates was asking that question, he testified, “because she [did] not support equal enforcement of the provision of the VRA and had been highly critical of the filing and civil prosecution of the Ike Brown case.”

Coates, a veteran voting rights litigator whose awards include honors from the NAACP, testified that he believes King, Fernandes, and other lawyers within Justice violated their oath to faithfully execute the law when they selectively enforced the Voting Rights Act based on the race of the victim and the perpetrator.

Biased enforcement, he testified, will encourage violations by election officials who happen to be minorities, because they will not fear repercussions from the Justice Department. In our “increasingly multiethnic society, that is a clear recipe to undermine the public’s confidence in the legitimacy of our electoral process,” he told the commission.

Unless senior officials at Justice take steps to repudiate such policies, they will destroy public confidence in the legitimacy of the Civil Rights Division’s enforcement of voting rights laws, and its stewardship of the election process. If Fernandes and King have the views described by Coates, they should resign or be fired. And Perez

has a responsibility to explain why he misinformed the Civil Rights Commission and why he took no steps to investigate problems Coates identified to him.

The public needs to know that such policies are not approved by Obama appointees within the Justice Department. Because if it is the case, Americans will hold the highest officials of the Obama administration to account.