

ALABAMA STATE HEARING

St. Paul's Methodist Church
Birmingham, Alabama
April 1, 2014

GUEST COMMISSIONERS

Scott Douglas, Executive Director, Greater
Birmingham Ministries

Jerome Gray, retired Field Director, Alabama
Democratic Conference

Lee W. Loder, Founder, Gift Corps; Attorney

Bernard Simelton, President, Alabama NAACP

PANELISTS

Catrena Norris Carter, CEO, Women of Will
Shirley Gavin Floyd, Business Manager, Civil
Rights Activists Committee

Ann Gibbons, Attorney; formerly an Attorney in
the Office of Judge J. Foy Guin, Jr., U.S. District
Court for the Northern District of Alabama
Rev. Norman L. Gibbons

Bobby Harris, retired City Council member,
Alabaster

John Harris, County Commissioner, Lee County

Eric Hutchins, Attorney, Alabama NAACP

Freddy Rimpsey, President, Alabama Voters
League in Anniston, Calhoun County

PUBLIC TESTIMONY

Mildred Bennett, NAACP

Reverend Charles A. Dale

John C. Harris, former City Council candidate,
Birmingham

Charles Hicks

Shirley Middleton, Town Council Member,
Hapersville

Helen Revis, Alabama Coalition for Immigrant
Justice

Richard Rutledge, former City Council candidate,
Birmingham

Mark Threat

Virginia Volker

WRITTEN OR RECORDED TESTIMONY

Geraldine K. Jackson

Hank Sanders, Alabama State Senator

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)

Alabama NAACP

National Congress of Black Women

Southern Poverty Law Center

ALABAMA STATE HEARING HIGHLIGHTS

The National Commission on Voting Rights held a hearing on Tuesday, April 1, 2014, at St. Paul United Methodist Church in Birmingham, Alabama. Support from national and local partner organizations contributed to making the event a success. Approximately 65 people attended the three-hour hearing and heard from several panels of Alabama-based witnesses. Testimony topics included voter identification (ID), felony disenfranchisement, and voter dilution.

I. Vote Dilution

In his opening remarks, Guest Commissioner Jerome Gray, the former Alabama Democratic Conference field director, stated that his hometown of Evergreen, Alabama became the first jurisdiction since the *Shelby County v. Holder* decision to receive reinstatement of federal oversight regarding that city's voting practices. This was made possible by Section 3 of the Voting Rights Act.¹ Section 3 provides its own preclearance or "bail-in" mechanism.² Section 3 jurisdictions must submit certain voting changes to the Department of Justice (DOJ) or to a federal court before such changes may go into effect.³ Gray stated that the local National Association for the Advancement of Colored People and Democratic Conference successfully challenged the City of Evergreen in a Section 2 lawsuit, and Evergreen will now be covered under Section 3 through the 2020 election cycle.⁴ The lawsuit alleged that the City of Evergreen had a record of discriminating against African-American voters, including by redrawing district lines to dilute their vote.⁵ As a result of the lawsuit, the City of Evergreen cannot redraw districts without prior approval under Section 3 coverage, said Gray.

II. Section 5 and the City of Alabaster, Shelby County

Hank Sanders, a long-time Alabama state senator and civil rights advocate, provided testimony via a tape-recorded interview with staff of the Lawyers' Committee for Civil Rights Under Law on several topics relating to voting rights and the history of the struggles faced by minority voters in Alabama. Sanders testified about the impact Section 5 of the Voting Rights Act had on minority voters in Alabama. He noted that the preclearance process was not always enough to protect minority rights, citing DOJ's approval of state and local redistricting plans that he said reduced the ability of African Americans to join with progressive whites to elect candidates of their choice. However, he noted that prior to the *Shelby County v. Holder*

¹ See, 42 U.S.C. Section 1973a.

² *Id.*

³ See, 42 U.S.C. Section 1973a(c).

⁴ See, *Allen v. City of Evergreen, Ala.*, Civ. No. 13-107-CG-M, 2013, 2013 WL 1163886 (S.D. Ala., Mar 20, 2013).

⁵ *Id.*

decision, when changes were made to voting procedures at the local level, they would have to be precleared. In the aftermath of *Shelby County v. Holder*, however, Sanders noted that it would be impossible to file lawsuits on every single change made to voting procedures at the local level and that some changes may go unchallenged.

Bobby Lee Harris, a resident of the City of Alabaster in Shelby County, testified that the DOJ determined that from 1995 to 2000, the City of Alabaster approved ordinances which diluted the vote of African Americans in his ward, Ward One, through annexations. The DOJ found that the City of Alabaster failed to submit these changes for review, as required under Section 5 of the Voting Rights Act, and successfully sued the City.⁶ Harris testified that as a candidate for City Council in 2000, he initially lost to a white candidate due to the fact that the demographics of his district shifted when a majority-white subdivision – Weatherly – was included. Harris ended up prevailing after the DOJ found that the City of Alabaster never sought preclearance by submitting the ward changes before the election took place. Harris was later defeated in a 2004 re-election bid and since then, no minority candidate has won a City Council race in Ward One.

III. African Americans Turned Away from the Polls

Ann Gibbons, an attorney from Shelby County, testified that during the 2012 election cycle African-American voters in Vincent, Alabama were turned away from the polls for various suspicious reasons. She testified that three poll watchers observed African-American voters being told they were not on the voter rolls and not provided with provisional ballots. Gibbons reported that two African Americans “were told the town did not count provisional ballots” when they were turned away. She also testified that one polling location was closed early, before the 7 p.m. deadline and expressed concern that the polling location was closed early to dissuade African Americans from voting.

IV. Restrictive Voter ID Law in Alabama

In 2011, Alabama passed a restrictive state law requiring voters to present a photo ID in order to be allowed to cast a ballot.⁷ According to the Alabama voter ID law, an individual who does not have one of the forms of acceptable identification listed in the statute will be allowed to vote by regular ballot only if two election officials sign a sworn affidavit stating that the individual is a voter on the poll list who is eligible to vote.⁸ If an individual is unable to present one of the forms of identification listed in the statute and two election officials do not

⁶ See, *Singer v. City of Alabaster*, 821 So.2d 954 (2001), cert. denied, 535 U.S. 1053, 122 S.Ct. 1908, 152 L.Ed.2d 819 (2002).

⁷ Ala. Code Section 17-9-30(a).

⁸ Ala. Code Section 17-9-30(e).

confirm his eligibility, the individual will only be allowed to vote via provisional ballot.⁹ Voters casting absentee ballots are faced with the additional burden of being required to submit a copy of one of the forms of acceptable identification with their completed ballot unless they qualify for specific state or federal exceptions.¹⁰ Individuals who do not have a photo ID may obtain an Alabama photo voter ID card for free. However, Alabama's voter ID law makes it burdensome to apply for one.¹¹

Sanders testified that the Alabama voter ID law functions as “the literacy test of the 21st century.” Sanders noted that the law was enacted in 2011, but the state avoided seeking Section 5 preclearance because it expected DOJ would object. After *Shelby County*, photo ID is being implemented. Commenting on the requirement that a voter have two election officials verify the voter’s eligibility if the voter lacks an acceptable form of identification at the polls, Sanders noted that in practice this will allow white people to vote without an ID, “but black folks will not qualify for th[e] provision because there’s not two people there to sign for them.” Sanders also testified that the Alabama statute makes it a felony to apply for a photo voter ID card if a voter already has one, which he said could criminalize efforts people may make to be eligible to vote.

Even before the photo ID law was enacted, Sanders testified that minority voters often had problems at the polls in Alabama. For example, Sanders testified that during an election in September 2012, his name was not on the list of registered voters at his polling place. He spoke with the poll workers and representatives of the Board of Registrars, many of whom knew him from his work as a state senator. Nevertheless, Sanders stated that he was forced to vote a challenged ballot. Sanders doubts that his vote was ever counted in that election.

Catrena Norris Carter, president and CEO of Women of Will, testified that obtaining voter ID in Alabama can be costly and burdensome. She testified that, in her opinion, requiring voter ID is similar to requiring a literacy test. Carter testified that the Alabama voter ID law dissuades the poor, young people, and the elderly from voting because they may not possess the required identification or the means to obtain acceptable identification.

⁹ Ala. Code Section 17-9-30(d).

¹⁰ Ala. Code Section 17-9-30(b).

¹¹ Ala. Code Section 17-9-30(f)-(k).