

GEORGIA STATE HEARING

The Martin Luther King Jr. Center for Nonviolent Social Change
Atlanta, Georgia
November 20, 2013

GUEST COMMISSIONERS

Helen Butler, Executive Director, Georgia Coalition for the Peoples' Agenda	Laughlin McDonald, Special Counsel and Director Emeritus, ACLU Voting Rights Project
Dr. Francys Johnson, President, Georgia NAACP	Ruby Moore, Executive Director, Georgia Advocacy Office

PANELISTS

Richard Barron, Fulton County Director of Elections and Registration	Helen Kim Ho, Executive Director, Asian American Legal Advocacy Center, Inc.
Sharon Blackwood, Board Member, League of Women Voters of Georgia	Rev. Albert E. Love, President and CEO, The Voter Empowerment Collaborative
Emmet J. Bondurant, Partner, Bondurant Mixson & Elmore LLP	Sarita McCoy Gregory, Professor, Kennesaw State University
Rep. Tyrone Brooks, Georgia Association of Black Elected Officials	Cheri Mitchell, Georgia Advocacy Office, Inc.
Emma Darnell, Member, Fulton County Board of Commissioners	Ronnie Mosley, Morehouse student-voter
Dr. Nancy Dennard, Quitman, GA	Melinda Sheldon, Deputy Director, Georgia Equality
Rev. Henry Ficklin, Macon-Bibb, GA	Laura Toro, Program Manager, Georgia Association of Latino Elected Officials
Rep. Virgil Fludd, Georgia House of Representatives	

PUBLIC TESTIMONY

Martha Alexander	Kathy Holmes-Bass, Delta Sigma Theta
Thomas Aquell	John E. Jones, President, Fayette County Branch, NAACP
Phyllis Bailey	Dr. Gretchen Lockett
Rev. Jeffrey Benoit	Minister Karen Reagle
John Benson, former candidate for Atlanta Mayor, Socialist Workers' Party	Garrett Scott
Joe Carn, Vice-Mayor, College Park	Ron Shakir
Mamie Chancellor	Margo Waters
Yolanda Chancellor	

PARTICIPATING ORGANIZATIONS (NOT EXHAUSTIVE)

ACLU	Georgia Advocacy Office, Inc.
ACLU of Georgia	Georgia Association of Latino Elected Officials
African American Ministers in Action	Georgia Coalition for the Peoples' Agenda
Asian American Legal Advocacy Center, Inc. of Georgia	Georgia State Conference of the NAACP
	League of Women Voters of Georgia

National Action Network
ProGeorgia

Sarah Shalf, Professor, Emory University School
of Law

LAW FIRM SUPPORT

Kilpatrick Townsend & Stockton LLP

King & Spalding

GEORGIA STATE HEARING HIGHLIGHTS

The National Commission on Voting Rights held a hearing on November 20, 2013, at the Martin Luther King, Jr. Center for Nonviolent Social Change in Atlanta. Support from national and local partner organizations and board members contributed to making the event a success. Approximately 150 people attended the four-hour hearing and heard from diverse panels of witnesses comprised of Georgia-based advocates, litigators, elected officials, and a county elections official. Testimony topics included litigation under Section 2 of the Voting Rights Act in Latino and African-American communities, voter registration challenges (including those related to naturalized citizens and county registration technology), redistricting, voter identification (ID) (including hurdles particular to college students and the transgender community), voter education, procedures for individuals with disabilities, and more. Members of the audience also testified about their voting experiences in Georgia.

I. At-Large Elections and Latino Vote Dilution in the City of Gainesville

Laura Toro testified on behalf of the Georgia Association of Latino Elected Officials (GALEO), which was created to promote civic engagement and leadership development in the Latino community in Georgia. Toro noted the significant growth in the Latino population in the state. In fact, the number of Latino registered voters statewide increased from approximately 10,000 in 2003 to over 183,000 in 2012.¹ Toro also testified about the negative impact the at-large voting process used by the City of Gainesville to elect every City Council member has on the Latino community. She expressed concern that the at-large voting process dilutes the voting power of the Latino electorate and discourages Latino candidates from running for office. She reported that only one Latino candidate has run for Gainesville's City Council and one Latino candidate ran for mayor in 2013.² Neither prevailed. Toro testified, "It is our contention that the current at-large process discourages people from getting involved and getting involved in the civic process: voting, running for office, being involved in their communities..."

¹ See also, "The Continued Growth of the Latino Electorate in Georgia," *Georgia Association of Latino Elected Officials (GALEO) & The GALEO Latino Community Development Fund (August 6, 2013)*: <http://www.galeo.org/pdfs/2012GALatinoVoters.pdf>.

² For 2013 mayoral candidates, see "2013 Election Information" from Gainesville, GA: <http://www.gainesville.org/fullpanel/uploads/files/2013-election-booklet.pdf>

Toro explained that the Latino population in Gainesville is largely comprised of Mexican immigrants who have come to work in the poultry industry. She noted that these immigrants have faced abusive working conditions and must deal with “persistent racial tensions against the Latino community within the city and the power structure.” Toro also pointed out that the City was the site of an anti-Latino Klu Klux Klan event in 1998 and that, “The pervasiveness of discrimination and abuse makes access to an elected official who represents the interests of the Latino community in Gainesville all the more pressing, which is why GALEO has taken on the heavy task of confronting the City regarding its at-large voting process.” At the time of the hearing, Toro testified that GALEO was considering filing a complaint under Section 2 of the Voting Rights Act against Gainesville to challenge the at-large system for city council elections. Toro said that a successful outcome in such a suit could help efforts to eliminate other at-large systems in areas with large Latino populations, including the City of Dalton and municipalities in Gwinnett County.

II. County Vote Dilution

Rep. Virgil Fludd has served in the Georgia State House for over a decade, representing parts of Fayette and Fulton counties. He testified about Fayette County’s at-large voting process and described a lawsuit filed in 2011 challenging that process as a violation of Section 2 of the Voting Rights Act. According to Fludd, Fayette County has a population of over 108,000; 20 percent are African American, six percent are Latino, and four percent are Asian.³ No African American has ever been elected to the County Commission or the Board of Education, said Fludd, despite the fact that more than a dozen candidates, from both major parties, have run for office.

Fludd testified that he tried more than once at the state legislature to change the system to single-member districts to allow African-American voters to elect a candidate of their choice, but the legislation was voted down along party lines. In 2011, Fludd noted that the NAACP Legal Defense and Educational Fund filed suit under Section 2 of the Voting Rights Act alleging that the County’s at-large method of election was racially discriminatory. The court ruled in favor of the plaintiff and entered judgment against the County defendants.⁴ An appeal by the County defendants is pending as of the date of this report.⁵

III. The Quitman 10+2

Dr. Nancy Dennard testified about her experience as one of the “Quitman 10+2,” a group of 12 African Americans who were charged with voter fraud and removed from elected office because of their work electing minority candidates. Quitman is a small city located in Brooks

³ See, *United States Census Bureau’s State and County Quickfacts for Fayette County, Ga.*:<http://quickfacts.census.gov/qfd/states/13/13113.html>

⁴ See, *Judgment, Georgia State Conference of the NAACP et al v. Fayette County Board of Commissioners et al*, No. 3:11-cv-00123-TCB (March 13, 2014).

⁵ See, *Notices of Appeal, Georgia State Conference of the NAACP et al, supra* (March 19, 2014)

County, Georgia. According to Dennard, the County's population is about 15,500 persons and approximately 35 percent are African American.⁶ The School Board is elected at-large.

Dennard testified that she ran for School Board in 2006, losing a close race. In 2009, she won a special election based on a strong get-out-the-vote and voter education campaign. Between the two elections, Georgia made it easier to vote early and by absentee ballot, which Dennard stressed to the voters who ultimately elected her. The following year, a group of individuals decided to run for School Board and the County Commission. All of them were successful in the primary, and despite some questionable tactics permitted by the Superintendent of Elections, all three were elected in November. However, on election night, the initial results showed one candidate losing by 60 votes, which was then flipped to a nine-vote lead before certification. Following a recount, that candidate won—picking up two votes in the process. Dennard believed it was because the majority of votes were on paper ballots which allowed for an accurate recount.

These victories, said Dennard, sent a wave of enthusiasm through the community; they truly realized the power of their votes. However, the elation was short-lived. In December 2010, 10 individuals were arrested and charged with voter fraud, illegally assisting voters, and improper handling of absentee ballots. A year later those 10, and two others, were indicted by a special session of a grand jury. In January 2012, Dennard and other elected officials in the Quitman 10+2 were removed from their offices.

Dennard testified that during the course of the criminal proceedings, she discovered the Georgia Bureau of Investigation (GBI) used intimidation and threats of arrest to elicit untruthful statements from some of voters. Of the roughly 350 individuals interviewed by the GBI, Dennard testified that 95 percent of them were African American. The trial exposed several other suspicious irregularities, according to Dennard. For example, a postal supervisor, with no legal authorization, locked returned absentee ballots in his cash drawer for later retrieval and kept the logs at his house where no one else had access to them. Dennard also testified that the local Board of Elections claimed it mailed out absentee ballots but had not received them back. However, Dennard testified that 50 ballots were delivered by the post office the day after her first election. Dennard said she complained to the local postmaster, but got nowhere. Dennard also testified that a deputy registrar at the Board of Elections admitted she brought absentee ballots home on several occasions, a violation of Georgia law, because she claimed to have been behind with logging them in at work.

Dennard testified that this information came out in open testimony in court, but the GBI and prosecutors—who were purportedly worried about the integrity of elections—did not pass that information along to the defense or investigate those wrong-doings. The trial against the Quitman 10+2 ended in a mistrial, but Dennard fears that the authorities will attempt similar tactics in the future. In October 2012, the elected officials were reinstated and in November 2013, Dennard was reelected as School Board President.

⁶ See, *United States Census Bureau's State and County Quickfacts for Brooks County, Ga.*: <http://quickfacts.census.gov/qfd/states/13/13027.html>

IV. Non-Partisan Elections

Rev. Henry Ficklin, a Macon City Councilman and candidate for the Macon-Bibb County Board of Commissioners, discussed the consolidation of the governance of the City of Macon and Bibb County, which took place in 2013. Ficklin highlighted the fact that due to population shifts, African-American voters became the majority in Bibb County.⁷ According to Ficklin, the state legislature prohibited partisan elections for mayor and the commission as part of the consolidation process. This occurred, said Ficklin, despite Bibb County's tradition of holding partisan elections for these posts and his observation that African-American candidates had the most success under the partisan structure. Under state law, the election date for the first elections to be held following consolidation was moved from November to July, when, according to Ficklin, African-American voters turn out in lower numbers. Ficklin testified that this switch to a July election date worked to increase the likelihood that a majority-white commission would be elected for the consolidated jurisdiction.

The switch to non-partisan elections and the changed election date were submitted for preclearance to the United States Department of Justice (DOJ) pursuant to Georgia's obligation under Section 5 of the Voting Rights Act. In May 2013, the DOJ requested additional information citing concerns that the changes would result in a retrogression in the ability of minority voters to participate in the electoral process and elect candidates of their choice. In response to the DOJ's request, the election, originally scheduled for July 16, 2013, was halted. While a decision on preclearance was pending, the U.S. Supreme Court issued its decision in *Shelby County v. Holder*, eliminating the need for federal review of the date change, even as Georgia submitted the requested follow-up information. Ultimately, a court ordered the election to be held on September 17, 2013, and four minority members were elected to the nine-member commission.

V. Consolidating and Relocating Polling Places

Sharon Blackwood, a board member of the League of Women Voters of Georgia, highlighted two proposals to relocate and consolidate polling places that would be particularly burdensome to lower-income and minority voters. Blackwood testified that in the City of Carrollton, two polling places had been recommended for consolidation. She stated that members of this community of voters had typically been able to walk to their polling location, but the proposed new location would require them to walk 2 miles across a major thoroughfare to cast a ballot. She cited a similar example in Athens, where the proposed relocation of a polling place was expected to greatly impact minority voters, including those in the Cat Wood community. To access the proposed new location, Athens voters using public transportation would face an hour and a half bus ride, with transfers, each way. Blackwood noted that there had been objections to the proposals in both cities.

⁷ See also, the United States' Census Bureau's *State and County QuickFacts for Bibb County*: <http://quickfacts.census.gov/qfd/states/13/13021.html>