

# Understanding N.C. NAACP lawsuit against Voter ID law

BY CASH MICHAELS  
FOR THE CHRONICLE

The plaintiffs' pre-trial brief in the voter identification lawsuit being heard in federal court in Winston-Salem this week alleges that Republican lawmakers amended the strict 2013 voter ID law last summer just prior to the first federal trial because "... the State recognized that ... there was no evidence of in-person voter fraud in North Carolina, thus undermining the purported justification for the law."

The lawsuit goes on to charge that "... the statute stood to impose enormous and disproportionate burdens on minorities once it went into effect in violation of Section 2 of the Voting Rights Act and the 14th and 15th Amendments of the Constitution."

That lawsuit, *NCNAACP v. Gov. Pat McCrory*, challenges the Republican governor and the GOP-led state Legislature over passage of the 2013 voter photo identification law, which origi-

nally only required a government-issued photo ID to vote in the state. It also seeks to stop implementation before the upcoming March 15 primaries.

Because of last minute changes to the law last June, voters will be required to show a government-issued photo identification at the polls to cast a ballot, unless they have a "reasonable impediment declaration" for not having one, which didn't exist before. In that case, they would be required to fill out a form, then show some form of identification like a utility bill, verifying their name and address, in order to then cast a provisional or substitute ballot.

What has not widely been reported is that that declaration can be challenged by another voter in that county, and the county board of elections can disallow the provisional ballot cast as a result if it determines the excuse for not having a photo ID to be false.

Attorneys for the plaintiffs - the N.C. NAACP,

the League of Women Voters of North Carolina, and the U.S. Justice Dept. - maintain in their brief that "The rationale for North Carolina originally enacting a photo ID requirement was to deter in-person voter fraud. But allowing those without such ID to vote simply by signing a 'reasonable impediment' affidavit would seem to undermine that justification, particularly against an evidentiary background of no in-person voter fraud in North Carolina and the increased tax dollars that North Carolina taxpayers will need to spend implementing this law. Against that background, one must question what North Carolina's real motivation is in continuing to insist on imposing a photo ID law at all."

The brief goes on to allege that the reasonable impediment requirement effectively creates a barrier for African-Americans and Hispanics to constitutionally exercise their right to vote, because they're more likely than whites not to

have a government-issued identification, like a driver's license. That, plaintiffs' attorneys say, is a violation of Section 2 of the 1965 Voting Rights Act, which prohibits the state from "imposing or applying any electoral practice which results in a denial or abridgement ..." of the right of any citizen to vote based on race or color.

"Moreover, the North Carolina legislature's knowledge of the photo ID requirement's disproportionate burdens on African Americans, its elimination of forms of ID originally included in the bill, and the absence of any credible (much less substantial) legislative rationale, all show that the legislature enacted the statute—at least in part—to make it harder to vote and to deter minority voters in violation of the Fourteenth and Fifteenth Amendments," the brief maintains. "The law's subsequent amendment does not ameliorate its prohibited intent. And even if this Court concludes that the legislature lacked discrimi-

natory intent in enacting [the statute] the requirement remains unlawful because it produces discriminatory results and burdens the right to vote in ways that, as has been established in the record, are not outweighed by any substantial State purpose."

As evidence of the law's discriminatory effect, the brief presents statistics showing that blacks are more likely not to have photo ID than whites, and they also have more trouble obtaining that identification as well.

In their defense, attorneys for Gov. McCrory and the state Legislature maintain that the reasonable impediment declaration requirement they adopted for North Carolina is very similar to the one which they say passed muster in South Carolina. Plaintiffs' attorneys disagree, saying that North Carolina's provision is based on Section 2 of the VRA, and not Section 5, as is South Carolina's.

Plaintiffs also alleged that state lawmakers knew

that the voter ID law would have a disproportionately discriminatory affect on African-American voters, but went ahead and enacted it anyway. That is a violation of the 14th and 15th amendments to the U.S. Constitution.

"The evidence in this case supports a finding of discriminatory purpose," the brief says. "The record demonstrates that in enacting [the statute], the North Carolina General Assembly was responding to increased political power among African-American and Latino voters by making changes in the State's election law to limit that power and prevent minority voters from threatening the prospects of the political party then in control of the General Assembly."

This week's trial is expected to last five to seven days, depending on the amount of testimony from both sides.

## Voter ID

from page A1

Wisconsin-Madison, testified that not only are blacks and Hispanics less likely to have photo IDs, they are, also more likely to have fewer resources to acquire one.

Charles Stewart, a political science professor at Massachusetts Institute of Technology, testified Tuesday that African-Americans are twice as likely as whites to lack the photo ID now required of voters. Farr questioned

the accuracy of Stewart's numbers on cross examination. He also pointed out that Stewart's own research shows that about 95 percent of registered African-Americans have a photo ID, but Stewart said the number of blacks without one still remains disproportionate to whites.

With the reasonable impediment exception, voters like Eaton might be able to vote without going through a long ordeal to get a license, but would still need to fill out a form on why they can't get an ID. N.C. NAACP President Dr. William Barber testified Tuesday on the confusion caused by the reasonable impediment and how it's making

groups like the NAACP re-educate voters again.

Judge Schroeder is giving each side 18 hours to argue their cases, which is expected to take the rest of the week. He's already denied an injunction that would've prevented the law from going into effect. He also has yet to rule on the arguments he heard in July on the other challenges to the voting law. Due to a Supreme Court decision, same day registration during early voting and out of precinct voting on election day have been reinstated until a ruling is made.

# N.C. Board of Elections expected to hear challenge for WSSU early voting site

TODD LUCK  
THE CHRONICLE

The NC Board of Elections (BOE) will soon be determining if Winston-Salem State University (WSSU) will have an early voting site as it hears a minority plan from local BOE member Fleming El-Amin.



El-Amin, the three-member board's sole Democrat, was the one "no" vote

when the BOE approved early voting sites earlier this month. He submitted an alternative early voting plan to the state that included the 11 sites that were approved by the Forsyth BOE, plus one more: the Anderson Center at WSSU. The alternative plan also contains Sunday hours for Souls to the Poll, a popular tradition where black churches get their congregants to vote on Sunday. The N.C. BOE is expected to hear the alternative plan soon.

The Anderson Center was an early voting site from 2000-2012. When Ken Raymond became the chair of the Republican majority of Forsyth BOE in 2013, he stated that he couldn't allow a site at Winston-Salem State University because he said in 2010 there was an election law violation there.

In 2010, Raymond - who was a poll observer at the Anderson Center - sent a complaint to the Forsyth BOE stating that a student told him and a poll worker she'd

**"The number of student voters was noticeably higher and I believe that's due to the students being given class credit for voting,"**

-Ken Raymond, Chair of the Republican majority Forsyth BOE

gotten extra credit for voting. The complaint stated that Raymond asked the student what class this was in and she responded it was in her English class. It said Raymond asked what the name of her professor was and she responded "Gardner." It goes on to state that Raymond could find no professor by that name and believed the student lied about the professor's name. He never found the professor who supposedly gave the extra credit.

Raymond alleges that the extra credit constitutes exchanging something of value for a vote, which would be a felony under North Carolina law.

"The number of student voters was noticeably higher and I believe that's due to the students being given class credit for voting," said Raymond in his complaint. "This is clearly a violation of state law."

The Forsyth BOE of the time, however, disagreed. In 2010, the BOE, then chaired by Democrat Linda Sutton, determined unanimously that there was no violation because the complaint did not allege that anything of value was exchanged for the students voting for a particular candidate or a particular party.

Sutton, a field organizer for Democracy North Carolina, said that it's not illegal to encourage people to vote.

"That's different from giving someone a good grade for voting for a candidate, that was not the complaint," said Sutton, who also doesn't believe WSSU should be denied an early voting site now.

In a letter to N.C. BOE chair Joshua Howard about his alternative plan, El-Amin argues that not only is it unfair to exclude the site because of the alleged 2010 incident, but that the site would be beneficial to the community.

"The Anderson Center serves voters from several communities beyond the University and provides an ideal location for senior citizens in the area, Salem College students, Salem Baptist College in addition to the Reynolds Park Road residences," it reads.

In the letter, he also pointed out that there were 1,000 total signatures gathered between two separate petitions in support of an early voting site at the Anderson Center, and that during a standing room only crowd where the board approved the early voting site, there were numerous public comments in support of the site. This included WSSU Student Government Association President Kyle Brown who said that the lack of an on-campus site impeded students' ability to vote.

El-Amin said he's hopeful the state board will be receptive to restoring the site. "My hope is this thing can be resolved so we can go ahead and move forward and give students a chance to vote like they should," he said.

## Correction

The Chronicle apologizes for an error made in a caption on Page 3 in the Dr. Martin Luther King Jr. special section in the Thursday, Jan. 21 issue of the paper. The caption reads "the Winston-Salem State Gospel Choir." The correct name of the choir is the Winston-Salem State University Choir. The Chronicle regrets any misunderstanding that may have resulted from this error.

The Editor

## Have a Story Idea?

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