

DAV17 12/01/17 **CHILL
UNC-CH SERIALS DEPARTMENT
DAVIS LIBRARY CB# 3938
P O BOX 8890
CHAPEL HILL NC 27599-0001

The Carolina Times

THE TRUTH UNBRIDED

VOLUME 98 - NUMBER 25

DURHAM, NORTH CAROLINA - SATURDAY, JUNE 29, 2019

TELEPHONE 919-682-2913

PRICE 50 CENTS

If HB 370 Become Law Black Sheriffs Fear Removal From Office

By Cash Michaels
Contributing writer

Now that both Houses of the North Carolina General Assembly have passed controversial House Bill 370 – the measure requiring North Carolina sheriffs to cooperate with federal Immigration and Customs Enforcement officials in detaining alleged illegal immigrants suspected of crimes, before the measure gets to Gov. Roy Cooper's desk, the state House has to concur with state Senate changes made Monday night.

Cooper has already indicated that he's not on board with the bill, calling it "unconstitutional" in a statement issued before its senate passage Monday.

"As the former top law enforcement officer in our state, I know that current law allows us to lock up and prosecute dangerous criminals regardless of immigration status," Cooper said in a statement. "This bill isn't about that — in addition to being unconstitutional, it's about scoring political points and using fear to divide us."

The Democratic governor is expected to veto the measure, and now that he has more Democrats in the House, it's not likely that body will be able to override his veto with a two-thirds count, even though Republicans still have a majority there.

It would take a super-majority to defeat Cooper's veto, and while that's not likely to happen, suppose enough House Republicans were able to convince a handful of Democrats to vote to override, suggesting that with an election year just around the corner, their vote against HB 370 could be used against them.

If that happened, the measure would become law, most likely to be challenged in court as unconstitutional, which could effectively freeze it while in litigation.

But after all of that, if HB 370 ultimately survived its challenges, the first of the six black sheriffs who won election in last year's November midterms could find him or herself legally challenged to keep their job.

Those black sheriffs – representing Wake, Mecklenburg, Durham and three other counties – won election by promising not to work with ICE agents in detaining suspected illegal immigrants. And all three from those counties – Sheriff Gerald Baker of Wake, Garry McFadden of Mecklenburg and Clarence Birkhead of Durham, have each maintained their campaign promises not to capitulate to ICE demands.

But they say that has made them targets of Republican lawmakers' ire, who have threatened to have them and any North Carolina sheriff removed from office if they don't cooperate with ICE.

"House Bill 370 is not about protecting our communities. It's not about making our communities safe. House Bill 370 is clearly about attacking a select group of sheriffs," Sheriff McFadden said a press conference last week, even after the NC Sheriffs Association did an about face and supported the bill.

HB 370 spells it out: "Any sheriff or police officer shall be removed from office by the judge of the superior court, resident in or holding the courts of the district where said officer is resident upon charges made in writing, and hearing thereunder, for willful failure...or refusal to perform the duties of his or her office."

According to the ACLU of North Carolina, this is the first time in a hundred years that the provision for removing a sheriff in the state has been modified.

Essentially, if five citizens in a county file a complaint with the local district attorney against the sheriff, that complaint is investigated, and then heard in court for a judge to decide whether the sheriff should be removed.

Earlier on Monday, the NCNAACP, along with representatives from various Latino organizations and the Poor People's Campaign, held a press conference at the Legislature calling HB370 "racist" not just against the Latino community, but the black sheriffs too.



Sheriff Clarence Birkhead

Booker campaign gets 2020 jolt with pushback against Biden

By Elana Schor and Meg Kinnard

WASHINGTON (AP) - Cory Booker's supporters have spent months waiting for a moment when the charismatic senator could break through a crowded field of Democratic presidential candidates. That opening came when Joe Biden clumsily talked about segregationists, prompting Booker to push back at his 2020 rival to great effect.

The New Jersey senator called on Biden to apologize June 20 after the former vice president nostalgically referenced the "civility" he maintained during his time in the Senate with two segregationist Democrats in the 1970s despite their vast distance in ideology. After Biden pushed back, saying Booker should apologize to him because the senator "knows better," Booker called for the Democratic Party to choose a presidential nominee who can be "sensitive" to the "hurt and pain" caused by Biden noting that the two senators had called him "son" instead of "boy," a reference to the racist way many whites addressed black men at the time.

Biden called Booker on June 22 about the matter, but tension between the two Democrats continued into JUNE 25. During the call, "Cory shared directly what he said publicly," Booker spokeswoman Sabrina Singh said in a statement. "Cory believes that Vice President Biden should take responsibility for what he said and apologize to those who were hurt."

Booker clarified Thursday night (JUNE 25) on MSNBC that he doesn't want Biden to apologize to him directly, but "to the American people, and having this discussion with all of us."

The schism between the two candidates, who at times offer a similar emphasis on collaboration with the GOP despite mounting polarization under President Donald Trump, promises to reverberate this weekend in a pivotal early voting state. They are the final two hopefuls set to speak to the South Carolina Democratic Party during its 21-candidate convention on June 25.

Booker, 50, has languished in the middle tier of candidates in the early months of the race, but some strategists looked to his confidence in taking on Biden, 76, as the beginning of a potential boost.

"Cory's argument is very poignant, and it is 'Why should we be spending time teaching any nominee' - but let's focus on Joe Biden - 'what it means to be conscious about race?'" said Quentin James, co-founder of Collective PAC, which boosts African American candidates in federal and statewide offices.

Booker's campaign message "has been about love" and unity, James added. "That's fine. But we also want to see a little fight from Cory."

For Booker and his advisers, however, a willingness to engage in meaningful fights always has been on the agenda. One person close to Booker's campaign, speaking on condition of anonymity to discuss internal dynamics, said June 23 that Biden crossed a line with his lack of an apology for recalling that the Senate "got things done" even with white supremacists, making this week's battle an easy one to pick.

Whether the tension continues in South Carolina this weekend remains to be seen. Booker has maintained one of the sprawling Democratic field's largest footprints in South Carolina, home of the first Southern primary and the first state in which candidates can make their cases before an audience of mostly black primary voters.

Even so, Biden has maintained a foothold in South Carolina that could prove stronger than his lead in national polls, thanks to his appeal to older black voters who connect with him as former President Barack Obama's No. 2. That both men are selling themselves as bridge builders with a more optimistic message could further complicate Booker's path to translating his pushback to an advantage over Biden.

"Biden is sort of co-opting his theme," Audrey Haynes, a political scientist at the University of Georgia, said in a recent interview. "Biden has always been a 'bring it together' kind of guy, so he has more money, was VP to a popular black president, and they had a visible bromance that seemed very authentic."

Biden's public stumble over addressing his past relationships with segregationist senators offers a road map for Booker to continue to talk about thorny discussions of race as he works to undercut the white former vice president's claim to be the most electable Democrat against Trump. Still, Booker isn't the only black candidate who will get that opportunity this weekend: California Sen. Kamala Harris is also scheduled to speak in South Carolina.

Jalen Elrod, first Democratic Party vice chairman in Greenville County, said in a recent interview before joining Sen. Bernie Sanders' presidential campaign that Booker may be lagging in support because of Harris' hard-charging presence and appeal among black women.

As the race moves past next week's debates, said Elrod, "you'll get a better sense of where the black community is."

Court tosses black man's murder conviction over racial bias

By Mark Sherman

WASHINGTON (AP) - The Supreme Court on June 21 threw out the murder conviction and death sentence for a black man in Mississippi because of a prosecutor's efforts to keep African Americans off the jury. The defendant already has been tried six times and now could face a seventh trial.

The removal of black prospective jurors deprived inmate Curtis Flowers of a fair trial, the court said in a 7-2 decision written by Justice Brett Kavanaugh.

The long record of Flowers' trials stretching back more than 20 years shows District Attorney Doug Evans' "relentless, determined effort to rid the jury of black individuals," with the goal of an all-white jury, Kavanaugh wrote.

In Flowers' sixth trial, the jury was made up of 11 whites and one African American. Prosecutor Evans struck five black prospective jurors.

In the earlier trials, three convictions were tossed out, including one when the prosecutor improperly excluded African Americans from the jury. In the second trial, the judge chided Evans for striking a juror based on race. Two other trials ended when jurors couldn't reach unanimous verdicts.

"The numbers speak loudly," Kavanaugh said in a summary of his opinion that he read in the courtroom, noting that Evans had removed 41 of the 42 prospective black jurors over the six trials. "We cannot ignore that history."

In dissent, Justice Clarence Thomas called Kavanaugh's opinion "manifestly incorrect" and wrote that Flowers "presented no evidence whatsoever of purposeful race discrimination." Justice Neil Gorsuch joined most of Thomas' opinion.

Thomas, the only African American on the court, said the decision may have one redeeming quality: "The state is perfectly free to convict Curtis Flowers again."

Flowers has been in jail more than 22 years, since his arrest after four people were found shot to death in a furniture store in Winona, Mississippi, in July 1996.

Flowers was arrested several months later, described by prosecutors as a disgruntled former employee who sought revenge against the store's owner because she fired him and withheld most of his pay to cover the cost of merchandise he damaged. Nearly \$300 was found missing after the killings.

Defense lawyers have argued that witness statements and physical evidence against Flowers are too weak to convict him. A jailhouse informant who claimed Flowers had confessed to him recanted in recorded telephone conversations with American Public Media's "In the Dark" podcast. A separate appeal is pending in state court questioning Flowers' actual guilt, citing in part evidence that reporters for "In the Dark" detailed.

"A seventh trial would be unprecedented, and completely unwarranted given both the flimsiness of the evidence against him and the long trail of misconduct that has kept him wrongfully incarcerated all these years. We hope that the state of Mississippi will finally disavow Doug Evans' misconduct, decline to pursue yet another trial and set Mr. Flowers free," Sheri Lynn Johnson, who represented Flowers at the Supreme Court, said in an emailed statement.

Evans did not respond to email requests for comment and no one answered the phone in his office June 21.

In the course of selecting a jury, lawyers can excuse a juror merely because of a suspicion that a particular person would vote against their client. Those are called peremptory strikes, and they have been the focus of the complaints about discrimination.

The Supreme Court tried to stamp out discrimination in the composition of juries in *Batson v. Kentucky* in 1986. The court ruled then that jurors couldn't be excused from service because of their race and set up a system by which trial judges could evaluate claims of discrimination and the race-neutral explanations by prosecutors.

Justice Thurgood Marshall, who had been the nation's pre-eminent civil rights attorney, was part of the *Batson* case majority, but he said the only way to end discrimination in jury selection was to eliminate peremptory strikes.

Flowers' case has been to the high court before. In 2016, the justices ordered Mississippi's top court to re-examine racial bias issues in Flowers' case following a high court ruling in favor of a Georgia inmate because of a racially discriminatory jury. But the Mississippi justices divided 5-4 in upholding the verdict against Flowers. The state, defending the conviction, said the justices must narrow the focus from Evans' broader record to the case at hand.

But Kavanaugh said that even on the narrower basis, there is evidence that at least one prospective black juror for the sixth trial, Carolyn Wright, was similarly situated to white jurors and was improperly excused by Evans.

"The trial court clearly erred in ruling that the state's peremptory strike of Wright was not motivated in substantial part by discriminatory intent," Kavanaugh wrote.

WILSON
NCU