

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BETTYE JONES, LEAGUE OF UNITED LATIN AMERICAN
CITIZENS (LULAC) OF WISCONSIN, CROSS LUTHERAN
CHURCH, MILWAUKEE AREA LABOR COUNCIL, AFL-CIO,
and WISCONSIN LEAGUE OF YOUNG VOTERS EDUCATION
FUND,

Plaintiffs,

v.

Case No. 2:12-CV-185-LA

DAVID G. DEININGER, MICHAEL BRENNAN, GERALD C.
NICHOL, THOMAS BARLAND, THOMAS CANE, KEVIN J. KENNEDY,
and NATHANIEL E. ROBINSON, all in their official capacities,
Defendants.

**MOTION FOR LEAVE TO FILE BRIEF
OF AMICI CURIAE**

NOW COME AFSCME Council 48, Common Cause in Wisconsin, and
AFSCME "Take Back America" Project, all as *amici curiae* and by counsel, and
request leave *instanter* to file a brief supporting the issuance of a preliminary
injunction in this case, pursuant to CIVIL L.R. 7(i) (E.D. Wis.). Their proposed brief,
limited to under 20 pages, accompanies this motion.

As grounds for this motion, *amici* show the following:

1. Their interests differ in some ways from the interests of the plaintiffs to this action. The *amici* represent or include large groups of persons across the state. Most of *amici's* members or constituents are able to comply with the requirements of Act 23. Their interest instead lies in good government, expanding representative democracy, enabling their specific members and relatives to vote, and reducing voting barriers for other voters who are less fortunate. A more specific statement of *amici's* interests is included in the accompanying propose *amicus* brief.

2. The issues that *amici* raise therefore may be broader and more general than the issues that are particular to the named plaintiffs. These broader issues are no less significant, though, because the Voter ID law applies to every elector or potential elector in Wisconsin who seeks to cast a ballot in any public election.

3. *Amici* have not allowed the parties to control content of the accompanying *amicus* brief.

4. *Amici* believe that the accompanying brief will assist the Court in considering the interests of all Wisconsin citizens in good government, inclusive electorates, and maximal lawful participation in elections.

WHEREFORE, *amici curiae* request leave *instanter* to file the accompanying brief, supporting issuance of a preliminary injunction.

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EASTERN DISTRICT OF WISCONSIN

BETTYE JONES; LEAGUE OF UNITED LATIN AMERICAN
CITIZENS (LULAC) OF WISCONSIN; CROSS LUTHERAN
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**BRIEF OF AMICI CURIAE
SUPPORTING MOTION FOR PRELIMINARY INJUNCTION**

I.

INTRODUCTION

One hundred and fifty years ago, Americans spoke of an “underground railroad” that aided people of African descent in escaping slavery. Slaves followed a route through homes and shops that offered shelter until escapees could reach the next place of refuge on the way to free states or Canada.

HURLEY, BURISH & STANTON, S.C.

Literally, of course, there was no railroad and nothing underground. The metaphor only suggested a mechanical mode of transit, moving passengers unseen. Yet this loose network of abolitionists, freed slaves, and others sympathetic *did* move African-Americans invisibly, from the vantage point of the larger mass of Americans who supported slavery, owned slaves, or obeyed laws¹ that forbid assisting escaped slaves.

That the African-American “passengers” so often moved unseen perhaps reveals more about this larger mass of Americans who stood by than it does about the smaller number who operated the underground railroad. Maybe the railroad seemed out of sight – underground – not so much by success of its operators, as by the tendency of white Americans not to see black Americans. In other words, it was only the passengers who were unseen, not the apparatus of the railroad. The apparatus was above ground, in plain sight. It worked not because the black Americans in transit were beneath ground; it worked because to most whites, black Americans were beneath notice.

Today a similar phenomenon recurs. As voter identification laws flourish, proponents – speaking generally in good faith – often literally do not see black Americans, other minority groups, disabled people, and shut-ins who cannot obtain the necessary identification card. Speaking about Wisconsin Act 23 in a press

¹ See, e.g., the Fugitive Slave Act, 9 STAT. 462 (September 18, 1850).

release on March 7, 2012, Wisconsin Attorney General J.B. Van Hollen asserted, “The vast majority of eligible electors either has a qualifying photo ID or can obtain one without significant burdens. For the rest, the law makes accommodations to reduce any potential burden.” The Attorney General does not recognize a group of eligible electors who cannot obtain a qualifying photo ID under Wisconsin’s new law, by aid of the law’s “accommodations” or otherwise. He simply does not see this group.

Nationally, even a former member of the Federal Election Commission and special counsel to the Assistant Attorney General for Civil Rights in the United States Department of Justice betrays the same blind spot. “Despite many false claims to the contrary,” Hans A. von Spakovsky argues in a recent legal memorandum, “there is no evidence that voter ID decreases the turnout of voters or has a disparate impact on minority, poor, or elderly voters; the overwhelming majority of Americans have a photo ID or can easily obtain one.” HERITAGE FOUNDATION LEGAL MEMORANDUM No. 70, at 4 (July 13, 2011).

Amici offer this brief on behalf of themselves and all of the unseen. These *amici* both see and serve the unseen electors who cannot gain the government-issued card that now fences them from the ballot box. Many have voted lawfully and proudly for decades. Now disenfranchised, they are not merely unseen. In a real sense, the new law relegates them to the queue of the unseeable.

II.

INTEREST OF AMICI

AFSCME Council 48 is a non-profit corporation dating back to 1936. The membership of Council 48 is racially and ethnically diverse. Council 48 is concerned about member workers who either do not have the necessary identification to vote, or who will have to pay for a certified birth certificate. Further, it appreciates that the extra effort and expense now required will discourage many workers from voting. Members of Council 48 also fear the impact that the new voter ID law will have on elderly, disabled, or naturalized relatives. Council 48 will expend a modest but otherwise unnecessary sum to assist and educate members and their relatives who wish to vote.

Common Cause in Wisconsin is a state affiliate of the national non-profit Common Cause, which John Gardner founded and incorporated in 1970. The Wisconsin affiliate is a membership organization. Its primary goal is good government, which depends upon free exercise of the constitutional right to vote. Common Cause in Wisconsin long has opposed voter ID laws, including Act 23. It seeks to preserve and protect Wisconsin's tradition of fostering the greatest possible citizen participation in elections.

“Take Back America” is an unincorporated association, a project of AFSCME. It seeks to increase voter participation, especially among minority groups, the elderly, and the impoverished. It, too, will expend modest sums of money to educate and assist AFSCME members and their families who wish to vote. “Take Back America” addresses the basic constitutional right to vote.

III.

DISCUSSION

A. Now 78 years old, Bettye Jones has voted faithfully and lawfully since the 1950’s. But as an African-American child born in rural Tennessee in the mid-1930’s, she had no birth certificate marking her arrival. She has several forms of identification, but until recently none that she can use to secure her franchise under Wisconsin’s new voter ID law. Complaint ¶ 3 (February 23, 2012) (Ms. Jones is a named plaintiff). Because she has no Wisconsin driver’s license, she had to produce a certified copy of her Tennessee birth certificate. There never was one. Understandably, then, the state of Tennessee could provide her nothing.²

² Just days or weeks ago, *amici* believe, Ms. Jones secured a Wisconsin state ID that will allow her to vote. *Amici* do not know specifically how Ms. Jones overcame the obstacle of a non-existent birth certificate.

Several declarants in a pending state-court challenge to Act 23, *NAACP Milwaukee Branch v. Walker*, No. 2011-CV-5492 (Dane Co. Cir. Ct.), recount loosely similar stories. Ricky Ward recently turned 55. He has a learning disability and collects Social Security Disability Insurance. In the hope of voting this year, he traveled to Chicago, his birthplace, to get a certified copy of his birth certificate. However, the birth certificate lacked his first name. The Wisconsin DMV office he visited denied him a state ID because the birth certificate omitted his full name. *See* Ricky Ward Affidavit (Exhibit A).

Ruthelle Frank soon will turn 85 in her small Wisconsin town. She has voted in every election since 1948 and serves even today as an elected official on the Brokaw Village Board. But she does not have a license to drive. Worse, Ms. Frank never had a copy of her birth certificate; rather, her family recorded her birth in the family bible. When she finally located a copy of her birth certificate in Marathon County in the hope of complying with Act 23, she learned that the certificate misspelled her name. She would have to go to circuit court to petition for an amended birth certificate at this late date – and at the expense and time of a court proceeding. Ruthelle R. Frank Affidavit (Exhibit B).

In Milwaukee, 58-year old Ricky Tyrone Lewis faces a similar problem. He is a Vietnam-era Marine Corps veteran, honorably discharged in 1975. Mr. Lewis

has a Veterans Administration photo ID, but no Wisconsin driver's license. Act 23 does not accept the VA photo ID; a military identification card, yes, but a VA card for ex-service members, no. When he paid for a copy of his birth certificate, Mr. Lewis learned that Milwaukee County has no record of him under his name. However, the state vital records office did find a birth certificate for a Tyrone DeBerry: his middle name, his mother's maiden name, and his date of birth. With that document, he also could file a petition in circuit court to amend his birth certificate. But he lives on a \$986 monthly military pension and has no savings. Ricky Tyrone Lewis Affidavit (Exhibit C).

Carolyn G. Anderson encountered a different barrier. She was born in Mississippi and will turn 40 this year the day after Independence Day. In the hope of voting, she mailed the necessary money order to the state of Mississippi with a request for her birth certificate. That was November 18, 2011. More than five months later, she has received no birth certificate. Ms. Anderson is a Milwaukee resident who took a taxicab to the local DMV office. One wonders how she would get to Mississippi. Carolyn G. Anderson Affidavit (Exhibit D).

Presumably, no one suspects any of these men and women of voter fraud. Not one is ineligible to vote for some other reason. To the contrary, they rightly should be voters. All the same, under Act 23 they cannot vote. For administrative

mistakes or oversights by others when they themselves were in their earliest infancy, these citizens now may not exercise the basic right to cast a ballot. By law, they recede into the ranks of the unseen.

B. These are anecdotal experiences, admittedly. Proponents of Act 23 hope that the anecdotes are isolated. But decades of quiet study by the United States government agencies responsible for vital statistics dispel that hope.

1. At its annual meeting in 1900, the American Public Health Association proposed a model law for registration of births and deaths. Congress followed with a joint resolution on February 11, 1903, calling on state authorities to cooperate with the newly-established Bureau of the Census in establishing a uniform system of birth and death registration. U.S. Department of Health & Human Services, Centers for Disease Control, National Center for Health Statistics, U.S. VITAL STATISTICS SYSTEM: MAJOR ACTIVITIES AND DEVELOPMENTS, 1950-95, Appendix II at 51-52 (Feb. 1997) (Appendix II is a reprint of VITAL STATISTICS OF THE UNITED STATES, vol. I, at 1-19 (1950)); *see also* Sam Shapiro, *Development of Birth Registration and Birth Statistics in the United States*, 4 POPULATION STUDIES: A JOURNAL OF DEMOGRAPHY 86, 90-92 (1950).³

³ The United States Bureau of the Census became a fulltime government agency in 1902. Until then, the predecessor Census Office had disbanded between decennial census efforts. U.S. VITAL STATISTICS SYSTEM: MAJOR ACTIVITIES AND DEVELOPMENTS, 1950-95, Appendix II at 51-52; Shapiro, *Development of Birth Registration*, 4 POPULATION STUDIES at 90.

In 1907, the Census Bureau submitted its first Model Vital Statistics Act, covering both birth and death registration, to the states. The model law included proposed standard forms. U.S. VITAL STATISTICS SYSTEM: MAJOR ACTIVITIES AND DEVELOPMENTS, 1950-95, at 5. Through 1995, there had been eleven revised issues of the Standard Certificate of Live Birth. *Id.* at 6.

Even after inception of this effort to improve national uniformity in birth reporting, “The completeness of the registration of births was long a subject of concern. Early in the 20th century, States and local areas began investigations into under-registration of births.” U.S. VITAL STATISTICS SYSTEM: MAJOR ACTIVITIES AND DEVELOPMENTS, 1950-95, at 10. At the national level, initially the Bureau of the Census was responsible for obtaining vital statistics data from state and local registration offices. In 1946, the U.S. Public Health Service took over that task, through the new National Office of Vital Statistics housed there. *Id.*, Appendix II, at 56-57. That office eventually became the National Center for Health Statistics (NCHS), which has a Division of Vital Statistics. *Id.* at 5. The NCHS now is a unit of the Centers for Disease Control and Prevention, a part of the Department of Health & Human Services. *Id.* For ease of reference, *amici* refer to all of the predecessor federal vital statistics offices as the NCHS, through their various name changes and moves from the Census Bureau to PHS to HHS.

In 1940, one such precursor to the NCHS carried out the federal government's "first birth registration test to provide national estimates of underregistration of births, based on uniform data from all States for the same time period." U.S. VITAL STATISTICS SYSTEM: MAJOR ACTIVITIES AND DEVELOPMENTS, 1950-95, at 10. This test ran in conjunction with the 1940 Census. It resulted in an estimate that 92.5% of live births resulted in a birth certificate in 1940. *Id.* at 11 (rounding to 93%); Shapiro, *Development of Birth Registration*, 4 POPULATION STUDIES at 96 (providing the more precise percentage). In other words, 7.5% of children born alive in the United States in the 1940 test did *not* have a birth certificate prepared and filed.⁴

Below the surface, that first test revealed significant racial disparities in birth certification. While 94.0% of white babies were registered, only 81.5% of non-white babies received a birth certificate. *Id.* at 98, 99 Table 2.⁵ Population density of birthplace also played a material role in rates of birth certification. The more urban the birthplace, the higher the odds of registration; the more rural, the

⁴ Wisconsin came in ahead of the national figures, with 96.9% of births resulting in a birth certificate during the specific test period, December 1, 1939 through March 31, 1940. Shapiro, *Development of Birth Registration*, 4 POPULATION STUDIES at 97 Fig. 2.

⁵ Shapiro knew of what he wrote. By 1950, he was the chief of the natality analysis branch of the National Office of Vital Statistics, which again was a forerunner of the NCHS. Sam Shapiro & Joseph Schachter, *Birth Registration Completeness, United States, 1950*, 67 PUBLIC HEALTH REPORTS 513 (June 1952).

lower the odds. Racial disparity persisted in that measure, too. So, for non-whites born in towns of between 2,500 and 10,000 people, birth certification was only 76.2%. In even less populous “rural” areas, non-white birth certification dropped to 75.8%. *Id.* at 99 Table 2.⁶

In short, about 1 in 4 non-white children born in the 1940 test period in rural areas and small towns had no official birth record. Even by national total, almost 1 in 5 of all non-white children born in the test period had no birth certificate. Nationally for white children, at 94.0% the registration rate was about 1 in 16 who had no birth certificate. So non-white children were three to four times more likely to lack a birth certificate than white children.

A second test followed with the 1950 Census. Registration rates improved: 97.8% of all live births in that year’s test period resulted in a birth certificate. Sam Shapiro & Joseph Schachter, *Birth Registration Completeness, United States, 1950*, 67 PUBLIC HEALTH REPORTS 513, 515 Table 1 (June 1952); U.S. VITAL STATISTICS SYSTEM: MAJOR ACTIVITIES AND DEVELOPMENTS, 1950-95, at 10, 11 (rounded to 98%). That is, about 2% of American children born in 1950 did not get a birth certificate. The country was advancing toward uniform birth registration.

⁶ For whites, the corresponding percentages were 93.5% and 88.9%, respectively. *Id.* The 1940 study did not distinguish by race other than white and non-white.

Overall, too, the racial registration gap narrowed. For the 1950 test group, white babies were registered at a rate of 98.5%. African-American babies were registered at a rate of 93.6%. Shapiro & Schachter, *Birth Registration Completeness*, 67 PUBLIC HEALTH REPORTS at 523 Table 5. Again, though, notable racial disparities lurked. Perhaps most importantly, the relative racial disparity remained: the rate of non-certification for black children still was about quadruple the rate for white children. Almost exactly 1 in 16 black children received no birth certificate in the 1950 test period (about the same percentage for white children a decade earlier), while only 1 in 67 white children then received no birth certificate.

NCHS conducted a third and final test of birth registration between 1964-68, using a sample of births occurring during that five-year period. U.S. VITAL STATISTICS SYSTEM: MAJOR ACTIVITIES AND DEVELOPMENTS, 1950-95, at 10; U.S. Census Bureau, TEST OF BIRTH-REGISTRATION COMPLETENESS, 1964 TO 1968 (1970). That study concluded that 99.2% of live births in the United States during the test period resulted in birth certificates. Jason Devine *et al.*, *The Use of Vital Statistics in the 2010 Demographic Analysis Estimates*, UNITED STATES CENSUS BUREAU POPULATION DIVISION WORKING PAPER NO. 88, at 3 n.3 (January 8, 2010).

Since, NCHS has interpolated from the 1964-68 study. That interpolation has led the federal government both to assume that birth registration

has been 100% complete since 1985, WORKING PAPER NO. 88 at 3, and to estimate that “more than 99 percent of all births occurring in the United States in 2004 were registered.” U.S. Department of Health & Human Services, Centers for Disease Control, National Center for Health Statistics, VITAL STATISTICS OF THE UNITED STATES, 2004, *Technical Appendix on Natality*, at 33 (September 2006).

2. Practically, the statistics mean this. First, among older Americans (born in 1950 or before), birth non-certification skews significantly by race. African-Americans and members of other minority racial groups are meaningfully less likely to have a birth certificate than whites. Likewise, people born in rural areas and small towns are less likely to have a birth certificate than those born in larger towns and big cities.

Second, the disparity is compounded for southern-born blacks of that era, for amidst the 20th century migrations of blacks from the rural south to urban centers they were more likely to be born in farming areas and small towns than northern-born blacks. *See generally, e.g.,* Stewart E. Tolnay, *The Great Migration and Changes in the Northern Black Family, 1940 to 1990*, 75 SOCIAL FORCES 1213, 1214-16, 1232-34 (June 1997); John D. Reid, *Black Urbanization of the South*, 35 PHYLON 259 (1974); Katherine J. Curtis White, Kyle Crowder, Stewart E. Tolnay & Robert M. Adelman, *Race, Gender, and Marriage: Destination Selection During the Great Migration*, 42 DEMOGRAPHY 215, 217-18 (May 2005).

Third, even setting aside the statistically significant racial disparities, the overall numbers of Americans without birth certificates are not negligible, as voter ID proponents suggest. *Amici* acknowledge that an unknown number of such persons who live in this state have a Wisconsin driver's license. All the same, Act 23's birth certificate provisions clearly remain an actual barrier for many.

Understanding why starts with converting percentages into numbers, which is hard. But drawing on the 1940 test and using 2010 Census figures for surviving residents of that age, approximately 3.03 million people in the United States who were 65 years or older at the time of the 2010 Census (that is, born in or before 1945) likely never had their birth reported on a birth certificate or other vital statistics document. Drawing next on the 1950 test, another approximately 341,586 people living in 2010 and born between 1946 and 1950 also likely never had a birth certificate or other vital statistics document.⁷ And taking finally the federal

⁷ United States Census age categories do not match exactly the NCHS categories. This mismatch results in a possible small overestimate of the 3.03 million number, those born in 1940 or before who never had a birth certificate, and a small underestimate of the number of persons born in 1950 who never had a birth certificate. The relevant NCHS numbers looked at two cohorts only: those born in a test period in 1940 and those born in a 1950 test period. These people would have turned 70 and 60, respectively, during the 2010 census year. However, the 2010 Census used age categories of 65-74, 75-84, and 85+ years. So people between 65 and 69 also are included in the 3.03 million number. However, if there is an overestimate, it is small because *amici* here apply the same 7.5% birth non-certification rate to those born before 1940 – and the reality is that the trend since 1940 suggests by backward extrapolation that those older people would have had a higher rate of birth non-certification than 7.5%. The 2010 Census age cohort that includes people born in 1950 is 60-64 years. So many of those people would have been born when the interpolated rate of birth non-certification was between 1940's 7.5% number and 1950's 2% number. That is why the 341,000 number probably is slightly understated. All 2010 Census numbers also will include some non-citizens, who could not vote in any event.

government's most optimistic interpolation, declining numbers of younger Americans, perhaps including some hardly 25 years old in 2010, likewise live undocumented by a birth certificate, although citizens by nativity.⁸

3. Assuming – in the absence of data – that interstate migration of American citizens results over time in roughly even distribution of persons born in 1950 or earlier without birth certification, it is possible to estimate very rough numbers of citizens in Wisconsin for whom no birth certificate ever has existed. Using 2010 Census figures again, about 1.922% of the United States population older than 65 resides in Wisconsin. Applying then the 7.5% birth non-certification rate that the NCHS found for persons born in 1940, and once more assuming random distribution through migration between 1940-2010, one would expect about 58,285 Wisconsin residents to be unable to obtain a certified copy of a birth certificate for one simple reason: no birth certificate ever existed.

For persons aged 60-64 in 2010, applying now the NCHS's 2% number for 1950 births, another 6,565 Wisconsin residents would be expected to join the

⁸ *Amici* note that they use conservative statistics and estimates that the United States government has produced. More aggressive, but credible, estimates are available. For example, the Brennan Center for Justice at NYU School of Law reported that as many as 7% of all American citizens, or about 13 million people, may have no ready access to U.S. passports, naturalization papers, or birth certificates. Brennan Center for Justice, *CITIZENS WITHOUT PROOF: A SURVEY OF AMERICANS' POSSESSION OF DOCUMENTARY PROOF OF CITIZENSHIP AND PHOTO IDENTIFICATION* at 2 (November 2006). The Brennan Center survey relied on a November 2006 telephone survey that the Opinion Research Corp. conducted.

ranks of those for whom no birth certificate ever existed. Precision is impossible, because we cannot know how evenly birth non-certification is distributed across states decades later. But if random distribution over time prevails, then this 64,000 to 65,000 number is close.

The racial disparity underlying those numbers nationally for older Americans probably persists in Wisconsin, too, absent some reason to suspect otherwise. Again, for both the 1940 and the 1950 test periods, non-white children were three or four times more likely to have no birth certificate than white children. Inescapably, at least, there is this: an African-American Wisconsin resident today who was born in a rural area in 1940 statistically has about a 1 in 4 chance of having no birth certificate. Shapiro, *Development of Birth Registration*, 4 POPULATION STUDIES at 99 Table 2. Given that 1 in 4 chance for this group, Wisconsin must be home to many men and women like Bettye Jones.

4. So without even considering the smaller numbers of younger Wisconsinites who statistically would fall into the same group, and thus erring conservatively again, the Ricky Wards, Ruthelle Franks, Ricky Tyrone Lewises and Carolyn Andersons of this state should number over 60,000. Together, these disenfranchised voters would fill every seat in Miller Park and every seat in the Bradley Center, with more spilling onto adjacent sidewalks. This group is disproportionately black by a factor of three or four.

That 60,000+ number also happens to be just greater than a current Wisconsin Assembly district's "ideal population" of 57,444. *Baldus v. Brennan*, No. 11-CV-562 Memorandum Opinion & Order at 12 (E.D. Wis. March 22, 2012) (Wood, Stadtmueller & Dow, JJ.). In a sense, then, this group is an underground Assembly district: a group of voters who cannot vote, are not seen, and thus are not actively represented. And there is no evidence that any of these people, newly prevented from voting by Act 23 alone, ever engaged in or contemplated voter fraud.

Given that this group tilts toward racial minority membership, the condition of being unseen is more poignant yet. African-Americans and Latinos born between 1940 and 1950 came of age between the late 1950's and the early 1970's. They are, that means, the generation that filled the ranks of the most important civil rights marches, sit-ins, and other determinative but less noticed efforts of the 20th century. Photographs on the Selma bridge or of street demonstrations may have focused on leaders. But this generation supplied the hundreds or thousands of blurry faces in the marching columns behind those leaders. When the police dogs were turned loose, it was their pants and sometimes their skin that the dogs tore. When minority candidates began to run for school board, mayor, or the state legislature, it was they who elected those pathfinding officeholders.

Now today, in their later years, they disproportionately are losing their right to vote on the grounds that, essentially, their papers are not in order. Often, that loss comes after a dispiriting run-around from petty officials in government offices, like the DMV, that have no apparent relationship to the franchise. The only justification? Preventing voting fraud that they never have considered, attempted, or practiced.⁹ This generation – indeed, every generation – deserves better.

IV.

CONCLUSION

Amici curiae support a preliminary injunction. The fact that thousands of voters whom Act 23 would disenfranchise remain mostly unseen does not diminish the dignity of their right to vote. Indeed, only by voting will they come to be seen.

⁹ Efforts to shift vocabulary and justifications from racial terms to seemingly neutral moral concerns, in part by employing social science and statistics, may be a strategy that alarmed whites have tried at least since *Brown v. Board of Education*, 347 U.S. 483 (1954). One interesting law review note, which leans heavily on the literary theory of Stanley Fish, makes exactly this point as it traces the shift in methods of racial discrimination “from color to character” in the 1950’s and 1960’s. Anders Walker, *Legislating Virtue: How Racial Segregationists Disguised Racial Discrimination as Moral Reform Following Brown v. Board of Education*, 47 DUKE L.J. 399, 417 (1997). The note uses primary examples of statistics and legislation concerning childbirth out of wedlock, marriage, and character tests for voting and welfare benefits. But the symmetry with current voter ID laws purportedly designed to address the moral concern of in-person voter fraud, not to suppress voting on racial lines, is interesting.

6. Immediately after leaving the DMV office on or around Oct. 22, I then telephoned several offices in Chicago to get a correct birth certificate. I was shuffled around to approximately five different government offices, and was unsuccessful. I was informed several times that the only birth certificate on record for me was the one I had just procured and produced to the DMV.
7. I was very frustrated by this process, and did nothing to rectify it until last week. On or around Nov. 18, I returned to the DMV office on Chase Ave. and presented the same birth certificate, social security print-out, and utility bill. I was denied again because the birth certificate lacked my full name. I have not since returned to any DMV offices and have no idea as to what else I can do to obtain my photo ID in order to vote. I have invested many hours in attempting to obtain a photo ID in order to vote, all to no avail.

Dated this 25 day of Nov, 2011.


RICKY WARD

Signed and sworn to before me
on this 25 day of Nov, 2011.

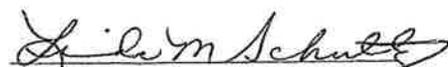

Notary Public, State of Wisconsin
My commission is permanent.

7. On Nov. 22, 2011, my daughter, Rochelle Frank, and I went to the DMV office in Wausau to attempt to obtain my photo ID with the following documentation: social security card, marriage license, two proofs of residence, bank records, and my baptismal certificate. I was denied photo ID because I lacked a birth certificate.
8. Thus far, I have already invested numerous hours and much effort in attempting to obtain a birth certificate and photo ID in order to vote, all to no avail. I have no intention of paying any fees or court costs to obtain my photo ID. I believe that to exercise my right to vote is not a matter contingent upon payment of any cost or fee.

Dated this 10 day of Jan, 2012.


RUTHELLE R. FRANK

Signed and sworn to before me
on this 10 day of Jan, 2012.


Notary Public, State of Wisconsin
My commission 12-20-2015

LINORA M. SCHULTZ

AFFIDAVIT

State of Wisconsin)
)
Milwaukee County)

I, Ricky Tyrone Lewis, being sworn, hereby states:

1. My date of birth is 9-23-53. I am a citizen of the United States and have lived my entire life in Milwaukee, Wisconsin, except for my years of military service. I now reside at 4139 N. 22nd St., Milwaukee, Wisconsin 53209. I have voted in previous elections, including the 2008 elections, and intend to vote in the upcoming 2012 elections.
2. I am a former member of the United States Marine Corps, from 1972 until I was honorably discharged in 1975.
- 3.. I have never possessed a driver's license and do not currently possess a state-issued photo ID.
4. I first attempted to obtain a photo ID in order to vote during the summer of 2011 when I went to the DMV office in downtown Milwaukee. I brought my photo ID from the Veterans Administration, a photo ID from Milwaukee County, a Wisconsin Energies gas bill, and a ~~DMV~~ ^{DTL} 214 from the U.S. Marine Corps which documented my military service. The clerks at the DMV office denied me a photo ID because I did not produce a social security card and a birth certificate.
5. Shortly thereafter, during the summer of 2011, I went to the social security offices on Wisconsin Ave. in Milwaukee, and attempted to procure a social security card. The clerks at the social security office informed me that I could not get a social security card without providing a birth certificate.
6. Shortly thereafter, still during the summer of 2011, I went with my fiancé, Regina Bell, to the Milwaukee County courthouse to get a birth certificate. After completing my



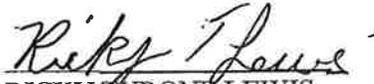
application for a birth certificate, the clerks indicated that they had no certificate of my birth as Ricky Lewis.

7. Shortly thereafter, still during the summer of 2011, I applied to the State of Wisconsin Department of Health Services, Division of Public Health State Vital Records Office for my birth certificate, and enclosed a money order of \$20.00 as payment. On Nov. 14, 2011, I received a letter from Jean Buske of the State Vital Records Office informing me that there was no record of my birth as Ricky Lewis, but there was a record of Tyrone DeBerry, and enclosed a birth certificate bearing that name. Tyrone is my middle name and DeBerry was my mother's maiden name. Ms. Buske further advised me that I could file a petition in circuit court for a court order to change my name, and would have to submit such a certified copy of the order in order to get a birth certificate bearing my name.
8. I have no savings and my sole source of income is a veteran's pension in the amount of \$986 per month.
9. Thus far, I have already invested scores of hours, and substantial costs just to attempt to obtain a birth certificate and photo ID in order to vote, all to no avail. I have no intention of paying any court fees, attorney fees, or court costs to obtain my photo ID. I believe that the exercise of my right to vote is not a matter contingent upon payment of any cost or fee.

Dated this 17 day of January 2012.

Signed and sworn to before me
on this 17 day of January 2012

Notary Public, State of Wisconsin
My commission is permanent


RICKY TYRONE LEWIS

