

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

NORTH CAROLINA STATE CONFERENCE OF)
THE NAACP, EMMANUEL BAPTIST CHURCH,)
NEW OXLEY HILL BAPTIST CHURCH,)
BETHEL A. BAPTIST CHURCH, COVENANT)
PRESBYTERIAN CHURCH, CLINTON)
TABERNACLE AME ZION CHURCH,)
BARBEE'S CHAPEL MISSIONARY BAPTIST)
CHURCH, INC., ROSANELL EATON,)
ARMENTA EATON, CAROLYN COLEMAN,)
BAHEEYAH MADANY, JOCELYN FERGUSON-)
KELLY, FAITH JACKSON, MARY PERRY, and)
MARIA TERESA UNGER PALMER)

Plaintiffs,)

v.)

PATRICK LLOYD MCCRORY, in his official)
capacity as the Governor of North Carolina, KIM)
WESTBROOK STRACH, in her official capacity as)
Executive Director of the North Carolina State)
Board of Elections, JOSHUA B. HOWARD, in his)
official capacity as Chairman of the North Carolina)
State Board of Elections, RHONDA K. AMOROSO,)
in her official capacity as Secretary of the North)
Carolina State Board of Elections, JOSHUA D.)
MALCOLM, in his official capacity as a member of)
the North Carolina State Board of Elections, PAUL)
J. FOLEY, in his official capacity as a member of)
the North Carolina State Board of Elections and)
MAJA KRICKER, in her official capacity as a)
member of the North Carolina State Board of)
Elections,)

Defendants.)

**DECLARATION OF
BOB PHILLIPS**

Case No.: 1:13-CV-658

LEAGUE OF WOMEN VOTERS OF
NORTH CAROLINA, A. PHILIP
RANDOLPH INSTITUTE, UNIFOUR
ONESTOP COLLABORATIVE,
COMMON CAUSE NORTH CAROLINA,
GOLDIE WELLS, KAY BRANDON,
OCTAVIA RAINEY, SARA STOHLER,
and HUGH STOHLER,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, JOSHUA
B. HOWARD in his official capacity as a member of
the State Board of Elections, RHONDA K.
AMOROSO in her official capacity as a member of
the State Board of Elections, JOSHUA D.
MALCOLM in his official capacity as a member of
the State Board of Elections, PAUL J. FOLEY in his
official capacity as a member of the State Board of
Elections, MAJA KRICKER in her official capacity
as a member of the State Board of Elections, and
PATRICK LLOYD MCCRORY, in his official
capacity as the Governor of North Carolina,

Defendants.

Case No.: 1:13-CV-660

UNITED STATES OF AMERICA,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA; THE
NORTH CAROLINA STATE BOARD OF
ELECTIONS; and KIM W. STRACH, in her official
capacity as Executive Director of the North Carolina
State Board of Elections,

Defendants.

Case No.: 1:13-CV-861

DECLARATION OF BOB PHILLIPS

My name is Bob Phillips and I am over the age of 18 and fully competent to make this declaration. Under penalty of perjury, I state the following:

1. I live at [REDACTED] Raleigh, NC 27608.
2. I am a 1979 graduate of UNC Chapel Hill with a degree in Political Science. From 1979 to 1990, I was a Triangle-area broadcast journalist for Durham Life Broadcasting. In 1990, I became the Press Secretary for Lt. Governor Dennis Wicker and served in that position until 2000. In 2001, I joined the staff at Common Cause.
3. I currently serve as the executive director of Common Cause. I am employed by both the 501(c)(3) and the 501(c)(4) Common Cause entities. I am a registered lobbyist. I have worked in this role at Common Cause since February of 2001.
4. Common Cause is a grassroots non-partisan organization dedicated, in large part, to ensuring that ordinary people can have their voice heard in the political process. To that end, we encourage open, honest and accountable government that serves the public interest. Our core areas of focus are public financing, redistricting reform, election reform, media reform, and lobbying/ethics reform.
5. While Common Cause used to utilize a chapter-oriented structure, we have recently moved away from that model. We now have a statewide membership of approximately 1200-1300 and several thousand allies and friends of the organization. We host six to eight regional meetings annually. These meetings are issue-centered and attended by Common Cause members and allies and members of the public.
6. Common Cause members, allies and friends attend and facilitate Common Cause-sponsored voter education meetings and non-partisan voter registration drives, coordinate voting rights grassroots-lobbying efforts, and draft opinion editorials advocating expansive opportunities

to exercise voting rights in North Carolina. Although many of our activities are designed to build our organization and train our members, our ultimate goal is to identify, educate and register every eligible voter in North Carolina.

7. Common Cause has an active campus organizing project. We engage young people in the challenges of improving our state's democracy. We conduct ongoing outreach programs on college campuses, the purpose of which is to increase political participation and knowledge in young voters. We have also initiated a fellowship program called Common Cause Democracy Fellowship at several Historically Black campuses (HBCUs) across North Carolina. Often times, student fellows receive college credit for the work that they do with us. These fellows are the leaders of all Common Cause-sponsored civic engagement activities on their respective campuses.
8. Common Cause devotes considerable efforts to canvassing under-served neighborhoods in order to get out the vote (GOTV). While our rank-and-file Common Cause members join us on canvassing projects, we mostly rely on college students and occasionally churches located in our target areas in order to do our GOTV work.
9. In my role as a lobbyist, I spend a significant amount of time at the General Assembly, talking to members on both sides of the aisles, monitoring committee meetings, and providing accurate, current information to whomever I can. In the past few years, Common Cause's lobbying work has been focused on saving the public financing program for judicial elections, ending gerrymandering, and ensuring that voting remains accessible to all voters.
10. Over the last decade and a half, Common Cause worked tirelessly inside and outside the legislature with a broad voting rights advocacy coalition to secure legislation that would provide for Early Voting, Same Day Registration, provisions to count out of precinct provisional ballots, and pre-registration for 16 and 17 year olds. Specifically, my role was to

lead Common Cause's civic engagement activities in North Carolina while being one of a few persons directly lobbying for each provision mentioned above. I would meet regularly with members of our coalition (including, but not limited to: A. Philip Randolph Institute, NAACP- North Carolina, Democracy North Carolina, League of Women Voters, etc.) to determine our strategies and tactics for lobbying legislators to expand voters' opportunities. I would then engage the members, allies and friends of Common Cause to facilitate grassroots lobbying, public education events and coordinated letter writing campaigns. Inside the legislature, I was responsible for and advocating for the reforms and surveying members of the General Assembly to gauge where we might find support for the causes we support. Along with several other coalition partners, I was responsible for lobbying selected House and Senate members. I would contact them with information supporting each provision, poll their responses until the provision cleared the legislature and regularly report those outcomes to Common Cause members, allies and friends.

11. In addition to the activities mentioned above, during the most recent legislative effort to pass HB 589, Common Cause organized student-led legislative lobby days specifically targeted at eliminating the Voter ID provision. Through our Democracy Fellowship Program, our staff, members, friends and allies, brought hundreds of North Carolina students to the North Carolina General Assembly to educate lawmakers on the inherent harms of requiring a photo ID of voters and to urge them not to pass the provision. Needless to say, we were unsuccessful.

12. The cut to early voting will be especially damaging to our GOTV efforts. We canvass under-served neighborhoods during early voting to get folks to go directly to the polls to vote. We have found that the weekend is the best time to do that canvassing because that is the time we are most likely to make face-to-face contacts with infrequent voters. HB 589's

elimination of one weekend of early voting means that we will have one fewer weekend in our outreach to voters in under-served neighborhoods.

13. As a lobbyist and representative of Common Cause, I was present for almost all legislative action relating to HB 589 during the 2013 session. Early in the session, when it became clear to me that the legislature had the will and the votes to pass a voter ID law, I talked to as many legislators as I could about how to draft a voter ID bill that might minimize the negative impacts associated with requiring a photo ID in order to vote. Specifically, I spoke often with and offered less restrictive alternatives to Sen. Jerry Tillman, Sen. Chad Barefoot, Rep. David Lewis, Rep. Paul Stam, Rep. Tom Murray, Rep. Harry Warren and Rep. Tim Moore.
14. Like many others, I was surprised by the extensive expansions to HB 589 during the last 48 hours of the legislative session. Obviously, after the U.S. Supreme Court struck down Section 4 of the Voting Rights Act in June, diminishing protection against discrimination for racial and language minority voters, I was concerned that House Bill 589 might be expanded. But I was surprised by how much it did get expanded. The leadership kept the new contours of the bill very quiet. To the best of my recollection, we did not see a draft of the new bill until the Monday before session ended. The bill was introduced in the Senate Rules Committee on Tuesday, July 23, and the final vote was only two days later, on Thursday, July 25.
15. I have spent over a decade lobbying at the North Carolina General Assembly, and I have never seen such a massive election law rewrite rammed through in such a short time. While I imagine that other bills on other issues might have moved through with this speed, I have never seen anything of this scope, complexity, and effect on voters move through the legislature like this. It was an exceptionally unusual process.

16. Despite my personal and Common Cause's organizational support for same day registration (SDR), I offered three potential ways to modify same day registration to House leadership. While I believe none of those were necessary to ensure that elections were conducted securely and orderly, I recognized that the leadership seemed intent on restricting same day registration. I wanted to propose some middle ground. My proposals are attached as Exhibit A to my declaration. One proposal was to shorten the length of time in which same day registration is offered, eliminating it as an option during the last five days of early voting. Another option was to reject ballots if it failed the first address verification mailing. A final option was to move the canvass date back from the tenth day after the election in even numbered years to the sixteenth day after the election (and in odd-numbered years, moving it from the seventh to the thirteenth day after the election). Pushing the canvass date back would allow county boards of election more time to confirm the validity of addresses supplied by SDR voters. These options were never considered in debate (in committee or on the floor) and I never received feedback from the leadership in the legislature on any of these middle-ground proposals.

17. I also provided House and Senate leadership with documentation of how other states that have Same Day Registration or Election Day Registration prevent fraud. That documentation is attached as Exhibit B to my declaration. In short, North Carolina already takes steps commensurate with or better than other states that have Election Day or Same Day Registration in order to prevent fraud and ensure the integrity of elections conducted with that kind of registration ease. In Montana, for example, SDR is offered only at county boards of election, not other polling sites. This documentation I compiled and offered to leadership did two things: (1) it demonstrated that the actions that North Carolina had already taken to prevent registration fraud before HB 589 were in line with what other states

with SDR do; and (2) offered other options besides repeal to address registration fraud concerns.

18. All of the facts and information contained within this declaration are within my personal knowledge and are true and correct.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 28th day of April, 2014.



Bob Phillips

Phillips Exhibit A

JA0104

Three ideas to modify Same Day Voting

(underlined language is new, stricken is current language that would be deleted)

1. Do not count ballot if it fails the first address verification mailing
2. Short the length of Same Day Registration
3. Move the canvass date back 6 days

- Do not count ballot if it fails the first address verification mailing

§ 163-82.6A. In-person registration and voting at one-stop sites.

(d) Verification of Registration; Counting of Ballot. – Within two business days of the person's registration under this section, the county board of elections in conjunction with the State Board of Elections shall proceed to verify the North Carolina drivers license or Social Security number in accordance with G.S. 163-82.12, update the statewide registration database and search for possible duplicate registrations, and proceed under G.S. 163-82.7 to verify the person's address. The person's vote shall ~~not~~ be counted if by the date of the canvass the voter's identification number is not verified in accordance with G.S. 163-182.12, or if the initial address verification mailing sent in accordance with G.S. 163-82.7(c) is returned as undeliverable, or if ~~unless~~ the county board determines that the applicant is not qualified to vote in accordance with the provisions of this Chapter.

- Short the length of Same Day Registration

Shorten the length of time same-day registration is available by eliminating same-day registration as an option from the last five days of the early voting period. Early voting would still be available during those final five days, but not same-day registration.

- Move the canvass date back 6 days

In addition, move the canvass date back from the tenth day after the election in even-numbered years to the sixteenth day after the election. In odd-numbered years, move the

canvass date from the seventh day after the election to the thirteenth day after the election.

Such a move would allow greater time to ensure that any vote cast using same-day registration without a valid address is identified prior to the canvass date.

Current law (§ 163-182.5):

Canvassing by County Board of Elections. – The county board of elections shall meet at 11:00 A.M. on the tenth day after every election held on the same day as a general election in November of the even-numbered year, and at 11:00 A.M. on the seventh day after every other election, to complete the canvass of votes cast and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly.

Phillips Exhibit B

NC Bills:

Senate Bill 428, filed by Sen. Jerry Tillman, R-Randolph, would cut the early voting period from two weeks to one and would eliminate same-day voter registration.

House Bill 451, filed by Rep. Edgar Starnes, R-Caldwell, goes even further. In addition to cutting early voting and same-day registration, it would also outlaw early voting on Sunday and straight-ticket voting.

Same Day Registration States:

Same-Day Registration States	
	Year Enacted
California*	2012
Connecticut**	2012
Colorado	2013
District of Columbia	2010
Idaho	1994
Iowa	2007
Maine	1973
Minnesota	1974
Montana	2005
New Hampshire	1996
Wisconsin	1975
Wyoming	1994

*California's same-day registration will take effect on January 1 of the year following the year in which the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002 (no sooner than January 2014).

**Connecticut's same-day registration takes effect July 1, 2013.

How These States Prevent Fraud:

- In Iowa and New Hampshire, a non-forwardable mailing is sent to each Election Day registrant. If it is returned as undeliverable, a second notice is sent. If the second mailing is also returned as undeliverable, the case is forwarded to law enforcement for investigation of voter fraud.
- Election Day registrants in Montana who are unable to meet the voter ID requirements must vote a provisional ballot, and then must return within three days to provide proof of identity in order to have the ballot counted. Montana also sends confirmation cards to new registrants after the election, following a procedure similar to Iowa's outlined above. Wisconsin and Wyoming use similar provisional voting processes.

- In Montana, SDR is conducted only at county election officials' offices, not at polling places. In Maine, it takes place at town offices and city halls.
- In states that use electronic pollbooks with real-time access to the statewide voter database, it is possible to verify that a prospective voter has not already registered and cast a ballot at another polling site or via mail prior to allowing him/her to register and vote.
- In Minnesota, the data provided by a same-day registrant is verified with the Division of Vehicle Services and/or the Social Security Administration, the Department of Corrections, and the Department of Public Safety.

<http://www.ncsl.org/legislatures-elections/elections/same-day-registration.aspx>

Iowa, DC, Maine, and Minnesota- same day registration ballots are counted regardless of whether the voter card is “undeliverable” (meaning voter card is sent back after two mailing attempts). If voter card is “undeliverable,” voter is declared inactive and must provide proof of residency at next opportunity to vote, or their name is submitted to authorities for further investigation.

2013 Legislative Action

Legislation proposing the adoption of same-day registration has been introduced this year in 16 states, and two of the states that currently offer SDR are considering proposals to do away with the practice. In addition, three states -- Maryland, New Mexico and Nevada -- considered legislation this year to permit a person to register and cast a ballot on the same day during the early voting period, while North Carolina is considering doing away with this practice.

- Alabama -- HB 626
- Alaska -- HB 86 (*failed*)
- Arizona -- HB 2146, HB 2368 and SB 1248
- Colorado -- HB 1303 (*enacted*)
- Georgia -- SB 44 (*failed*)
- Hawaii -- HB 321 (*in conference committee; will reconvene in 2014*), HB 511, HB 1218, SB 854 and SB 857
- Illinois -- HB 68
- Iowa -- HF 308 (proposes that voter registration books close 11 days before the election) (*passed the house 3/11/2013*)
- Maryland -- HB 17, SB 279 (permits voters to register and vote on the same day during the early voting period; *enacted*), SB 518 and SB 519 (*both failed*)
- Massachusetts -- HB 579 and SB 314
- Montana -- HB 30 (proposes to repeal the existing same-day registration law) (*vetoed*) and SB 405 (places question on 2014 ballot, giving voters the option of repealing SDR) (*adopted*)

- Nevada -- AB 440 (permits voters to register and cast a ballot on the same day during the early voting period; *passed the Assembly 4/23*)
- New Jersey -- A 1575
- New Mexico -- SB 272 (permits voters to register and cast a ballot on the same day during the early voting period) (*failed*)
- New York -- A 113, A 172, A 2099, S 609, S 617 and S 1549
- North Carolina -- HB 451 (repeals provision allowing a voter to register and vote on the same day during the early voting period)
- Pennsylvania -- HB 178 and SB 364
- Tennessee -- HB 293, HB 998, SB 263 and SB 908 (*adjourned; carried over to 2014 session*)
- Texas -- HB 169, HB 464, SB 81 and SB 568
- Utah -- HB 91 (*failed*)
- Vermont -- HB 42
- Washington -- SB 5268 (*adjourned; carried over to 2014 session*)