

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

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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.

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**DECLARATION OF  
SHELLY WILLINGHAM  
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 Shelly Willingham**

I, Shelly Willingham, hereby declare as follows:

1. I am a U.S. citizen, a resident of Edgecombe County, and a registered voter.
2. I was a member of the Edgecombe County Board of Elections (“CBOE”) from 2009 to February 2014 and previously served as a state representative in the North Carolina General Assembly from 2001 to 2002.
3. Based on my experience as a member of the Edgecombe County Board of Elections and the North Carolina legislature, I believe that House Bill 589 (“H.B. 589”) will have a devastating impact on voter participation in North Carolina, especially in the African-American population.

**Background**

4. After graduating from Elizabeth City State University in North Carolina in 1967, I went through police training at the Police Academy in Washington, D.C. and subsequently spent a number of years as a police officer there. Then, after working several jobs mainly in the personnel field, I relocated to North Carolina in 1980.
5. Prior to my appointment on the CBOE, I served in a few other, political positions, including serving on the Nash-Rocky Mount School Board of Education from 1981-1983 and the Edgecombe County Board of Commissioners from 1992-1994. After being appointed to the North Carolina State House of Representatives at the end of 2000, I served one term from 2001-2002.
6. I have also been actively involved in elections and civil rights matters in North Carolina including election redistricting plans. In 1981, I served as a plaintiff in a lawsuit, which successfully challenged the at-large voting system then in place for electing members of the Rocky Mount City Council. We challenged the system’s denial of fair representation for

African-Americans, and, as a result of the lawsuit, Rocky Mount City Council members are now elected by their individual ward, and African-Americans are more fairly represented. That lawsuit increased African American voting in the Rocky Mount area since African Americans are generally more likely to vote when African American candidates are running for elected positions.

7. I was appointed to the CBOE by the State Board of Elections (“SBOE”) in 2009. I officially stepped down from my CBOE position in February 2014 to run for the North Carolina House of Representatives District 23 seat. My fellow Board members and I were responsible for the administration of elections in Edgecombe County and ensuring that all voters had equal access to the polls.

Administration and Cost of Elections in Edgecombe County

8. In Edgecombe County, the CBOE develops an election budget that is sent to, and approved by, the County Commissioners. The CBOE budget is based on the number of elections being run and the number of registered voters for that year. Prior, equivalent election year budgets are used as templates for the budget’s allocation of funds. Traditionally, Director Jerry Spruell would draft the budget, and then the Board would approve it at a regular meeting. From there, the County Commissioners must approve the budget for funds to be dispersed from the County to the CBOE.

Early Voting in Edgecombe County

9. In the past, the SBOE set the total amount of early voting hours for each election within the statutory period of 17 days. Local CBOEs created their early voting plan based upon the hours required by the SBOE, and the SBOE had to approve all plans. CBOEs could also

extend their hours with approval of the SBOE. To my knowledge, prior to H.B. 589, CBOEs could not waive the early voting hour requirements.

10. Our early voting plans specifically included Saturdays so that voters could vote on the weekends. Some other CBOEs included Sunday voting.

11. The CBOE would place early voting sites in the most populated areas in the County. For instance, the CBOE always placed an early voting site in Rocky Mount because Rocky Mount is the hub for working and living in Edgecombe County. Citizens were notified of early voting locations by several newspaper announcements as well as notices that were shared with local groups in churches and organizations.

12. In Edgecombe County, early voting appeals to those who work, especially those who work in nonflexible, waged or hourly jobs. In Edgecombe County, African American voters disproportionately work those waged or hourly jobs. Therefore, under H.B. 589, fewer days to vote early means fewer opportunities for African Americans to cast their ballots for the candidates of their choice.

13. Even if the CBOE adds early voting locations to account for the reduction of early voting days, that reduction still poses harm because the actual window of time residents have to vote is still only 10 days. Edgecombe County has provided as many as 15 days of early voting in prior elections.

14. Further, creating additional, early voting sites may not convenience the majority of African Americans voters, as there is no guarantee that those additional voting sites will be placed where most African Americans live and vote early. For instance, here in Edgecombe County, if the CBOE adds early voting locations outside of Rocky Mount, the majority of

African American voters will be disadvantaged because they live in Rocky Mount and are less likely to vote by travelling to those satellite locations.

15. In Edgecombe County, a candidate can win or lose an election with early voting. As a candidate myself, I know that a major portion of our campaign strategy specifically targets early voters and getting citizens to the polls during that early voting period because early voting offers convenience and flexibility for voters. By cutting down on the overall early voting period, H.B. 589 also harms candidates' time to reach voters and encourage their participation.

Same Day Registration in Edgecombe County

16. Same Day Registration ("SDR") was available to all unregistered citizens at all early voting sites. Same Day registrants could enter the polling place and proceed to a separate table to register. To register, the citizen needed to show some proof of residency. The registrants' information was then immediately sent to the CBOE office for verification. After the registration process, the poll worker would then identify the proper ballot style based on the registrants' address, and the registrant could then vote.

17. Like many of its other provisions, I believe that H.B. 589's elimination of same-day registration will result in lower African American voter participation. With SDR, candidates, community organizations, and churches could drive citizens to the polls and have them register and vote simultaneously. The convenience of doing so boosted voter participation and in particular, allowed African American organizations, churches and candidates to reach other African Americans citizens that ordinarily would not vote either because of their jobs or they had never registered.

18. I do not ever recall receiving or reporting any major problems with administration of SDR. The CBOE processed same day registrations efficiently and in a timely manner.

19. Voters generally liked SDR because it made voting an easier, two-step process. Local candidates and organizations also liked it because it allowed them to encourage and bring all citizens to the polls to vote, regardless of whether they were registered.

Pre-Registration of 16-17 year olds in Edgecombe County

20. In Edgecombe County, pre-registration of 16 and 17 year olds has been heavily encouraged, and the CBOE used it to promote the importance of voting to youth. In fact, every year, the CBOE would visit local high schools to spur their involvement in the voting process by having them preregister. Given that the public high schools in Edgecombe County are predominantly African American, preregistration was an important mechanism for getting younger African Americans involved in voting.

Challenges by At-Large Observers

21. Under H.B. 589, in addition to the two observers at each polling place, political parties can designate 10 additional at-large observers to enter any polling place. Specifically, at each polling place, political parties may designate 2 precinct-specific observers, plus one at-large observer who need not live in the same precinct in which he is observing.

22. Allowing more at-large observers, who may not even reside in the same precinct that they are monitoring, opens the door for intimidation in the voting process. I have seen observers intimidate voters and such interference not only slows the voting process but also inhibits others from casting their votes. For instance, in a prior election, I witnessed an observer stand too close to a voter while they were voting and look over their shoulder. The voter became livid. I had to step in to tell the observer she could not get so close to voters, and it ultimately caused an unnecessary delay at the polls. .

23. Allowing more at-large observers into the polling places produces both offensive and defensive threats. First, more observers can come into the polls to challenge voters and then, in defense, some local, civic groups may come to the polls to monitor those observers. Both efforts can create unnecessary tension and disrupt voting.

Costs and Effects of H.B. 589

24. I believe that implementing H.B. 589 will mean additional expenses to run elections and extra time spent at the polls by voters, in Edgecombe County and other counties. First, reducing the early voting period will not save the county money. Instead, H.B. 589's requirement that the CBOE provide the same number of *cumulative* early voting hours in a reduced early voting period likely means the CBOE will have to open more early-voting sites. In fact, before I stepped down from the CBOE, we added one, early voting site for the primaries in Pinetops, NC, to meet the cumulative hours requirement. Adding early voting sites like this requires additional funding to operate the sites themselves, pay the poll workers to staff these extra locations and train any additional poll workers that have to be employed by the CBOE.

25. To my knowledge, the state will not offset any of these additional costs by providing funding such as grants. Consequently, CBOEs will need to seek additional monies from their individual counties. Our Board used some of our remaining funds from the prior year to finance the additional expenses for the early voting site.

26. Alternatively, some other CBOEs will just request a waiver so that they do not have to provide the same number of cumulative hours as in prior, equivalent elections. Indeed, to my knowledge, over twenty counties have voted to waive the equivalent hours requirement and requested SBOE approval to do so. Waiving that requirement is detrimental to voters'

access to the polls as voters will not only lose early voting days but also the hours available to vote early.

27. Prior to HB 589, in Edgecombe County and the rest of North Carolina, straight ticket voters needed only to select the Presidential and Vice Presidential candidate, and then mark "Republican" or "Democrat" to have the rest of the candidates for those respective parties chosen. Now, voters will have to select each candidate one by one, which adds a significant amount of time to the voting process. Given that a substantial amount of voters vote straight ticket, the increase of total voting time by all voters will be significant.

28. Beginning this year, poll workers will need to take several, additional steps to notify voters about the photo identification requirement scheduled to go into effect in 2016. Poll workers must do the following: (1) provide instructions to voters that beginning in 2016 voters must show photo ID; (2) provide the voters with a list of acceptable photo identification; (3) ask the voter if they possess one or more forms of the acceptable photo identification; (4) if the voter informs the poll worker that he or she does not possess any of the acceptable forms of identification, have the voter sign an *Acknowledgement of No Photo ID*; and (5) provide the voter who has no acceptable photo identification with instruction on how they can acquire the no fee ID at the DMV.

29. Lines will already be longer at the polls due to the overall reduction of early voting days. The elimination of straight ticket voting, increased potential voter challenges and the new poll worker instructions about the photo identification provision of 2016 will increase further the total time voters spend at the polls. This could lead to even longer lines for voting and potentially increase the amount of time polls need to be open.

Voter Fraud in Edgecombe County

30. To my knowledge, there has never been any type of voter fraud in Edgecombe County. The closest incident to any voting irregularity that I can recall was two women who happened to have the same name and date of birth whose voting records were crossed. We immediately caught the problem and remedied it, so that each woman only voted once.

31. In my opinion, state legislators knew that there were little reported cases of fraud. This is why I believe H.B. 589's photo identification provision, reduction of early voting days, elimination of same day registration, preregistration, and out of precinct ballots, and increase of at-large observers, makes voting more difficult and does not remedy any shortcoming in election administration.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 24<sup>th</sup>, 2014.

*Shelly Willingham*

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