

**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
KENNETH LEIGH GOODMAN**

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.

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-660

Case No.: 1:13-CV-861

Declaration of Kenneth Leigh Goodman

I, Kenneth Leigh Goodman, hereby declare as follows:

1. I am a U.S. citizen, resident of Richmond County, and a registered voter in North Carolina. I am the elected representative for North Carolina House District 66, which currently encompasses portions of Hoke, Montgomery, Richmond, Robeson, and Scotland Counties.
2. I have served in the North Carolina House of Representatives (“the House”) for nearly four years having first been elected in November 2010. I was serving in the House when House Bill 589 (2013) (HB 589) was passed by the General Assembly. The bill’s proponents failed to advance a legitimate purpose for nearly every provision of the final bill, much less respond to criticism by the bill’s opponents that the bill’s provisions would have a discriminatory impact on voters in North Carolina in certain demographic groups. Although I voted for the House version of HB 589, I voted against the final version of HB 589 that the General Assembly ultimately passed. I would not consider voting for a bill as extreme as the final version.
3. I am a native North Carolinian. In 1967, I received my associate degree from Wingate University, and in 1969 I received my bachelor’s degree from Florida State University. I served in the North Carolina Army National Guard from 1969 to 1975. I am a business owner, of the RW Goodman Company, Incorporated, a retail furniture and appliance business, and have been for more than forty years. My business has typically taken me to the poorer, more rural areas of my district. I have a lot of experience securing financing for lower income individuals and rural economic development has been a focus of mine in the legislature. I have also been a board member for a local bank and a hospital foundation.
4. My district is primarily rural and largely made up of low income residents. Prior to redistricting, I represented all of Richmond County where about 25 percent of people live below the poverty line. I still represent a portion of Richmond County, and I live there as well.

The population of Richmond County is approximately 31% African American. My current district also includes parts of Scotland County, which is almost 39% African American, and Hoke County, which is about 34% African American. Richmond Community College is in my district, and students from Univeristy of North Carolina at Pembroke live in my district.

5. My father, R.W. Goodman, now deceased, was the longest serving elected sheriff in North Carolina history. He was was elected in 1950 in Richmond County and served during all or portions of the next five decades. While he was sheriff, he helped voters, specifically African American voters, register to vote throughout Richmond County in the early 1950s. About 1954, Henry Frye, an African American Army Officer who had served in Korea, was seeking to register to vote in Richmond County. The registrar, however, would not permit Mr. Frye to register due to a so called "literacy test." My father heard about this and had that registrar removed from his position allowing Mr. Frye the opportunity to register. In 1968, Mr. Frye became the first African American elected to the N.C. House of Representatives in the twentieth century and later became the first African American to serve as the Chief Justice of the North Carolina Supreme Court. My father repeated these actions for many other African Americans in Richmond County during the 1950s and early 1960s. As Sheriff, my father gained overwhelming support from the African American community.

6. I have worked on my father's campaigns for sheriff, on state-wide campaigns, and on my own campaigns for the House. My experience with these elections, as a member of the House as well as my direct participation in the legislative debate over HB 589 enables me to speak with personal knowledge on the faulty procedures used to pass this bill and the negative effect it will have on North Carolina voters, particularly on African American voters, young people, and the elderly.

HB 589 Legislative Consideration

7. The process by which the final version of HB 589 was passed by the General Assembly was, in one word, shameful. Although I was hesitant to do so, I was one of five Democrats in the House who voted for the initial House version of HB 589 in late April 2013. At that point, the bill had undergone what I would consider a generally fair process in the House. I, at least, had sufficient time to review and comment on the bill prior to my vote. At the same time, I do believe that supporters of the House version of the bill had their minds made up and that valid suggestions to improve the bill were rejected. As I will explain further below, despite the fact that improvements to the bill were rejected, I did vote for the House version of the bill. The bill that left the House in April, however, was radically different than the one that came back to the House from the Senate on July 25, 2013. This new bill addressed changes to North Carolina's election laws that were never contemplated or considered by the House and in my view were blatantly discriminatory. The process by which the House passed the Senate's version of the bill at the end of the legislative session on a concurrence vote was not only a departure from normal legislative procedure, it was insulting to someone like me who, in good faith, crossed over the aisle to support the House version of the bill. Needless to say, I voted against the Senate's version of HB 589.

8. Prior to the passage of HB 589, I was aware that some members of the General Assembly were intent on passing a voter photo identification bill. During the 2011-2012 legislative session, House Bill 351 (HB 351) was passed by the General Assembly and vetoed by Governor Bev Perdue. It contained a restrictive and exclusive list of allowable photo identification for voting. Because of concerns I had about the possession rates and availability of such identification among North Carolina minority and young voters, I voted against it. In small

communities, such as the ones I represent, people feel less need for photo identification, generally, than they do in larger urban areas, and members of disadvantaged communities are less likely to possess such identification. I knew, however, that the issue of voter photo identification would be raised again during the next legislative session.

9. During the 2013-2014 General Assembly legislative session, I was a primary sponsor of an alternate version of a voter identification bill—House Bill 253 (HB 253) entitled the Voter Protection and Integrity Act. A similar bill had been introduced in another state, and I collaborated with a member of the Senate to introduce it in North Carolina. This bill would have allowed voters two methods by which they could certify their identity when voting. First, voters could present a form of allowable photo identification, including unexpired identification cards issued by government agencies in North Carolina, any other state, or the United States. Although they do not contain photos, the bill also permitted voter registration cards issued by the North Carolina State Board of Elections to serve as identification. Additionally, the bill would have created a photo affidavit option under which voters without photo identification at the polling place would have had their photograph taken by a designated election official. These voters would then have signed a photo affidavit attesting to their identity. I was confident that the forms of allowable identification and the photo affidavit process would have ensured the ability of all voters to cast their vote successfully and securely. In proposing this bill, I had hoped that those who insisted on photo voter identification would be swayed by such a common-sense proposal. But it was not to be. In April 2013, HB 253 was referred to the House Elections Committee where it was never brought up for further debate (even though it was introduced about a month before HB 589).

10. I had no idea what HB 589 would look like before it was filed in the House on April 4, 2013. When it was filed, it was a 12-page bill limited to photo identification requirements for voting titled the Voter Information Verification Act (VIVA). VIVA was less restrictive with regard to the forms of allowable identification than HB 351, the 2011 photo identification proposal, had been. For instance, it expressly allowed student identification cards from public colleges or universities. The list of allowable identification in this limited version of HB 589 was also not exclusive to those expressly identified in the bill, for instance, this version of HB 589 indicated that a photo identification “issued by a branch, department, agency, or entity of the United States, this State, or any other state” was acceptable identification. I believed that this would have allowed for some much needed flexibility for individuals who did not possess one of the listed forms of photo identification. VIVA also included a provision establishing a Voter Information Verification Advisory Board that would have, among other things, advised the State Board of Elections on outreach to help identify registered voters without appropriate identification for voting and to assist those voters in getting appropriate identification.

11. Throughout April 2013, the House Elections Committee, and other committees such as appropriations, held public hearings and debate on the House version of HB 589. These hearings incorporated the testimony of various experts and focused on the propriety of a voter photo identification requirement and the costs associated with it. I believe that many of the hearings held about the bill during this time were stacked in favor of supporters of a voter photo identification requirement. Opponents of the bill also spoke, but I believe supporters of the bill already had their minds made up. They clearly wanted a voter photo identification bill, and nothing presented by opponents of the bill was going to convince them otherwise. As the

committee process and hearings concluded, by no means did I think the House version of HB 589 was perfect, and I remained very much undecided about whether to vote for the bill.

12. The bill moved to the House floor on April 24, 2013, and amendments were offered on the bill. I spoke in support of Amendment 10 offered by Representative Deborah Ross. This amendment was ultimately defeated by the majority, but, had it been adopted, it would have allowed the counting of provisional ballots cast by voters who did not possess photo voter identification at the polls. Under this amendment, voters who failed to present the proper identification when voting could have provided, under penalty of a Class 1 felony, a voter identification number such as the voter's drivers license number, the last four digits of the voter's social security number, or the voter's date of birth. This information would have then been verified by county board officials. I spoke in favor of this amendment on the House floor and I could not and cannot think of a good justification for any member of the House to have voted against such an amendment. Certainly, with the verification procedures required of the county boards, the amendment would not have affected the security of the ballot (i.e., the justification offered by many supporters of photo identification requirements) or the credibility of the election process in any way. Additionally, I felt the amendment mirrored the spirit behind HB 253 by allowing for an alternate means by which voters without the proper photo identification at the polls could provide proof of identity and still exercise their right to vote.

13. Despite my reservations about the bill, and the defeat of amendments that would have improved it, such as Amendment 10 and Amendment 7 (which would have allowed for voters without photo identification to vote after being identified by at least two election officials), I thought that the process that led to the passage of the limited version of HB 589 in the House at least gave the veneer of fairness. This led me to believe that supporters of the bill

had at least attempted to craft a bill that would in their minds address a problem. This focus on voter photo identification by supporters of the bill was not going away, and my fear was that a more restrictive bill (such as the version we saw in 2011) would have taken the place of VIVA if VIVA had been voted down. Given all of this, and although I remained reluctant to do it, I ultimately voted for the limited House version of HB 589.

14. At the time the legislative process on VIVA concluded in the House, I do not recall House supporters of the bill expressing concern about the forms of allowable photo identification that were permitted in the House version of the bill. In fact, the vote on the bill was trumpeted by the House leadership in press releases as a historic bipartisan accomplishment that would deter voter fraud.

15. Soon after I voted for the VIVA bill, I stated in the press that if the bill was changed at all by the Senate I would vote against it. Around that same time, I recall that Representative Mickey Michaux warned me that the bill would look totally different when it came back from the Senate. Although I suspect that even he did not anticipate just how radically the bill would change, in the end he proved to be prophetic on this point.

16. When it was introduced in the Senate Rules Committee as a committee substitute bill, HB 589 was virtually unrecognizable from the version I voted for in the House. Although I had voted for the bill in the House, I had no part in the timing or substantive content of the version of HB 589 that was introduced in the Senate Rules Committee in July. In fact, HB 589 sat around in the Senate for months before finally being brought up for a committee hearing and vote towards the very end of the legislative session. I had heard nothing about the bill during this time. I believe that this was done by design by supporters of the bill for a couple of reasons. First, in June 2013, the Supreme Court had invalidated Section Four of the Voting Rights Act in

Shelby County v. Holder, removing the requirement that some counties in North Carolina seek preclearance from the Attorney General of the United States before instituting voting changes. I believe that supporters of the bill used this decision as a green light to proceed with numerous changes to North Carolina voting laws they would not have otherwise pursued. Second, by waiting until nearly the end of the legislative session to introduce the Senate's Committee Substitute, opponents of the full bill version of HB 589 were rushed, limiting their opportunity to provide a comprehensive debate on the bill's provisions.

17. The Senate passed its version of HB 589 on July 25, 2013. We in the House received it that same day. I personally had very little time to consider the entire bill, which was complex and a completely different bill from the one I voted for in April. To begin with, the full bill version of HB 589 was about 40 pages longer than the House version. The VIVA portion of the bill, which I had voted for in the House, was now just a small part of a larger omnibus bill. Substantively, many new provisions beyond anything having to do with voter photo identification had been added. These completely new provisions included many that we in the House had not considered when debating the VIVA bill, including the elimination of a week of early voting, same day registration, and pre-registration for 16 and 17 year olds, as well as a provision preventing the counting of out of precinct provisional ballots. Lastly, the forms of allowable voter photo identification had been greatly restricted from the House version I voted for. For instance, gone were student and law enforcement identifications as acceptable forms of identification. Also, unlike the House bill, the list of acceptable identifications in the Senate bill was exclusive to the very narrow set of identifications listed in the bill. In fact, the list of acceptable identification was even more restrictive than the forms of allowable identification under HB 351, which I had voted against in 2011.

18. On July 25, 2013, the House leadership brought the full bill version of HB 589 up for a concurrence vote, bypassing the usual process for bills that undergo massive changes in the Senate. Such bills are usually referred to the relevant committee from which the bill originated, which decides whether to recommend that the full House approve it, or whether the bill should be referred to conference committee to iron out disagreements between the House and the Senate. As part of the concurrence motion on HB 589, which Speaker Tillis initially described incorrectly as a debate on a conference report, both Representative Harry Warren and Representative David Lewis presented the Senate's "full bill" version to the House. In describing what the Senate had done to the VIVA-only portion of the bill, the portion I voted for, Representative Harry Warren stated that "[t]he Senate working on the bill made very few substantive changes to the VIVA Act." I found this statement incredible. Just with regard to the VIVA portion of the bill alone, the Senate had made drastic changes to the bill. This kind of misrepresentation was indicative of the process the House engaged in that day.

19. In fact, the only member of the House to speak in support of the new provisions in the "full bill" version of HB 589 was Representative Lewis. He provided virtually no rebuttal regarding the provisions' impacts on minorities, which were made plain by the bill's opponents including Representatives Michaux, Alma Adams, and Pricey Harrison. The fact that only Representative Lewis spoke very briefly in favor of the "full bill" version of HB 589 underscored the fact that there was no real House debate or deliberation on the bill's provisions. I believe that this maneuver was strategically designed by supporters of the legislation, and those advising them, to limit the legislative record on the "full bill" version of HB 589.

20. In hindsight, I believe I was naïve to think that the House version of HB 589 was what the majority intended to pass in the first place. It is obvious to me now from the subsequent

process that there was likely a different intent all along. Given what ultimately happened with just the VIVA-portion of the bill alone in the Senate it is clear that the majority was not truly interested in the debates and hearings that took place in the House on the forms of photo identification that would be accepted under the new law. We flew in experts, heard a great many speakers, and seemed to debate the matter in some detail in the House. Many supporters of the House version of HB 589 argued strenuously to include the forms of photo identification the House version permitted. When the Senate's version came back and the list of approved photo identifications had been radically changed, I heard nothing from those same strenuous supporters of the House version.

21. Representative Michaux's warning to me about the changes the Senate would make to the bill was proven true beyond all doubt. In the end, I believe that the supporters of the bill in the House merely used my vote, and the votes of the four other Democrats who supported the House version, as evidence that the vote on the House version of HB 589 had been a bipartisan accomplishment to support their claims that the process leading to the passage of the bill had been fair. Indeed, they issued press releases to that effect in April 2013, soon after the House version of the bill had passed. I find this extremely ironic given that three months later, all House Democrats not only voted against the "full bill" version of HB 589, but most also went on the record to express their disgust with the bill. Supporters of the bill apparently did not think press releases were needed for what ultimately happened on the House floor regarding the final version of the bill.

22. Given what ultimately happened with this bill, I feel that any claims of bipartisanship and fairness in the House ring completely hollow. I believe that the integrity of the House as a body suffered greatly during this process. And I voted against the full version of

HB 589 in July because of the negative effect it will have on North Carolina voters, particularly on African American voters, young people, and the elderly, and the process by which the final version of HB 589 was passed by the General Assembly. If I had known what would return from the Senate, I would never have voted for the limited version of HB 589 in the first place because my vote merely gave supporters of the bill a claim of bipartisanship that they did not deserve.

The Impact of HB 589

23. The “full bill” version of HB 589, including the provisions reducing early voting days, eliminating same day registration, prohibiting the counting of out of precinct provisional ballots, and imposing a restrictive voter photo identification requirement, will affect the ability of African American voters and those at the lowest income levels in North Carolina to turn out for elections. These changes will render the entire electoral system in North Carolina less free, less fair, and less accessible. Early voting has resulted in higher turnout in rural counties like mine. When it is difficult for people to get from one place to another because of distance, or a lack of transportation, the availability of early voting gives them more options.

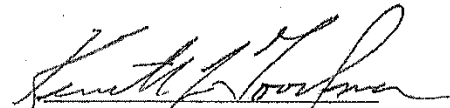
24. There are many people in my district who struggle at the lowest income levels. I have encountered these individuals through my work as a businessman and during my time as a legislator. For many reasons, such as the legacy of historical discrimination in North Carolina, disproportionately these individuals are African American. Some of these individuals fear authority figures, and the imposition of an identification requirement will impact their willingness to appear at the polls. Others simply lack one of the limited forms of identification allowed by the “full bill” version of HB 589 or sufficient means to attain one. In communities in my district, there is a great concern for these individuals. Many are without transportation and may live up to 30 miles from the nearest DMV facility.

25. In North Carolina, African Americans also have taken advantage of early voting, same day registration, and out of precinct provisional balloting to a greater extent than white voters. Though they had to move extremely quickly because of the truncated process afforded the bill, some of my fellow legislators gathered and presented argument and data on these points in both the Senate and the House.

26. There is no doubt in my mind that the legislators who voted for the bill understood that the provisions of the “full bill” version of HB 589 would have a disproportionate impact on African American voters. Supporters of the “full bill” version of HB 589 in the House did not meaningfully rebut, nor even attempt to rebut, criticisms regarding the bill’s impact on minorities. I believe that when one considers the evidence of the disproportionate impact of this “full bill” on minorities in North Carolina, one must conclude that HB 589 was about race and that it was specifically about suppressing the turnout of North Carolina’s African American voters.

27. This declaration is not intended to capture all of my knowledge or experiences that may be related to this matter.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on 4/24/14, 2014.


Kenneth Leigh Goodman