

**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
HARRY SAWYER
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 HARRY SAWYER

My name is Harry L. Sawyer, Jr. 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 served as the elected Supervisor of Elections for Monroe County, Florida for 24 years from 1988 to 2012. Before that, I worked as a police officer, first for the Key West Police Department then for the Monroe County Sheriff's Department from the early 1970s until 1987. Although my personal political affiliation was not relevant to my service as Supervisor of Elections, I am a registered Republican and ran as a Republican in each of my six elections to office.
2. During my tenure as Monroe County Supervisor of Elections, I was responsible for voter registration and administering elections, among other duties. Monroe County is comprised of the Florida Keys and north into Homestead. The county seat is Key West. Based on the U.S. Census, the voting age population is approximately 63,663. We have 53,378 registered voters, including 17,831 Democrats, 19,574 Republicans, and 15,378 Other.
3. Until the U.S. Supreme Court decision in *Shelby County* in June 2013, Monroe County was a jurisdiction covered by Section 5 of the Voting Rights Act. Monroe County became covered in 1975 because on November 1, 1972, over 5% of voting age citizens were members of a single language minority, registration and election materials were provided only in English and fewer than 50% of voting age citizens in the county voted. See VRA section 4(f)(4). Each time there was a change in election law or policy from 1972 through 2012, that change was pre-cleared by the U.S. Department of Justice or the

a three judge panel of the D.C. District Court to insure that it would not have a retrogressive impact on African American and language minority voters.

4. Florida began mandatory in-person early voting in 2004, when Florida state law provided for 12 to 14 days of early voting, for 96 hours total, 8 hours per day and 8 hours aggregate each weekend, between the hours of 7am and 7pm, up through the day before election day (amended in 2005 to close the Sunday before election day). In the 2004 general election, over 18% of Floridians who voted cast ballots during Early Voting. The use of Early voting grew substantially by the next presidential election in 2008 where 32% of those who cast ballots did so utilizing early voting, almost double percentage of voters who voted early in the last general election.
5. From 2004 to 2012, Monroe County held 12 days of early voting, for 8 hours per day, beginning on the Monday fifteen days before the election and ending on Saturday three days before the election (During Early Voting, Monroe County polling places were open for 8 hours a day from 8:30am to 4:30pm., for a total of 96 hours.
6. In the 2008 general election, Monroe County had approximately 80.6% turnout, with 40,387 votes cast out of 50,136 registered voters. 13,608, or 33.7% of Monroe voters utilized during Early Voting, 12,624 voted absentee, and 14,113 voted at the polls on election day (along with 42 provisional ballots).
7. In 2011, Florida passed HB 1355, which decreased the number of days for early voting in Monroe County from 12 days (with 8 hours per day and 8 hours on Saturday) to 8 days (with 12 hours per day from 7am to 7pm). The total number of Early Voting hours remained 96, but those hours were compressed over a shorter number of days. There was outspoken opposition to the early voting cuts from those most familiar with election

administration and tasked with protecting the right to vote and increasing participation among eligible voters. Election officials including, David Stafford, the Supervisor of Elections for Escambia County and the President of the Florida State Association of Supervisors of Elections (“FSASE”) went to testify on the bill to explain the detrimental impact of decreasing the number of days of early voting. The legislature passed the bill anyway, with detrimental results.

8. In 2011, Florida sought a declaratory judgment of preclearance of the early voting provision in the D.C. District Court. As a defendant-intervenor in that lawsuit, I gave deposition testimony that the decrease in early voting days would harm the voters who typically use early voting, and would decrease overall turnout. As I said in the deposition, as far as voters are concerned, early voting is the best thing that Florida has done to provide adequate opportunities for voters to cast their ballot. A decrease in the number of days for early voting restricts the opportunity to vote.
9. In 2012 we had approximately 76% turnout, with 39,303 votes cast out of 51,524 registered voters. 11,071, or 28.3% of Monroe voters utilized during Early Voting, 13,529 voted absentee, and 14,458 voted at the polls on election day (along with 85 provisional ballots).
10. Decreasing the number of days for early voting while increasing the number of hours did not serve well the voters of Monroe County. First, the cost of administering elections increased due to the increased number of hours over fewer days. As a result, we had substantial overtime costs and elections officials working 12 - 16 hours per day for 8 days straight.

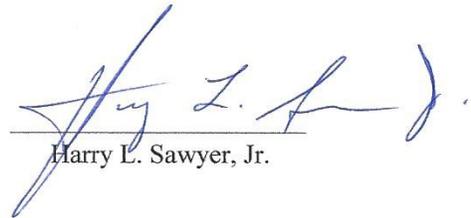
11. Second, turnout decreased from 80.6% to 76%, in part because fewer voters had the opportunity to vote early. In the 2008 general election, 13,608, or 33.7% of Monroe voters who voted, cast in-person ballots during the 12 day (96 hours) of early voting. In the 2012 general, 11,071, or 28.3% of Monroe voters who voted, cast in person ballots during the 8 day (96 hours) of early voting. In the 2012 general election, 5.4% fewer voters used early voting in the 2008 election. Based on my experience, this decrease in turnout is attributable to the decrease in Early Voting days. No other reason explains it—voters did not just become tired of using Early Voting.
12. As predicted, the decreased number of days for early voting decreased voters' access to the polls, had a detrimental effect on voter turnout, disenfranchised over 200,000 voters across Florida who decided to forego voting because of the burdens of long lines and waiting times, increased the costs of election administration, and caused national embarrassment as Florida's up to seven hour long lines on election day prevented polls from closing until nearly 2am. Although the polls stayed open for 96 hours of early voting for 85% of the Florida population, the extended hours were not an adequate substitute for the lost days of early voting.
13. Following the 2012 elections, Florida amended its election law granting Supervisors of Elections the flexibility to open the polls for 8 to 14 days of early voting for 8 to 12 hours per day. Monroe County has gone back to conducting Early Voting from 15 days before the election until 3 days before the election, with polling places open for 8 1/2 hours a day from 8:30am to 5pm. Although Florida never should have decreased the availability of early voting, it increased early voting once it had evidence from the 2012 election that

cuts to the days for early voting impinge on voters' access, decrease overall turnout, and causes chaos at the polls on Election Day.

14. North Carolina has the benefit of Florida's evidence that compressed early voting disfranchises voters, a harm that is not ameliorated by extending polling hours on fewer early voting days.

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

Executed on this 28 day of April, 2014.



Harry L. Sawyer, Jr.