

Attachment 3
Declaration of Donald Schroeder

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

NORTH CAROLINA STATE)
CONFERENCE OF THE NAACP, *et al.*,)

Plaintiffs,)

v.)

1:13CV658

PATRICK LLOYD MCCRORY, in his)
official capacity as Governor of North)
Carolina, *et al.*,)

Defendants.)

LEAGUE OF WOMEN VOTERS OF)
NORTH CAROLINA, *et al.*,)

Plaintiffs,)

and)

LOUIS M. DUKE, *et al.*,)

Plaintiffs-Intervenors,)

1:13CV660

v.)

THE STATE OF NORTH CAROLINA, *et al.*,)

Defendants.)

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

1:13CV861

THE STATE OF NORTH CAROLINA, *et al.*,)

Defendants.)

DECLARATION OF DONALD SCHROEDER

Donald Schroeder, first being sworn, deposes and says as follows:

1. I am over 18 years of age and am competent to testify regarding the matters discussed in this declaration. A copy of my *curriculum vitae* is attached.
2. In July, 2013, North Carolina joined a growing number states when it passed HB 589 amending its voter verification requirements in a bill entitled The Voter Information Verification Act (VIVA). The thrust of the Act was to make more secure the integrity of the voting process by establishing, among other things, the following:
 - a. The voter must present government-issued photo identification verifying his identity,
 - b. A process whereby a registered voter not possessing government-issued identification can acquire a special photo identification card, without cost, for purposes of verifying the existing requirements for casting a ballot,
 - c. A shortening, but not elimination of the early voting opportunity from 17 days before an election to 10 days before an election,
 - d. The elimination of a provision allowing teenagers as young as 16 to pre-register to vote,
 - e. The elimination of a provision allowing voters to both register to vote and vote on Election Day, same day during early voting period,
 - f. The elimination of a provision allowing voters to vote provisionally in a precinct in which he is not a resident,
 - g. An increase in the number of polling place monitors and persons who can challenge a person's eligibility to cast a ballot.
3. The cumulative effect of these amendments enhances the ability of election officials to verify the eligibility of persons who cast votes, although it may also make the process of voting less convenient for some. On balance, compared to the voter verification requirements of other States, North Carolina's voter verification requirements remain well within the mainstream. There are other States whose requirements are more permissive overall than North Carolina's, but there are many, on balance, that remains more restrictive.

Photo Identification

4. Regarding the new requirement of producing government-issued photo identification, VIVA accepts as valid a North Carolina driver's license, a special identification card issued to nonoperators by the North Carolina Department of Motor Vehicles (G.S. 20-37.7), a United States passport, a United States military identification card (exempt from needing an expiration date), a Veterans Identification Card (expiration date exempt), a tribal enrollment card (US or NC recognized tribe), or an out-of-state operators or nonoperators license if the voter had registered within 90 days of the election. Exceptions to this requirement include registered voters voting curbside, a registered voter with sincere religious objections to being photographed, and a registered voter who is the victim of a natural disaster that occurred within 60 days of the election.
5. This amendment to North Carolina elections laws follows upon similar legislation passed by other states in recent years. At least eighteen additional States have voter photo identification requirements in place to take effect on or before the 2016 elections. In every instance, including NC, there are accommodations made for those who do not have a government-issued photo ID. These range from making exceptions because of extenuating circumstances (those who vote curb-side) to alternative sources for confirming one's identity and residency.
6. Most of those States include some form of student photo identification as valid, whereas North Carolina does not. This restrictiveness, however, needs to be balanced against the fact that most of those States accepting the validity of student identification cards are more restrictive than North Carolina regarding other voter eligibility requirements, such as allowing absentee voting only if certain conditions exist preventing them from voting on Election Day. Of the eighteen States that require photo identification, twelve accept some form of student photo identification as valid, but of those twelve, most (seven) require those wanting to vote absentee by mail to give a reason for not being able to vote in person.

Voter Photo Identification

Photo ID Required, Student ID Accepted	Student ID Accepted with Reason for Absentee Ballot	NCHB 589 Requirement	Student ID Not Accepted	Photo ID Required
13 States	7 States		6 States	18 States
26%	14%		12%	36%

Registration Procedures

7. North Carolinians can register to vote in person or by mail up to 25 days before an election. The Voting Rights Act, as amended in 1970, established a 30 day limit on when states could close voter registration in national elections.⁴ The United States Supreme Court set a maximum of 30 days as a guideline for state and local elections, as well.⁵ It should be pointed out, however, that a year later, the Court upheld State deadlines of 50 days making clear that States have some discretion in setting registration deadlines for state and local elections because of administrative considerations.⁶ Since then, no State has set a registration limit greater than 30 days. 21 States have deadlines earlier than North Carolina; the remainder has deadlines later than North Carolina. North Carolina no longer allows voters to register on Election Day. This is also true for 37 other States. Of those States with registration deadlines earlier than that of North Carolina, only one (Alaska) allows a voter to register and vote on the same day.

¹ Alabama, Arkansas, Florida, Idaho, Kansas, Michigan, New Hampshire, Pennsylvania, Rhode Island, South Dakota, Virginia, Washington, Wisconsin

² Georgia, Indiana, North Carolina, South Carolina, Tennessee, Texas

³ Alabama, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Michigan, Mississippi, New Hampshire, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington

⁴ Voting Rights Act Amendments of 1970, 84 Stat. 316, 42 U.S.C. § 1973aa-1

⁵ Dunn v Blumstein 405 U.S. 330 1972

⁶ Marston v Lewis 410 U.S. 679 1973

Voter Registration

26-30 Days	NCHB 589: 25 Days	24 Days or Less
20 States ⁷		27 States ⁸
40%		54%

8. Prior to the passage of HB 589, North Carolina allowed for the pre-registration of citizens as young as 16 years old. That is no longer the case. Presently, any North Carolina citizen must have turned 18 during or before the early election period to register to vote. Voter registration opportunities are still available to high school students at their public high schools, but they must be able to meet the age requirements. This puts North Carolina more in line with the practices of other States. Only five States (Rhode Island, Colorado, Hawaii, Florida, and Maryland) and the District of Columbia pre-register 16 year olds. The remainder has age requirements comparable to that of North Carolina.

Pre-Registration of Minors

Pre-Registration of Minors Allowed	NCHB 589 Majority Requirement	Majority Requirements Comparable to NCHB 589
5 States ⁹		47 States
10%		88%

Alternative Opportunities for Voting

9. North Carolina provides a number of alternative opportunities for voting in addition to the conventional (in-person on Election Day) opportunity.
- a. **By mail absentee voting:** Ballots are made available 60 days before Election Day. A registered voter can choose to vote absentee for any

⁷ Alaska, Arizona, Arkansas, Florida, Georgia, Hawaii, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, New Mexico, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah- Connecticut and North Dakota Not Available

⁸ Alabama, California, Colorado, Delaware, Idaho, Illinois, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, Oklahoma, Oregon, South Dakota, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming

⁹ Colorado, District of Columbia, Florida, Hawaii, Maryland, Rhode Island,

reason. This “no-excuse” opportunity to vote absentee by mail is comparable to the practice in most states but not all. Of those States with the “no-excuse” opportunity, none has the 60 day availability option allowed in North Carolina. Some States (20) place restrictions or qualifications to be allowed to vote absentee by mail (this includes “early voting by mail”).

- b. **In-person absentee voting:** Prior to the passage of HB589 North Carolina began its “in-person absentee voting” (also referred to as “early voting” and “one-stop voting”) seventeen days before the end of the early voting period. HB 589 changed that to ten days. Starting in 2016, early voting becomes available on the second Thursday before Election Day. This puts North Carolina at about the median of all States in making in-person early voting available. Twenty-five States make early voting possible earlier than North Carolina. Of the remaining States, two (West Virginia and Hawaii) have a comparable number of early voting days, four have fewer days, and the remainder do not make in-person early voting available at all.

Early Voting Schedule

More Than 10 Days	NCHB 589 10-Day Allotment	Less Than 10 Days	No Early Voting
25 States ¹⁰	Also West Virginia and Hawaii ¹¹	3 States ¹²	19 States ¹³
50%	6%	6%	38%

Summary of Indicators

- 10. As this analysis indicates, the reforms instituted by VIVA had the effect of moving North Carolina in the direction occupied by most of the other States. Regarding each of the policy areas covered in this discussion, after the changes made in HB 589, North Carolina remains well within the mainstream of the States overall. North Carolina is one of a growing number of States requiring

¹⁰ Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Minnesota, Nebraska, Nevada, New Mexico, North Dakota, Ohio, South Dakota, Tennessee, Texas, Utah, Vermont, Wisconsin, Wyoming

¹¹ Louisiana, Maryland, Oklahoma

¹² Alabama, California, Connecticut, Delaware, Kentucky, Massachusetts, Michigan, Mississippi, Missouri, Montana, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington


government-issued photo identification, a practice that is becoming increasingly common for a great number of things. The changes in the length of the early voting period and the elimination of the pre-registration of minors and same-day registration are consistent with the practices in many States. If one were to place North Carolina on a continuum reflecting the restrictiveness of the voter verification process relative to the other States, it would place somewhere within the center of that continuum. In every case, North Carolina avoids the extremes of restrictiveness, as well as permissiveness.

Policy Continuum

States with more Permissive Policies	NCHB 589	States with more Restrictive Policies
31 (62%)	Voter Photo ID Required	18 (36%)
25 (50%)	Early Voting Schedule (10 Days)	22 (44%)
5 (10%)	Pre-Registration of Minors	44 (88%)
12 (24%)	Election Day Voter Registration	37 (74%)
21 (42%)	Voter Registration: 29 Days	28 (56%)

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct.

This the ____ day of April, 2014.


Donald Schroeder

DONALD N. SCHROEDER

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PERSONAL DATA

Born December 23, 1946
Single
Excellent health

EDUCATION

Ph.D.	Political Science	Duke University	1975
M.A.	Political Science	Duke University	1972
B.A.	Political Science	University of Illinois at Chicago Circle	1970

PRIMARY TEACHING FIELDS

Political philosophy -- All historical periods and specialized topics
Constitutional Law

MULTI-MEDIA SKILLS

Proficiency with computer-based multi-media hardware and software, including PowerPoint, Perfect Presentation, Adobe Premiere (video), and a variety of image and sound programs.

PRESENT POSITION

Associate Professor, Campbell University (Tenured)

Teaching Responsibilities:

- Ancient Political Thought
- Medieval Political Thought
- Modern European Political Thought
- American Political Thought
- Constitutional Development (two semesters)
- Constitutional Law Seminar
- American National Government
- American Political Parties

Donald N. Schroeder

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PREVIOUS POSITIONS

Visiting Assistant Professor (1977-8)
Political Science Department
Louisiana State University
Baton Rouge, LA 70803

Assistant Professor (1975-7)
Department of History and Political Science
St. Xavier College
103rd and Central Park
Chicago, IL 60655

Instructor (1973-5)
Department of Government
Lamar University
Beaumont, TX 77710

SCHOLARLY ACTIVITIES

"Aristotle on Law," in Brooks, Richard and Murphy, James Bernard. Aristotle and Modern Law. Dartmouth Publishing Co./Ashgate Publishing Limited, 2003.
[Originally published in Polis, 4 (Fall 1981), 17-31]

"Aristotle on the Good of Virtue-Friendship," History of Political Thought (Summer, 1992). An earlier version was given at the Annual Meeting of the Southwest Political Science Association, April 1, 1991.

"John Rawls and Contract Theory," Soundings, 66 (Fall 1973), 338-48.

Workshop Participant, "Technology and Teaching Political Science." Annual Meeting of the North Carolina Political Science Association, March, 2000.

"Law, Constitutionalism and Aristotle's Conception of Nobility." Presented at the Annual Meeting of the Western Political Science Association, March, 1998.

Panel Discussant, Political Theory, and Roundtable Participant, Technology, Teaching and the Future of Higher Education, Annual Meeting of the North Carolina Political Science Association, April, 1998.

Panel Discussant, Annual Meeting of the American Political Science Association in cooperation with the Society for Greek Political Thought, September, 1998.

Panel Discussant, Political Implication of Plato's Timaeus, Annual Meeting of the American Political Science Association in cooperation with the Society for Greek Political Thought, September, 1996.

"Aristotle's Conceptions of the Noble and the Divine as Activities of the Soul," Annual Meeting of the American Political Science Association in cooperation with the

Society of Greek Political Thought, September 1995.

"Psychological Dimensions of Aristotle's Political and Ethical Ideas," presented at the Annual Meeting of the Southern Political Science Association, November, 1994.

"Aristotle on Natural Justice and Law," presented at the Annual Meeting of the Southern Political Science Association, November, 1993. Preparation is in progress for publication.

CHAIRPERSON, Campbell University Lecture-Symposium Committee:

- Lecture-Symposium, (April, 2011) Moderator, "The Shape of Things to Come: Reapportionment in 2011."
- Lecture-Symposium, (April, 2010) Moderator & Discussant, "Religious Liberties Under the First Amendment."
- Lecture-Symposium, (April, 2009) Moderator, "The Impact of Asset Bubbles & Leverage on Today's Economy."
- Lecture-Symposium, (April, 2008) Moderator, "The 2008 Presidential Election."
- Lecture-Symposium, (April, 2006): Discussant, "The Political Economy of the Roberts Court."
- Lecture-Symposium, (April, 2005): Moderator & Discussant, "Mass Media in our Daily Life."
- Lecture-Symposium, (April, 2004): Moderator, "The Gospel According to Tolkien."
- Lecture-Symposium, (March, 2003): Moderator & Panelist, "The Vanishing Voter."
- Lecture-Symposium, (March, 2002): Moderator, "The Issue of Legislative Redistricting."

IN PROGRESS: "Aristotelian Natural Justice, Nobility & Law," an article examining the relationship between determination of principles of natural justice and the quality of "nobility," a quality Aristotle argues is the standard for all of the moral virtues.

Aristotle's Political Psychology, a book-length study of the relevance of Aristotle's epistemology to his ethical and political ideas

PH.D. DISSERTATION: "Contemporary Contractarian and Utilitarian Conception of Justice" (Supervised by Professor John H. Hallowell)

M.A. THESIS: "Aristotle's Conception of the Rule of Law" (Supervised by Professor John H. Hallowell)

REFERENCES

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