

**EXCERPTS FROM THE DEPOSITION  
OF MICHAEL DICKERSON**

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

NORTH CAROLINA STATE )  
CONFERENCE OF THE NAACP, )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. ) Case No.: 1:13-CV-658  
 )  
PATRICK LLOYD MCCRORY, in his )  
official capacity as the )  
Governor of North Carolina, )  
et al., )  
Defendants. )

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LEAGUE OF WOMEN VOTERS OF )  
NORTH CAROLINA, et al., )  
 )  
Plaintiffs, )  
 )  
vs. ) Case No.: 1:13-CV-660  
 )  
THE STATE OF NORTH CAROLINA, )  
et al., )  
Defendants. )

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UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) Case No.: 1:13-CV-861  
 )  
THE STATE OF NORTH CAROLINA, )  
et al., )  
Defendants. )

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VIDEOTAPED DEPOSITION OF  
MICHAEL GARY DICKERSON

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VIDEOTAPED DEPOSITION OF  
MICHAEL GARY DICKERSON

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10:02 a.m.

Tuesday, July 1, 2014

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## I N D E X

WITNESS/EXAMINATION Page

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1 Q. And prior to House Bill 589, how many  
2 mandated days were there?

3 A. You had, what, 17 days available. Keep in  
4 mind, your local board can always choose the number  
5 of days they want to have. You must have at least  
6 your office open to accommodate the 17 days before.

7 Q. Okay. You're also aware that House  
8 Bill 589 requires the County Board of Elections to  
9 employ the same number of cumulative hours of early  
10 voting as the previous comparable election unless the  
11 county board receives a waiver; is that correct?

12 A. Correct.

13 Q. Okay. Do you believe that maintaining the  
14 same hours for a 10-day early voting period is  
15 equivalent to offering 17 days of early voting?

16 A. Well, I'm offering the same number of  
17 hours.

18 Q. Right.

19 A. The number of days is -- is something in  
20 the law that I am being told that -- to operate  
21 under. I try to look at things on the positive side  
22 of everything. And if I have to operate 1500 hours,  
23 a 4-year equivalent to this year's election, I am  
24 looking at that as being increased access to my -- to  
25 the voters here in Mecklenburg County because I will

1 need to open up more than the 14 or 15 sites I had in  
2 2010.

3 Q. Okay. So for a -- for a ten-day period of  
4 early voting, the County Board of Elections is going  
5 to need to open additional early voting sites in  
6 order to keep up with the hours matching  
7 requirements? Is that correct?

8 A. You would have to either open up  
9 additional sites or -- or extend your hours. But  
10 yes, you are correct.

11 Q. And is the Mecklenburg County Board of  
12 Elections intending to open additional sites for the  
13 November 2014 general election?

14 A. Keep in mind, that's a board decision.

15 Q. Right.

16 A. My three-member board will make that  
17 decision. And they will -- they will determine the  
18 sites and the locations.

19 Our recommendation will -- to them will be  
20 that we -- we open additional sites. Maybe do a  
21 little bit of both, the additional hours, also, so  
22 that -- so that we can meet the 1520-hour  
23 requirement.

24 My board is a very smart board. There is  
25 no sense in opening sites if people aren't going to



1 be there.

2 Q. Right. And when you say the "1520-hour  
3 requirement," are you referring to the same number of  
4 hours that were offered in the 2010 general election?

5 A. Yes, sir.

6 Q. Okay. And when you say that -- that you  
7 will recommend to open additional sites for the  
8 general election in 2014, what do you base that  
9 recommendation on?

10 A. Well, first off, on the -- based on the  
11 number of hours. And -- and secondly, the fact that  
12 folks in Mecklenburg County appreciate voting early.

13 Q. What do you mean by they "appreciate  
14 voting early"?

15 A. Well, if you look at our last election,  
16 our presidential election, 62 percent of the folks  
17 that voted in the -- of the 452,000 that voted, voted  
18 before election day.

19 Q. Would that have been in the 2012  
20 presidential election?

21 A. 2012 presidential election, uh-huh.

22 Q. And is 62 percent turnout during the early  
23 voting period, was that a record for Mecklenburg  
24 County?

25 A. Yes. Yes, it was.

1 Q. So going back to your point about the need  
2 to open additional sites for the -- for the general  
3 election in 2014, how many new sites do you  
4 anticipate would be necessary to meet the 1520-hour  
5 requirement?

6 A. We're looking at approximately five more  
7 sites. And that's a mixture, again, of maybe a  
8 couple of additional hours and an additional site.  
9 But here again, that's a -- strictly a board's  
10 decision.

11 Q. Right. And when you say "additional  
12 hours," do you mean on top of the 1520 hours?

13 A. No. On -- to equal the -- the 1520 hours  
14 that we had.

15 Q. Okay. And -- and when you say that the  
16 county might open five additional sites, that's five  
17 additional sites as compared to which prior election?

18 A. The 2010 general election, which we're  
19 required to match.

20 Q. Okay. Do you think that more than five  
21 sites would be required for a presidential election?

22 A. Haven't gotten that far yet --

23 Q. Okay.

24 A. -- to be honest with you.

25 Q. That's fair. What are some of the costs

1 BY MR. MANER:

2 Q. So when you say that you don't see savings  
3 or an expenditure, does that mean, in -- in your  
4 view, you think that the costs will break even?

5 A. Correct.

6 Q. Okay. And is it possible that there might  
7 be some additional costs with, as you mentioned,  
8 increasing personnel or having to pay for additional  
9 equipment to staff five extra sites in the 2014  
10 general election?

11 A. Well, the -- the equipment we pretty  
12 much -- the equipment we pretty much have out there  
13 anyway. So there's no -- usually no additional cost  
14 in there. We maximize the use of each facility that  
15 we can just to have those sites out there.

16 The additional cost in personnel, again,  
17 would be saved by -- by using folks that are familiar  
18 with the process. We have a -- a great group of  
19 precinct officials who have also asked to do the  
20 early voting work. And we have -- we have a good  
21 pool of people that we can choose from and train and  
22 give them equivalent training to what they would  
23 receive at a board of elections office and have them  
24 out there. So we -- we would presume that the -- the  
25 numbers should equal out when we all get through

27

1 everything.

2 Q. Okay. But you don't expect to save any  
3 money?

4 A. No.

5 Q. Okay. Prior to House Bill 589 being  
6 enacted, could the County Board of Elections extend  
7 the voting hours on the last Saturday before election  
8 day?

9 A. Yes.

10 Q. And how long could the polling hours be  
11 extended on that Saturday?

12 A. Until 5:00 p.m.

13 Q. What was the process for extending those  
14 hours?

15 A. It would take a board action. My board  
16 would -- would vote to decide whether or not they  
17 wanted to extend those hours.

18 Q. Okay. And is that a decision that the  
19 board can make independently or do they have to get  
20 approval from the State Board of Elections?

21 A. It would need to be approved by the State  
22 board, any plan of implementation or -- or an  
23 amendment to your plan of implementation would have  
24 to be approved by the State board. So you would --  
25 you would make that a -- they -- they would make

## EXAMINATION

1  
2 BY MR. FARR:

3 Q. So, Mr. Dickerson, I'm Tom Farr, and I'm  
4 one of the co-counsels for the Defendants.

5 What I've told everyone in this case is  
6 that you know more about this than I do so if I don't  
7 ask the question the right way, please let me know,  
8 and I'll try to rephrase it.

9 A. Will do.

10 Q. Okay. Just talking about the subject we  
11 just went over about the out-of-precinct voters.

12 A. Uh-huh.

13 Q. Do you have any knowledge whatsoever as to  
14 why those voters didn't vote in their correct  
15 precinct?

16 A. No, I do not.

17 Q. Have you talked to any of them?

18 A. No, I have not.

19 Q. Is it possible that they were taken by an  
20 interest group to a wrong precinct?

21 A. That could happen, yes.

22 Q. And has that happened in Mecklenburg?

23 A. That has happened before in Mecklenburg  
24 County.

25 Q. Okay. I wanted to ask you about

1 provisional ballots.

2 A. Sure.

3 Q. What sort of voting equipment do you use  
4 in Mecklenburg County?

5 A. On election day and early voting, I use an  
6 Ivotronic voting equipment. It's approved by the  
7 State after the 2006, I think it was, ES&S, Election  
8 Systems and Software, is the manufacturer. That's  
9 for -- most of my voting is the Ivotronic.

10 We also use an optical scan ballot for our  
11 mail-in ballots, for our provisional ballots and for  
12 our curbside balloting. So it's all the same  
13 software. It's just a different direct record,  
14 electronic versus an optical scan.

15 Q. Okay. So for out-of-precinct voting, as  
16 you have defined it in this case, what system do you  
17 use for that?

18 A. I would use the optical scan for that.

19 Q. Okay. You made a comment about condensing  
20 the early voting to 10 days from 17. I thought you  
21 said that that provided more opportunity for voters?

22 A. I said it provided more access points is  
23 the way I read it. Again, I look at things as I'm an  
24 administrator. I want people to come out and vote  
25 and vote -- if I'm voting early, I want them to vote

1 early.

2 So I'll sell the additional -- I'll --  
3 I'll sell it as you have now increased access to  
4 early voting for folks. You may have shortened their  
5 days, but now I have to come up with 5 more sites  
6 when I might have only had 15. So again, the glass  
7 is half full to me.

8 Q. So, do you think that the location of the  
9 early voting site has an impact on whether someone  
10 actually does early voting?

11 A. It does to the extent of, if it's -- the  
12 facility's large enough to accommodate folks. I  
13 don't have -- I don't have real big facilities that I  
14 can go to where I can put 50 or 60 voting panels at  
15 one time. I'm lucky if I can get 10 to 20 voting  
16 panels in the facility.

17 And if it's not on a -- on a major  
18 thoroughfare, it can be -- it can be slower. Or if  
19 it's a congested area, if it doesn't have parking,  
20 that can -- that can create a problem.

21 I have a site downtown at the main branch  
22 of my library, which I think might have five parking  
23 spaces. But I know that's walk-up traffic so I go  
24 with it that way. But yes, it can affect, to the  
25 extent of where those sites are, how those folks will

1 vote.

2 Q. So what did you mean exactly by "more  
3 access"?

4 A. More access meaning more places to go and  
5 vote. So now instead of -- instead of just having 15  
6 sites, you're going to have to increase that by  
7 30 percent. You're going to give them 30 percent  
8 more choices of a place to go vote at, being a --  
9 being early voting and in a -- in a site that you  
10 might not have usually opened in a nonpresidential  
11 year.

12 So that's -- that's the more access that  
13 they're going to get. They would have only had 15  
14 places to go. Now they might have -- and, again,  
15 this is all predicated on what my board decides  
16 because that's my board's decision, not Michael's  
17 decision.

18 But offer them 20 places to go so I can  
19 meet my hours requirement. Now, they're going to  
20 have to -- they're going to have five spots that they  
21 wouldn't have had a choice of prior to.

22 Q. When's your board going to make that  
23 decision?

24 A. We've got to make it by the end of July.  
25 I think we have a July 29th board meeting.



1 Q. Okay.

2 A. And I hope to have it -- everything ready  
3 for them by then.

4 Q. And when you identify an early voting  
5 site, do you just have it for ten days or do you get  
6 it -- say, this year --

7 A. Uh-huh.

8 Q. -- would you just have that space for ten  
9 days or do you have to have that space for a few days  
10 before voting starts?

11 A. Just one day before -- I deliver the  
12 equipment the day before, secure it in the facility  
13 and then my folks will set up. And I'm usually using  
14 a part of the library, not the whole library.

15 Q. Okay. Tell me how -- how same-day  
16 registration worked when that was being done in  
17 previous elections.

18 A. Sure. It worked as such that a voter  
19 would walk in, they would state their name and  
20 address. And if I could not find them in the -- the  
21 database, because it would be during early voting, I  
22 would have my people attempt to see if it's a  
23 different spelling on the name. It's a maiden name,  
24 something like that.

25 If they did not have that, then what we

1 would do is make them fill out a voter registration  
2 application on the spot. They would fill the  
3 application out. My folks at the early voting  
4 location would put the data in. And all of that  
5 information -- then register that voter.

6 And they would need a form of  
7 identification at that point in time, driver's  
8 license or something. I think they used to call it a  
9 Have-A ID and that was an identification that allowed  
10 you to -- a proof of where you lived ID.

11 And then I would come back. I would have  
12 that. The law stated I think that we had within  
13 24 hours to have that data entered into our system at  
14 the Board of Elections office and a voter card mailed  
15 out to that voter. And we would have our staff do  
16 that and put a voter card in the mail to the voters.

17 Q. When the -- when someone came to vote  
18 during early voting, what type of voter would take  
19 more time going through the process? Somebody who  
20 was already on your poll book and who checked in and  
21 was approved and voted or someone who did -- had to  
22 do same-day registration?

23 A. Same-day registration would take much  
24 longer.

25 Q. And do you -- have you ever been present

1 in a precinct when they did same-day registration?

2 A. I can't -- it would have been an early  
3 voting location because I would not have done it in a  
4 precinct.

5 Q. Right.

6 A. Quite possibly, I had been. But I  
7 wouldn't have -- I wouldn't have taken notice of it.

8 Q. Do you have a range of how much time that  
9 could take if, you know, short to longest for someone  
10 to do same-day registration?

11 A. Sure. It could take, you know, a five- to  
12 ten-minute where it may only take you a minute or two  
13 to check in.

14 Q. Okay. And did you have employees or poll  
15 workers dedicated only to doing same-day registration  
16 or how did you set that up?

17 A. Pretty much, just that. We would have a  
18 site coordinator or a poll worker that would actually  
19 be responsible for doing those same-day registrations  
20 for voters.

21 Q. Okay. And how many -- how many people in  
22 a precinct or early voting site would you have doing  
23 that?

24 A. Usually it was one dedicated. And so if  
25 you had 25 sites, you would have 25 people out there

1 Department of Justice. I just had one question for  
2 Mr. Dickerson, if that's okay.

3 EXAMINATION

4 BY MS. RYAN:

5 Q. Mr. Dickerson, I represent the United  
6 States in this lawsuit. And a few minutes ago when  
7 you were talking with Mr. Maner about the provisional  
8 ballot process, you talked about what would have  
9 happened if somebody came to the wrong precinct  
10 before January 1st, 2014. And you said, "and now  
11 that process will be different."

12 Could you walk me through what will happen  
13 now, say, in November 2014 if a voter arrives at the  
14 wrong -- at the -- at a precinct that is not his  
15 assigned precinct?

16 A. Certainly. What I should say is -- is the  
17 process for the voter will be the same. The process  
18 on my end will be the difference. Whereas, I do not  
19 have an option of approving or my board does not have  
20 an option of approving that, we will recommend that  
21 those ballots be denied if they're an out-of-precinct  
22 voter not meeting the qualifications of the -- of the  
23 Voter Information Verification Act.

24 Q. So a -- a voter who arrives at a precinct  
25 that is not the voter's assigned precinct will still

1 be given a provisional ballot?

2 A. Right. There will be -- we never deny  
3 anybody. Our goal is to always -- I mean, I've given  
4 provisional ballots from truck drivers passing on  
5 I-77 from Florida just because they wanted to vote.

6 Well, there's no way that I can count that  
7 ballot for those folks, but we do tell our -- our  
8 precinct officials to explain the situation and that  
9 it's not their decision. It's a board's decision to  
10 make at our Mecklenburg County Board of Elections  
11 office and they'll be offered that provisional  
12 process.

13 And -- and again, on the back end, that's  
14 where I will -- that's where I'll have to recommend  
15 that my board not count it.

16 Q. Okay. So let's -- just considering the  
17 scenario of a voter who is actually registered in  
18 Mecklenburg County --

19 A. Uh-huh.

20 Q. -- truck driver coming through from  
21 Florida. But they come to the -- a precinct that's  
22 not their assigned precinct, your poll workers will  
23 offer them a provisional ballot. But then when it  
24 comes time for the board to go through the back-end  
25 process, is it right that you will recommend that

1 that ballot not be counted? Is that what you said  
2 earlier?

3 A. Correct, that will be. What our poll  
4 worker will originally do is say that they'll want to  
5 go -- advise the voter that they will want to go to  
6 their correct precinct to vote. And if the voter  
7 refuses, then we'll offer them the provisional  
8 ballot.

9 Q. But that provisional ballot will not be  
10 counted?

11 A. According to the House Bill 589, no, it  
12 will not.

13 MS. RYAN: Thank you. That was my only  
14 question.

15 THE WITNESS: Sure.

16 MR. FARR: I have one more question.

17 FURTHER EXAMINATION

18 BY MR. FARR:

19 Q. I want to make sure I heard what you just  
20 said. Did you -- did you not just say that when a  
21 voter who lives in Mecklenburg County shows up at the  
22 wrong precinct, the poll workers will check him on  
23 the poll book?

24 A. Correct.

25 Q. And they'll determine if he was not in the

1 right precinct. Do they determine what his proper  
2 precinct is?

3 A. We can, yes.

4 Q. And do the poll workers tell the person  
5 where his proper precinct is and he should go vote  
6 there?

7 A. They can tell them exactly where their  
8 proper precinct is through our electronic poll book  
9 that we use.

10 Q. And, in fact, isn't that what you tell  
11 your poll workers to do?

12 A. Yes, sir.

13 MR. FARR: Okay. Thank you.

14 VIDEOGRAPHER: Is that it, Counselors?

15 COURT REPORTER: Does anyone want an  
16 expedited transcript on this?

17 MR. ALLEN: Yes, everybody does.

18 COURT REPORTER: Everybody does.

19 People on the phone?

20 MR. ALLEN: Yes, they're going to want it,  
21 too.

22 TELEPHONIC COUNSEL: Yes, please. Thank  
23 you.

24 COURT REPORTER: Thank you.

25 VIDEOGRAPHER: One moment. Off the