

Testimony of
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United States Senate Committee on the Judiciary
Hearing on the Nomination of Michael B. Wallace to the U.S. Court of Appeals for the Fifth
Circuit
Dirksen Senate Office Building
Room 226

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3:30 p.m.

My name is Carroll Rhodes. I am a lifelong resident of Mississippi, except for the time I served in the United States Air Force. I have practiced law in Mississippi for 28 years. I began practicing law in my hometown of Hazlehurst with Central Mississippi Legal Services in 1978, and I have represented poor and disenfranchised people ever since. I have a general practice in both civil and criminal law, with an emphasis in the areas of civil rights, especially voting rights, and personal injury. I have also served as a Municipal Court Judge for the City of Hazlehurst.

I testify today on behalf of the Mississippi State Conference of the NAACP, with which I work closely, in opposition to the nomination of Michael Wallace to the Fifth Circuit Court of Appeals.

A threshold point is that the Wallace nomination fails to promote racial diversity on the federal bench, and it is the most divisive nomination that President Bush has sent to the Senate from Mississippi. While the percentage of African Americans in our State is the highest in the nation - (36.5%), only one African American has ever been appointed a federal judge in Mississippi. The State has 14 active and senior status of whom are white, and two (2) active appeals court judges - both white. President Bush has not included one (1) African American out of the eight (8) names he has sent to the United States Senate for appointment to the federal bench in Mississippi.

Mr. Wallace's record is well known to the Mississippi NAACP. In 1983, we opposed his nomination to the Board of the Legal Service Corporation. Citing his opposition to the Voting Rights Act and his support of tax-exemptions for racially discriminatory schools, the NAACP found the "conduct and activities of nominee Michael B. Wallace to be repugnant and insensitive to the needs, plight and conditions of the poor and minorities of this country, and specifically the State of Mississippi."

Mr. Wallace's actions once confirmed to the Legal Services Board warrant serious review by the Senate. As a former attorney for Central Mississippi Legal Services, I can attest to the harm caused to the program during Mr. Wallace's tenure. Mr. Wallace advocated principles and practices directly contrary to the goals of the program he was appointed to oversee. He even took the position that the independent agency was unconstitutional and therefore should be abolished. He sought substantial decreases in funding by Congress. He tried to eliminate the national support centers that challenged systemic problems and provided essential expertise and advice to lawyers around the country. He sought to prioritize the kinds of cases filed and sponsored the widely criticized move to prohibit lawyers from bringing voting rights cases.

The Legal Services program for years was the primary means by which those unable to afford legal counsel were provided at least some access to justice. For black and white residents in a poor State like Mississippi, the program made the difference in obtaining housing, health care, basic subsistence, education, fair credit, and basic rights of citizenship. More people live below the federal poverty level in Mississippi than in any other State - (21.3%). Many poor families, black and white, paid usurious interest rates on consumer loans for household furniture until Legal Services lawyers successfully challenged the practice and forced creditors to comply with the Truth-In-Lending Act. Black voters in Centerville, Woodville, Greenwood, Oxford, Wilkinson County, and other small towns and counties in Mississippi were unable to elect blacks to public office until Willie Rose, Deborah McDonald, Willie Perkins, Alvin Chambliss, Leonard McClellan, Southwest Mississippi Legal Services, North Mississippi Rural Legal Services, the Lawyers Committee for Civil Rights Under Law, the NAACP Legal Defense and Educational Fund, along with private attorneys Ellis Turnage, Rob McDuff, Victor McTeer, Wilbur Colom, and I brought voting rights cases striking down at-large elections and discriminatory redistricting schemes. If it had not been for North Mississippi Rural Legal Services, Jake Ayers would not have been able to successfully challenge Mississippi's racially discriminatory higher education system. Policies implemented by Mr. Wallace at the Legal Services Corporation now prevent Legal Services programs from representing the poor and seeking redress in such cases.

Unfortunately, Mr. Wallace's record raises other concerns. As a voting rights lawyer, I am deeply troubled by Mr. Wallace's advocacy against black majority single-member voting districts, which are often the only means by which African Americans can elect candidates of choice. have litigated voting rights cases against Mr. Wallace, and have witnessed first-hand his particular dislike of these districts. It is my view that the strenuousness of his objections far exceeds that of an advocate in a particular case. His writings and public comments on the issue support this conclusion.

Twenty-two years ago, the NAACP's opposition to Mr. Wallace's confirmation referred to his work against establishing the majority minority district now represented by Congressman Bennie Thompson. Mr. Wallace's efforts against such districts in the ensuing years only intensify our concern.

The NAACP believes that all Mississippians are entitled to have federal judges who are committed to equal access to the courts and to equal justice under law. Sadly, we believe those qualities are not reflected in the Wallace nomination. We respectfully ask the Senate to vote against Mr. Wallace's confirmation.