

Section 5 Objections and Other Voting Rights Act Violations in Georgia: 2000-June 2013

Section 5 Objections:

- State of Georgia (2012) – In 2012, the state of Georgia passed statewide legislation that had the sole effect of changing the date for the non-partisan mayoral and commissioner elections for the consolidated government of Augusta-Richmond from November to July, a veiled effort to dilute minority voting strength. After analyzing the proposed plan under Section 5, DOJ concluded that moving Augusta-Richmond’s mayoral and commissioner elections from November to July would disproportionately impact the turnout of African-American voters. DOJ also concluded that there was evidence that Georgia’s actions in adopting this legislation were driven, in part, by a racially discriminatory purpose. In the wake of the *Shelby* decision, the Georgia secretary of state has announced that the 2014 election for Augusta-Richmond County will be held at the time of the primary rather than the November general election. **NOTE: This case is also listed later in the report among 10 cases of concern since the *Shelby* decision was handed down, because the secretary of state’s actions.**
- Long County and Long County School District (2012) – The county proposed redistricting plans for the board of commissioners and the board of education under which the Black voting age population of District 3 decreased by 6.7 percentage points, from 47.2 percent to 40.5 percent. DOJ determined that the plan would have caused African-American voters to experience an avoidable retrogression of their ability to elect candidates of their choice.
- Greene County and Greene County School District (2012) – The county proposed redistricting plans for the board of commissioners and the board of education that would have eliminated the ability of AfricanAmerican voters to elect candidates of choice in two single-member districts.
- State of Georgia (2009) – The state proposed to establish a voter verification program for voter registration application data, including citizenship status, and changes to the voter registration application. However, the state’s procedures for verifying voter registration information did not produce accurate and reliable information and thousands of citizens who would be eligible to vote under Georgia law were flagged. The flawed system frequently subjected a disproportionate number of African-American, Asian, and/or Latino voters to additional and erroneous burdens on the right to register to vote. DOJ subsequently precleared a modified version of the program that resolved a Section 5 declaratory judgment action brought by Georgia in the U.S. District Court for the District of Columbia.
- Lowndes County (2009) – The proposed redistricting plan for the county commission would have added two single-member commissioner districts. Under the existing plan, African-American voters had the ability to elect a candidate of their choice in one of the three single-member districts in the county. Under the proposed plan, African Americans would have had the ability to elect a candidate of choice in only one out of five single-member districts. The plan, therefore, would have placed Black voters in a worse electoral position than under the benchmark plan.
- Randolph County (2006) – In January 2006, the three-member Randolph County Board of Registrars held a special meeting for the sole purpose of determining anew the proper voter registration location of Henry Cook, an African-American candidate for office from District 5. The

all-White board of registrars voted unanimously to change the voter registration status of Cook and his family members from District 5, where more than 70 percent of the voters are African-American, to District 4, where more than 70 percent of the voters are White. In addition to the sequence of events being procedurally and substantively unusual, the board resurrected an issue that had been settled three years earlier by a judge in the Superior Court of Tift County, who ruled that Cook was eligible to vote and run for office in District 5. DOJ objected to this change.

- Marion County School District (2002) – The county proposed a redistricting plan that would have decreased the number of viable minority districts by one and, moreover, reduced the ability of Black voters to elect candidates of choice in an additional district. Due to the drop in the Black population, the proposed 2002 redistricting plan contained only two districts (as opposed to three in the benchmark plan) in which Black people were a majority of the voting age population. In one of the two remaining Black majority districts, the Black voting age population dropped to 50.7 percent. Given the pattern of racially polarized voting, the significant reduction in Black voting strength would have necessarily entailed a material reduction in the ability of Black voters to elect candidates of choice under the proposed plan.
- City of Albany (2002) – The city proposed a redistricting plan in which the Black population in Ward 4 would be reduced to 31 percent in spite of having steadily increased over the past two decades. In the 2000 Census, the ward’s Black population increased to nearly 51 percent only to be reduced by the proposed plan in order to forestall creation of a Black district. The reduction in the Black population was neither inevitable nor required by any constitutional legal imperative.
- Putnam County and Putnam County School District (2002) – The proposed redistricting plans for the Putnam County School District and the board of commissioners contained only one district in which Black persons would have been a majority of the voting age population. However, given the data from the 2000 Census, there were two districts under the 1982 benchmark plan in which Black people were at the time a majority of the voting age population. The Black percentage of the voting age population in proposed District 1 was cut almost in half by the proposed plan, while the Black percentage of the voting age population in proposed District 2 dropped slightly.
- City of Ashburn (2001) – The city proposed changes regarding the adoption of numbered posts for city councilmembers and majority-vote requirement for the election of city officers. The numbered posts method has the effect of frustrating single-shot voting; single-shot voting has often been used by Black voters to overcome the refusal of White voters to support candidates that the minority community supports. A majority-vote requirement also creates head-to-head contests between minority and White candidates; the imposition of such a requirement would have resulted in a runoff in which the White vote controlled the outcome of the election.
- City of Tignall (2000) – The city proposed to amend the city charter to change the method of election for the city council to numbered posts with staggered terms and a majority vote requirement. The proposed system would have eliminated the opportunity that minority voters had under the existing system to boost the effectiveness of their vote for their preferred candidate through single-shot voting. The imposition of numbered posts and a majority-vote requirement made more likely head-to-head contests between minority and White candidates where minority candidates would be more likely to lose than under the existing system with concurrent terms and a plurality voting requirement.
- Webster County School District (2000) – The process of developing a new redistricting plan was initiated after the school district elected a majority Black school board for the first time in 1996.

The county proposed a redistricting plan for the Board of Education of Webster County that would have reduced the minority population in the three majority Black districts. Given that the voting patterns in Webster County appeared to be racially polarized, the reductions in minority voting strength raised serious doubt about whether minorities would continue to have an equal opportunity to elect candidates of choice in the districts with the reduced Black populations.

Other Voting Rights Act Violations:

- **Georgia State Conference of the NAACP, et al. v. Fayette County Board of Commissioners, et al. (2013)** – In 2013, a federal court struck down, as violative of Section 2, Fayette County’s at-large method of electing members to the county board of commissioners and board of education. The court found that although Black residents comprise 20 percent of Fayette County, are geographically concentrated in the county, and consistently vote together for board of commissioners and board of education candidates, no Black candidate has ever been elected to either of these boards in the county’s 191-year history. As a remedy for the violation, the court ordered that future elections be conducted under a district voting plan.
- **United States v. Long County, GA (2006)** – On February 8, 2006, the United States filed a complaint against Long County, Georgia under Section 2. The complaint alleged that Long County officials required 45 Latino residents whose right to vote had been challenged on the grounds that they were not U.S. citizens to attend a hearing and prove their citizenship, even though there was no evidence calling into question their citizenship and even though similarly situated non-Latinos were not required to do so. According to the complaint, the defendants’ conduct had the effect of denying Latino voters an equal opportunity to participate in the political process and to elect candidates of their choice. On February 10, 2006, the district court entered a consent decree that requires defendants to train their election officials and poll workers on federal law, to maintain uniform procedures for responding to voter challenges, and to notify Latino voters who were challenged that no evidence was presented to support the challenges against them and that they are free to vote.

Examples of post-*Shelby* Voting Changes of Concern

Because voting discrimination typically comes to light near major elections or right after the decennial census, we are only beginning to see examples of potentially discrimination voting changes post-*Shelby*. The following is a list of potentially discriminatory voting changes enacted since June 2013:

- **State of Georgia** –In the wake of the *Shelby* decision, the Georgia Secretary of State has announced that the 2014 election for Augusta-Richmond County will be held at the time of the primary rather than during the November general election, reinstating a plan that DOJ had objected to prior to *Shelby* on the grounds that it would disproportionately negatively impact the turnout of African-American voters. **NOTE: This case is listed above in the pre-*Shelby* section as well.**

From the report of the 2013-2014 Voting Rights Commission on Voting Rights Violations

Dr. Nancy Dennard appeared at the NCVR hearing representing the “Quitman 10+2”, a group of ten black individuals who were charged with voter fraud and removed from elected office because of their work electing minority candidates. Quitman is a small city located in Brooks County, Ga. The county is around 16,000 people, and the voting population is estimated to be 36% black, 59% white, and 5% other. The school board is elected at-large.

Dr. Dennard previously ran for school board in 2006, losing close races. In 2009, she won a special election based on a strong get-out-the-vote and voter education campaign. Between the two elections, Georgia made it easier to vote early and by absentee ballot, which Dr. Dennard stressed to the voters who ultimately elected her. The following year, a group of individuals decided to run for school board and the county commission. All of them were successful in the primary, and despite some questionable tactics permitted by the superintendent of elections, all three were elected in November. However, on election night, the initial results showed one candidate losing by sixty votes which was then flipped to a nine-vote lead before certification. There was a recount, and that candidate won—picking up two votes in the process. Dr. Dennard believes it was because the majority of votes were on paper ballots which allowed for an accurate recount.

Those victories sent a wave of enthusiasm through the community; they truly realized the power of their votes. However, the elation was short lived. In December of 2010, ten individuals were arrested and charged with voter fraud, illegally assisting voters, and improper handling of absentee ballots. A year later those ten, and two others, were indicted by a special session of a grand jury. In January 2012, Dr. Dennard and the other elected officials in the Quitman 10+2 were removed from their offices. During the course of the trial, Dr. Dennard and the others discovered that the Georgia Bureau of Investigation used intimidation and threats of arrest to elicit untruthful statements from some of voters. Furthermore, of the roughly 350 individuals interviews by the GBI, 95% of them were black. Additionally, the trial exposed several irregularities. For example, a postal supervisor, with no legal authorization, locked returned absentee ballots in his cash drawer for later retrieval, as well as kept the logs at his house where no one else had access to them. Dr. Dennard had suspected something irregular. The local Board of Elections claimed they were mailing the ballots out but not receiving them back, and the day after her first election, 50 ballots were delivered by the Post Office. Dr. Dennard complained to the local postmaster, but got nowhere. Further, a deputy registrar at the board of elections testified that she brought absentee ballots home on several occasions because she was behind on her work of logging them, a violation of Georgia law.

This information came out in open testimony in court, but the GBI and prosecutors—who are purportedly worried about the integrity of elections—didn’t pass that information along to the defense or investigate those wrong doings.

In October 2012, the elected officials were reinstated, and this past November Dr. Dennard was reelected as school board president. The trial against the Quitman 10+2 has ended in a mistrial, but she fears the authorities will attempt similar tactics in the future.

From the NAACP Legal Defense and Education Fund’s report, “HOW FORMERLY COVERED STATES & LOCALITIES ARE RESPONDING TO THE SUPREME COURT’S VOTING RIGHTS ACT DECISION”

Following the *Shelby* decision, pending voting changes include a county commission plan in Georgia’s most populous (Fulton) county that, among other things, creates a new overwhelmingly white district and reduces the district sizes of majority-Black districts.²⁶

o State lawmakers also proposed legislation that would cut (to 6 days, including a Saturday) early-voting periods for small, but not larger, consolidated cities, as a purported cost-saving measure.²⁷

o *At the local level*, following the *Shelby* decision, the City of Athens considered eliminating nearly half of its 24 polling places, and replacing them with only two early voting centers—both of which would be located inside police stations.²⁸ Community members raised concerns that the location of the new centers would intimidate some voters of color and that the proposed closures would be harmful to voters of color and/or students, many of whom would need to travel on three hour bus rides just to reach the new polling places.

o *At the local level*, following the *Shelby* decision, Greene County, implemented a redistricting plan for the five-member County Board of Commissioners. The plan, which one Black member of the Commission denounced, would result in Black voters’ making up less than 51 percent, a bare majority, in all five districts under the plan.²⁹

□ Under Section 5, the Department of Justice blocked another redistricting plan in Greene County in 2012³⁰ and had been reviewing the abovementioned plan before the *Shelby* decision.

o *At the local level*, following the *Shelby* decision, Morgan County, after initially considering eliminating over half of the County’s polling places, ultimately eliminated more than a third of them.³¹ One city council member expressed his belief that the closures would disfranchise low-income, voters of color, many of whom lack cars.

o *At the local level*, following the *Shelby* decision, election officials in Baker County, a majority Black county with high poverty rates, considered eliminating four of its five polling places, requiring some voters to travel upwards of 20 miles to vote.³²

26 <http://www.ajc.com/ap/ap/georgia/states-promise-quick-action-on-election-laws/nYWbD/>;
<http://blogs.ajc.com/atlanta-forward/2013/06/27/voting-rights-act-2/>

27 [http://m.onlineathens.com/general-assembly/2014-02-04/georgia-lawmaker-seeks-shorter-earlyvoting-periods-small-cities](http://m.onlineathens.com/general-assembly/2014-02-04/georgia-lawmaker-seeks-shorter-earlyvoting-periods-small-cities;);

http://www.salon.com/2014/02/20/gops_chilling_new_assault_on_voting_why_this_man_wants_to_choose_georgia_voting_sites/

28 <http://www.rollingstone.com/politics/news/voting-rights-at-risk-in-georgia-20131104>

29 <http://www.rollingstone.com/politics/news/voting-rights-at-risk-in-georgia-20131104>;

http://www.msgr.com/lake_oonee_news/news/article_84967866-05da-11e3-801e-019bb2963f4.html

30 http://www.justice.gov/crt/about/vot/sec_5/ltr/l_041312.php

31 <http://www.rollingstone.com/politics/news/voting-rights-at-risk-in-georgia-20131104>

32 <http://www.rollingstone.com/politics/news/voting-rights-at-risk-in-georgia-20131104>

At the local level, following the *Shelby* decision, election officials in Augusta-Richmond are considering reintroducing a plan that would move County elections from their traditional timing in November to over the summer, when Black voter turnout is typically lower.³³

☐ Under Section 5, the Department of Justice in 2012 blocked this same attempt to switch the election date from November to a summer time month.³⁴

o *At the local level*, officials in Macon, a majority-Black city in Bibb County, decided to have just one non-partisan municipal election in July, when Black voter turnout typically is lower, moving from their traditional schedule of having partisan elections with a primary election in July and a general election in November.³⁵

33 <http://www.rollingstone.com/politics/news/voting-rights-at-risk-in-georgia-20131104>;
[http://chronicle.augusta.com/news/government/elections/2013-06-29/court-ruling-revives-effort-moveaugusta-](http://chronicle.augusta.com/news/government/elections/2013-06-29/court-ruling-revives-effort-moveaugusta-elections-july)
<http://www.msnbc.com/msnbc/gop-revives-jim-crow-tactic>

34 http://www.justice.gov/crt/about/vot/sec_5/ltr/l_122112_ga.php

35 <http://www.npr.org/2014/02/06/272359791/voting-rights-act-update>

For information on the history of voter discrimination in Georgia, go to

http://lawweb.usc.edu/why/students/orgs/rlsj/assets/docs/issue_17/03_Georgia_Macro.pdf