

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF GEORGIA**

MATHIS KEARSE WRIGHT, JR.,

Plaintiff,

v.

SUMTER COUNTY BOARD OF  
ELECTIONS AND REGISTRATION,

Defendant.

CIVIL ACTION NO. 1:14-CV-42  
(WLS)

**SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION'S  
STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO  
GENUINE DISPUTE TO BE TRIED**

COMES NOW the Sumter County Board of Elections and Registration (the County), Defendant in the above-styled case, and pursuant to Local Civil Rule 56, hereby provides its Statement of Material Facts as to Which There is No Genuine Dispute to be Tried, showing the Court the following:

1.

At the 2010 Census, Sumter County had a total population of 32,819 residents and a majority of those residents (51.8%) are African-American. Report of Frederick G. McBride, attached as Ex. A to the County's Brief ("McBride Report"), p. 4.

2.

The voting age population of Sumter County is nearly a majority, with 48.1% African-American, with an additional 5.2% identifying as Hispanic or Latino. McBride Report, p. 4.

3.

As of August 2014, there are more registered African-American voters in the county than registered white voters. Deposition of Frederick G. McBride [Doc. 38] (“McBride Dep.”) at 50:4-51:23.

4.

Sumter County elects its seven-member Board of Education. McBride Report, p. 11. Five members are elected from single-member districts, while the remaining two members are elected at-large by the county as a whole. *Id.*

5.

Plaintiff Mathis Wright seeks only to eliminate the two at-large districts, requiring the seven members be elected from single-member districts. Deposition of Mathis Wright [Doc. 37] (“Wright Dep”), at 36:14-22.

6.

Dr. McBride performed a statistical analysis of twelve endogenous elections for the Sumter County Board of Education that involved black candidates facing white candidates. McBride Dep. 47:3-7.

7.

Dr. McBride did not evaluate or review any exogenous elections for Sumter County. McBride Dep. 96:5-8.

8.

Eight of the twelve elections Dr. McBride analyzed took place in 2014. McBride Report, pp. 21-22.

9.

Dr. McBride used three statistical estimating methods to determine whether the minority community was cohesive, and if so, whether the minority-preferred candidate succeeded: (1) Goodman Single-Equation Ecological Regression, (2) double-equation regression analysis (referred to in his report as BERA), and (3) Ecological Inference (referred to as EI or King's). McBride Report, pp. 19-20; Expert Report of Karen L. Owen, attached as Ex. B to the County's brief ("Owen Report"), p. 3.

10.

Statistical estimates are required to determine whether racially-polarized voting exists, because ballot secrecy prevents courts from reviewing exact numbers. Owen Report, p. 3.

11.

Dr. McBride agreed in his deposition that the King numbers (estimates generated using Ecological Inference) provide the best estimates of minority cohesion and support for various candidates. McBride Dep., 83:11-13, 175:16-22.

12.

Dr. McBride admitted that the estimates he created could have been more precise if he had used voter registration instead of voting age population as his metric. McBride Dep., 88:9-17.

13.

Dr. McBride did not use the more precise method of voter registration in creating his estimates. McBride Dep., 88:9-17.

14.

In his initial report, Dr. McBride found that in six of the twelve elections analyzed, the minority-preferred candidate succeeded or was “not defeated.” McBride Report, pp. 24-26; Owen Report, p. 7.

15.

At his deposition, Dr. McBride modified that original analysis, testifying that, *in at least* five of eleven elections (45.5% of the time), and *as many as* seven of twelve elections (58.3% of the time), the minority-preferred candidate succeeded. McBride Dep., 129:10-130:4.

16.

In at least four races, Dr. McBride’s statistics revealed there was no minority-preferred candidate because the minority community divided over which candidate it preferred. Owen Report, pp. 5-7.

17.

In the 2014 Board of Education District 6 race, there is a minority-preferred candidate, Michael Mock, who received 58% support from the African-American community under the King estimates, and he won the election, which was not racially polarized. McBride Report, 41; McBride Dep. 110:19-23.

18.

In the 2014 Board of Education District 1 race, there is a minority-preferred candidate, Alice Green, who received 87.9% of the African-American vote under the King estimates, and she wins the election. McBride Report, p. 42; McBride Dep. 111:22-24.

19.

In the 2014 Board of Education District 2 race, the minority community's support for Sarah Pride was only 50.5% using the King estimates, McBride Report, p. 43.

20.

With the standard error in Dr. McBride's estimates, the support for Pride in the 2014 Board of Education District 2 race could have been as low as 43.6% McBride Dep., 175:12-15, 114:25-115:16.

21.

A higher standard error could lead to less reliable estimates. McBride Dep., 175:12-15, 114:25-115:16.

22.

In the 2014 Board of Education District 3 race, Dr. McBride's estimates showed that, using the King numbers, both candidates received more than 50% of the African-American vote. McBride Report, p. 44; McBride Dep., 101:17-24; 116:4-12.

23.

Dr. McBride categorized the estimator results of the 2014 Board of Education District 3 race as an error (but could not explain how the error occurred). McBride Report, p. 44; McBride Dep., 101:17-24; 116:4-12.

24.

In the 2014 Board of Education District 5 race, there is a minority-preferred candidate, Edith Green, who received 66.4% of the African-American vote under the King estimates, and she wins the election. McBride Report, p. 45; McBride Dep. 116:15-19.

25.

In the 2014 Board of Education At-Large Two-Year race, there is a minority-preferred candidate, Michael Coley, who receives 68.2% of the African-American vote under the King estimates. McBride Report, p. 46.

26.

Coley was one of the top two candidates in the 2014 Board of Education At-Large Two-Year race and advanced to the runoff. McBride Report, p. 46.

27.

Dr. Owen explained that the 2014 Board of Education At-Large Two-Year race was an “electoral success” for the minority-preferred candidate based on social science literature on runoffs. Deposition of Karen Owen [Doc. 39] (“Owen Dep.”), 27:22-29:2.

28.

Dr. Owen found that the 2014 Board of Education At-Large Two-Year election does not show defeat of the minority-preferred candidate, because Coley advanced to the next election and had the opportunity to build on his success in the first round. Owen Dep., 27:22-29:2.

29.

Dr. McBride originally reported the race as one where the minority-preferred candidate was not defeated, but later confessed confusion about that conclusion because the race was a runoff and he did not know the impact of that fact. McBride Dep., 117:6-11, 120:4-9, 121:16-122:3.

30.

In the 2014 Board of Education At-Large Four-Year race, Kelvin Pless was the minority-preferred candidate, receiving 72.9% of the African-American vote using the King estimates but was defeated. McBride Report, p. 47; McBride Dep., 122:4-7.

31.

In the 2014 Board of Education At-Large Two-Year Runoff race, Coley was still the minority-preferred candidate and was defeated, although Sylvia Roland received 35% of the African-American vote under the King estimates. McBride Report, p. 48; McBride Dep., 122:8-13.

32.

In the 2010 Board of Education District 3 race, Kelvin Pless received 99.5% of the African-American vote in this election according to the King estimates and was successful. McBride Report, p. 49; McBride Dep., 122:14-18.

33.

In the 2008 Board of Education District 1 race, Carolyn Whitehead received 96.9% of the African-American vote in this election according to the King estimates and was successful. McBride Report, p. 50; McBride Dep., 122:19-22.

34.

In the 2006 Board of Education District 3 race, using the King estimates, Dr. McBride reports that Darius Harris received 93.4% of the African-American vote, while Donna Minich received 43.6% of the African-American vote. McBride Report, p. 51.

35.

Because the total estimates in the 2006 Board of Education District 3 race total more than 100%, Dr. McBride identified them as having a high standard error. McBride Dep., 123:2-9.

36.

In the 2002 Board of Education District 3 race, no candidate received more than 50% support from African-American voters or white voters using the King estimates. McBride Report, p. 52.

37.

Because of the lack of bloc voting in the 2002 Board of Education District 3 race, Dr. McBride found the race was not racially polarized. *Id.*

38.

In the 2002 Board of Education District 3 race, Dr. McBride selected Carolyn Seay, the candidate with the *least* amount of support from the African-American community (measured using the King estimates) as the minority-preferred candidate. McBride Report, p. 52.

39.

Carolyn Seay was defeated in the 2002 Board of Education District 3 race. McBride Report, p. 52.

40.

Dr. McBride agreed that it was “questionable at best” whether the minority-preferred candidate was defeated in the 2002 Board of Education District 3 race, because that question would require “more analysis.” McBride Dep., 127:3-12.



41.

Dr. McBride admitted he had performed no further analysis on the 2002 Board of Education District 3 race. McBride Dep., 127:13-15.

42.

Dr. McBride testified that one could reasonably say the minority-preferred candidate succeeded in the 2002 Board of Education District 3 race. McBride Dep., 125:19-126:2.

43.

Dr. McBride agreed with Dr. Owen that the word “usually” in the context of *Gingles* means something that happens “more often than not.” McBride Dep., 138:1-14; Owen Report, p. 4.

44.

Dr. McBride conceded that, using his estimates, the total number of races in which the minority-preferred candidate was successful was *at least* 5 out of 11 races, and *possibly as high as* 7 out of 12 races. McBride Dep., 129:10-130:4.

Respectfully submitted this 12th day of January, 2015.

s/ Anne W. Lewis  
Anne W. Lewis  
Georgia Bar No. 737490  
Bryan P. Tyson  
Georgia Bar No. 515411  
STRICKLAND BROCKINGTON LEWIS LLP  
Midtown Proscenium Suite 2200  
1170 Peachtree Street NE  
Atlanta, Georgia 30309  
Telephone: 678.347.2200  
Fax: 678.347.2210

*Attorneys for Defendant Sumter County Board of  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day electronically filed the within and foregoing SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION'S STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE DISPUTE TO BE TRIED with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Laughlin McDonald, Esq.  
2700 International Tower  
229 Peachtree Street, NE  
Atlanta, GA 30303

Chara F. Jackson, Esq.  
1900 The Exchange  
Suite 425  
Atlanta, GA 30339

This 12th day of January, 2015.

s/ Anne W. Lewis  
Anne W. Lewis  
Georgia Bar No. 737490