

Supplemental Expert Report of Karen L. Owen

2016 WL 9446585 | Mathis Kearse WRIGHT, Jr., Plaintiff, Appellant, v. SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION, Defendants, Appellee. | United States District Court, M.D. Georgia.

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2016 WL 9446585 (M.D.Ga.) (Expert Report and Affidavit)
United States District Court, M.D. Georgia.

Mathis Kears WRIGHT, Jr., Plaintiff, Appellant,
v.

SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION, Defendants, Appellee.

No. 14-cv-00042-WLS.
November 14, 2016.

Supplemental Expert Report of Karen L. Owen

Case Type: Civil Rights & Constitutional Law >> Discrimination

Case Type: Civil Rights & Constitutional Law >> Voting

Jurisdiction: M.D.Ga.

Name of Expert: Karen L. Owen, Ph.D.

Area of Expertise: Social Science >> Political Science

Representing: Defendant

I. Introduction.

My name is Karen Owen, I am over the age of 18, and I suffer no disability that would preclude me from giving this expert report.

I received a Bachelor of Arts degree from the University of Georgia in 2001, majoring in Political Science and minoring in History. I received a Master of Public Administration degree from the University of Georgia in 2004. I was awarded a Doctor of Philosophy in Political Science from the University of Georgia in 2012. I specialized in American Politics, Methodology, and Public Administration.

I am currently an Assistant Professor in the School of Mathematics and Sciences at Reinhardt University. I also serve as the Director of the Master of Public Administration (MPA) program at Reinhardt University where I teach graduate courses, including research methods, public administration and policy, leadership and organizational behavior, human services administration, and administrative law. Additionally, I teach undergraduate political science courses in Southern politics, Legislative politics, Campaigns and Elections, and American Government. I have previously taught courses on Judicial Politics and Women in Politics. I have done extensive research in electoral and legislative politics, state politics, and redistricting. Recently, I have written a book, *Women Officeholders and the Role Models who Pioneered the Way*, which examines the influence of political role models on women's candidacy emergence decisions and electoral outcomes to higher elective offices for Lexington Books, a division of Rowman & Littlefield Publishers. I have also published peer-reviewed journal articles in the areas of state politics and women in electoral and legislative politics.

In the past four years, I have testified as an expert in three cases: *Wright v. Sumter County Board of Elections and Registration*, No. 1:14-CV-42 (WLS) (M.D. Ga.), *Georgia State Conference of the NAACP v. Fayette County Board of Commissioners*, No. 3:11-CV-123-TCB (N.D. Ga) and *Lee v. Virginia State Board of Elections*, No. 3:15-CV-357 (E.D. Va).

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Prior to my academic appointment, I worked in governmental affairs and legislative politics. In 2001 and 2002, I served as a Legislative Analyst for Ford Motor Company's Southeast Governmental Affairs unit. I created and reviewed legislative initiatives as well as lobbied state legislators on behalf of Ford Motor Company's interests. From 2004 to 2005, I worked for the U.S. House of Representatives serving as a Legislative Assistant to a Georgia congressional member. Upon returning to Georgia in 2005, I worked as a Public Health Legislative and Policy Analyst at the Centers for Disease Control and Prevention. I have broad training in theoretical and practical legislative and administrative politics.

My academic record, publications and work experience are detailed in a copy of my curriculum vita which is attached at the end of this document. I am compensated for this work at the rate of \$300 per hour.

II. Scope and Plan

I have been asked by counsel for Sumter County, Georgia to evaluate the supplemental expert report and data analysis offered by plaintiffs expert, Professor Frederick G. McBride, regarding a Voting Rights Act Section 2 vote dilution claim. Specifically, I have been asked to render my opinion on Professor McBride's analysis concerning his data, methodology, and findings.

In the following sections, I evaluate the objective analysis of demonstrating a vote dilution claim as prescribed by Section 2 of the Voting Rights Act and related case law. Then, I review Professor McBride's data and findings as I did in my original report, and once again, I disagree with his statistical estimates and results, and thus I dispute his conclusions that elections for Sumter County Board of Education are racially polarized and that the districting scheme dilutes minority votes due to his lack of reliable evidence to substantiate this claim. In the conclusion, I opine based upon an examination of McBride's report that there is insufficient support for the vote dilution claim.

III. Analysis

A. Objective

The Supreme Court in *Thornburg v. Gingles* 478 U.S. 30 (1986) created a three-part test to determine the existence of minority vote dilution. Under the second and third parts of that test, plaintiffs must demonstrate that the minority group is "politically cohesive" and that "the white majority votes sufficiently as a bloc to enable it... usually to defeat the minority's preferred candidate."¹ For matters regarding this case, the minority group in Sumter County, Georgia is identified as those individual voters within the population who identify as Black using the Department of Justice definition and are non-Hispanic.²

In order to show minority vote dilution and satisfy the requirements of the second and third *Gingles* prongs, experts must analyze the degree to which racial polarization has characterized voting in a jurisdiction's elections. Elections held with the secret ballot provide only election returns or the total votes cast from precincts and do not offer specific data on which voters have the same or different candidate preferences. Thus, experts must rely on statistical techniques to estimate racial voting patterns of individuals from aggregate election returns. Three commonly used methods to evaluate racial polarized voting are: (1) Homogeneity where election returns are examined in homogeneous precincts; (2) Bivariate Regression analysis where models estimate the candidate preferences for racial groups; and (3) Ecological Inference developed by Gary King³ where maximum likelihood estimates show participation and candidate support for racial groups. I have extensive knowledge and experience using all three of these statistical methods.

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Professor McBride in his first expert report and supplemental report used regression analyses (i.e. Goodman Single-Equation Ecological Regression and double equation regression) as well as Ecological Inference to analyze Sumter County voting patterns in recent primary and general elections for the local Board of Education and other county-wide positions.⁴ However in his deposition, Professor McBride agreed that Ecological Inference (EI or King's estimates) provides the best estimates of minority political cohesion and minority voter support for various candidates in elections.⁵ McBride's supplemental report states that he uses data from the Georgia Secretary of State's website, the Census Bureau, and Maptitude for Redistricting 2013 to derive estimates of racial groups' voter preferences for specific candidates in "eleven elections between 2004 and 2016."⁶ My supplemental report analyzes whether there is sufficient evidence in McBride's initial expert and supplemental expert reports to demonstrate a Section 2 claim and satisfy the conditions of the second and third *Gingles* prongs.

B. Testing for Vote Dilution Utilizing the *Gingles* test.

The *Gingles* test as set forth by the Supreme Court consists of three factors to analyze for a claim of minority vote dilution. The criteria are:

1. Minority group is of sufficient size and geographically compact to allow for the creation of a single-member district for the group in question;
2. Minority group is politically cohesive; and
3. The candidate of choice for the minority group is typically defeated by a majority (Anglo or white) voting bloc.⁷

The following analysis concentrates on the extent to which elections in Sumter County meet the second and third prongs of the *Gingles* criteria as summarized above. In analyzing that question, I rely on a set of conditions that must be met in order to establish the basis for a successful Section 2 cause of action. For these Sumter County Board of Education contests, it is important to ascertain whether two conditions under *Gingles* are met for each contest analyzed. The first condition is *Gingles* prong 2: Is there an obvious candidate of choice for Black voters? If that condition is met, then we proceed to determine whether the electorate was racially polarized for that election, (i.e. *Gingles* prong 3). If the prong 2 condition is not met, then evidence of Black vote dilution is not present because although *Gingles* prong 2 may detect the presence of racial polarization, it alone is insufficient for a Section 2 claim.

In order to determine whether vote dilution exists in an election, the second condition, *Gingles* prong 3, must also be met: Is the Black preferred candidate or candidate of choice *usually* defeated by a bloc of Anglo/white voters? If this condition (prong 3) is not met, then evidence of Black vote dilution is not present. For a vote dilution claim to hold, *Gingles* prong 3, where the minority-preferred candidate of choice is *usually* defeated directly by a majority bloc of non-black or white voters who support another candidate, must be met. The Merriam-Webster Dictionary defines "usual" to mean "done, found, or used most of the time or in most cases."⁸ I define "usually" to mean a condition that occurs more often than not. If both conditions (i.e. prongs 2 and 3 of *Gingles*) are satisfied, then for the electoral contest in question, there would be evidence of minority vote dilution. Conversely, if only one condition (either prong 2 or prong 3) is met, then evidence of Black vote dilution is not present.

Based upon the above stated preconditions and factors of the *Gingles* test, I was asked to analyze Professor McBride's analyses of electoral contests for Sumter County to ascertain whether these elections support a claim of racial polarized voting and thus minority vote dilution. Sumter County's Board of Education (BOE) consists of a seven-member board where five members are elected from single-member districts, and two members are elected from at-large county-wide districts. Professor McBride in his supplemental report concludes that the current districting plan for the BOE is discriminatory and "voting patterns in eleven

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elections between 2004 and 2016 show that blacks in Sumter County, GA are cohesive in support of their preferred candidate as the black candidate has received significant support from black voters, and that voting is racially polarized as white voters vote as a bloc to defeat the minority preferred candidate.”⁹ Throughout his reports, Professor McBride provides estimated voter preference and electoral outcome data to support a minority vote dilution claim.

However, there are some serious flaws in Professor McBride's analysis and conclusions in his supplemental report, just as there were in his first expert report. In his first expert report, there were issues surrounding Professor McBride's statistical models and estimations and thus his subsequent conclusions about racial polarized voting. Professor McBride reported in one election (BOE District #3 2002) that Black support was divided between the three candidates, including two Black candidates. Not one of these candidates received Black voter support above 50 percent. McBride reported as well a split among Black voters' support for candidates in two elections - BOE District #3 and District #2 in 2014; in short, there was no conclusive minority-preferred candidate in certain elections. McBride also provided estimates for Black voter preferences for candidates that exceeded 100 percent.¹⁰ Additionally, in his first expert report, Professor McBride failed to provide sufficient evidence to satisfy the conditions of *Gingles*. He reported six of twelve minority-preferred candidates succeeded or were “not defeated.”¹¹ Later, in his deposition, he modified that position testifying that minority-preferred candidates had succeeded in at least five of eleven elections (45.5%) and as many as seven of twelve elections (58.3%).¹² In my initial expert report, I addressed concerns about his analyses and conclusions stating, “There are inconclusive results from the plaintiff's report for support of *Gingles* prong 2 in four of the twelve elections (33% of the elections).”¹³ Furthermore, I concluded that “there are six other instances in which McBride's estimates show the black-preferred candidate succeeding and thus no support for *Gingles* prong 3.”¹⁴

There are similar statistical and data flaws evidenced in Professor McBride's supplemental expert report which rebut his findings of minority vote dilution. Professor McBride reports on only eleven elections in his supplemental report compared to twelve in his initial expert report. He adds the most recent 2016 BOE at-large election, the 2014 BOE District #4 electoral contest, and the 2004 Sheriff contest; he removes previously reported endogenous elections (i.e. BOE District #3 in 2002, BOE District #3 in 2006 and BOE District #1 in 2008); and he chooses to discount one election previously analyzed (i.e. BOE at-large election in 2014 that led to a runoff). Selecting only certain elections and deleting elections which were previously analyzed introduces selection bias and raises issues with model specification. Furthermore, Professor McBride again reports EI estimates for Black voters' support that exceed the 100 percent bound level. Voters' preferences cannot reasonably be negative or be greater than 100 percent.

Lastly, there are inconsistencies in the data reported and the statistical analyses of Professor McBride's two expert reports. Professor McBride draws an inappropriate conclusion from his assessment of the Sumter County BOE population summary in his supplemental report. McBride writes, “The other three districts and the at-large seats are majority-white in both population and voting-age population.”¹⁵ McBride's Table 1, nevertheless, shows the percentage of Blacks in the county's population and their voting-age population to exceed the percentage level of Whites.¹⁶ Blacks are the majority, not Whites. Moreover, Professor McBride now shows in his supplemental expert report completely different estimates for candidates, making it appear that his voter preference estimates have been switched among the candidates.¹⁷ For example, in BOE District #1 in 2014, White voters' preferences for all candidates Green, Lockhart, and Smith have changed from his initial expert report; estimates for voter support vary four to five percentage points and are distributed differently among the candidates.

Thus to summarize, problems within Professor McBride's supplemental expert report include:

- Inferences of minority vote dilution drawn without reliable evidence.

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- Inconsistencies in the statistical analyses of the Sumter County BOE elections.
- Uncertain statistical reliability and potentially biased estimates for voter preferences and electoral analyses.

Below is my analysis of Professor McBride's conclusions concerning the elections for the Board of Education and county-wide offices in Sumter, County, Georgia and the Section 2 vote dilution claim. For the reasons stated below, I have no confidence that McBride's data and estimations are correct because they are error-ridden. However, as I stated in my initial expert report that even if we assume, *arguendo*, that Professor McBride's data and estimations are reliable and valid, they still do not show prongs 2 or 3 are met. Assuming realistic and reliable estimates as presented in McBride's initial expert and supplemental reports, the pertinent question for expert analysis is whether the plaintiff satisfied the factors of the *Gingles* test and therefore has sufficiently supported the claim of minority vote dilution in Sumter County. McBride's analysis of electoral contests demonstrates that these factors have not been satisfied because although voting in Sumter County in some contests is racially polarized that is not true in all contests examined, and furthermore, minority-preferred candidates have not usually been defeated by white bloc voting.

1. *Gingles* Prong 2

As previously examined and discussed in my expert report regarding Professor McBride's analysis and findings in his first expert report and now in his supplemental report, there are inconclusive results from the plaintiffs report for support of *Gingles* prong 2 in three of the eleven elections (27% of the elections). These BOE elections are: BOE District #2 in May 2014, BOE District #3 in May 2014, and BOE District #6 in March 2014. The following details each election, and the lack of support for prong 2 of *Gingles* (i.e. the minority group is politically cohesive).

In his first expert report concerning the *Gingles* factors, Professor McBride attests that the BOE District #2 contest in 2014 is a racially polarized election where the black preferred candidate loses.¹⁸ McBride reports estimates where the percentage of the Black vote supporting the minority preferred candidate, Pride, is 50.5% and approximately 33% of the remaining Black vote is split between the other two candidates. The estimated vote share in his first report is barely above the majority (50%) of Black support for the preferred candidate, and he did not provide solid evidence of political cohesion among Black voters. However, in his supplemental report detailing the BOE District #2 contest in 2014, McBride reports estimates where the percentage of the Black vote supporting the minority-preferred candidate, Pride, is 99.3%. He also shows approximately 24% of the Black vote is for the other candidate, Byrd. Voter preferences for candidates and estimate totals are bound with Ecological Inference (EI) from the lower limit of zero support to an upper limit of 100 percent support. Professor McBride's estimates for Black support exceed 100%, therefore calling into serious question the reliability of his estimates. In addition, Professor McBride shows divided support among the White voters. White voters split preferences: 30.1% to Byrd, 59% to Krenson and 5.8% to Pride.¹⁹ These estimates sum to 94.9%, and he does not account for the remaining 5.1% of support from non-Black voters. This again raises doubt about the reliability of his Ecological Inference statistical model and the generated estimates. Further in his supplemental expert report, Professor McBride reports BERA results for both Black and White voters. Estimates exceed 100%, and some voter preferences show *negative* estimates. Yet, Professor McBride did not report BERA estimates for the minority-preferred candidate Pride in his first expert report, but he does have estimates in his new supplemental expert report for each candidate among both groups of voters. Therefore, in his new supplemental expert report the estimates are not only different, but they vary greatly suggesting issues with model specification leading to uncertainty about the reliability of the estimated preferences of voters. These flaws in Professor McBride's estimates pose great doubt as to his assertion of political cohesion among minority voters.

Professor McBride in his first expert report also provides the BOE District #3 contest in May 2014 as another election where racial polarized voting is present in Sumter County and the minority-preferred candidate loses. McBride reports the percentage of Black voter support for each candidate as greater than 50% of the vote. Fitzpatrick, who is the Black preferred candidate,

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receives 56.3% of the Black vote share, but the second candidate, Reid, receives 52.1% of the Black vote.²⁰ Therefore, there is no clear indication of which candidate the minority group politically coalesced behind. It appeared based on these estimates alone the Black vote is not cohesive but split almost evenly between these two candidates.

Nonetheless, Professor McBride reports in his supplemental expert report significant racial cohesion among the candidate preferences. McBride shows the percentage of Black voter support for the minority-preferred candidate, Fitzpatrick, to be 92.3%, and the percentage of White voter support for the other candidate, Reid, to be 95%.²¹ These estimates are very different than the previous estimates reported by Professor McBride. Moreover, in his new report, McBride reports BERA results for Black and White voters. He presents no such BERA results for Black voter preferences in his first report and his BERA results for White voters do not match his previously reported results. Professor McBride now reports differences in the EI estimates for the percentage of voter support among Black and White voters and in his BERA results. These significant variations suggest model specification issues and unreliable estimates which do not lead to a reasonable finding of political cohesion among the minority voters in this district within Sumter County.

Furthermore, in both his reports, Professor McBride points to the BOE District #6 contest in March 2014 as a racially polarized election with the African American candidate, Sarah Pride, losing. In his first report, McBride reports the percentage of Black voter support for the African-American candidate, Pride, as 41.7% which is less than the estimated Black voter support for the other candidate, Michael Mock. McBride reports Mock's estimated Black voter support as 58%. He further denotes Mock as the minority-preferred candidate in this election.²² In his supplemental expert report, however, Professor McBride now reports Sarah Pride as the minority-preferred candidate who received an estimated 68% support from Black voters while candidate Mock's percentage of Black voter support is now reported as 52.1%.²³ These estimates sum to 120.1% which exceeds the 100% upper bound, therefore raising serious doubts as to the reliability of these estimates. It appears that Black voters are perhaps supporting these candidates almost equally. Yet, Professor McBride determines to change his designation of which candidate is the minority-preferred candidate. Within his first expert report, it seems his preference status was determined by the EI estimates of support and not the descriptive representation of the candidate. McBride writes in his first expert report, "The meaning of minority preferred candidate(s) of choice is taken from *Lewis v. Almon County* as those "who received substantial support from black voters." "²⁴ In his supplemental report, it seems that the minority-preferred designee is the described Black candidate. His change in the minority-preferred candidate designee and the estimates of voter preferences casts further doubt on the reliability of his statistical analysis and on his conclusions of minority political cohesion and racial polarized voting.

Professor McBride in his supplemental analysis excludes the BOE District #1 general election contest in 2008, the BOE District #3 general election contest in 2006 as well as the BOE District #3 general election contest in 2002. McBride reported in the BOE District #1 contest in 2008 Black voter preferences that summed greater than 100% for the two candidates and non-Black voters' preferences split among the Black and White candidates. McBride stated the minority-preferred candidate, Whitehead, won this BOE election.²⁵ Professor McBride reported in the other two elections (BOE District #3 in 2006 and BOE District #3 in 2002) estimates of Black and non-Black voter support for these electoral contests with multiple candidates. His estimates in the original report revealed Black voters were split in their support among the many black candidates, and there was not clear evidence of Black political cohesion in these contests.²⁶ In his supplemental expert report, he does not report any new data analysis on these elections, but instead excludes these BOE elections without explanation.

Moreover, in his supplemental expert report, Professor McBride chose to add a new electoral contest - the 2004 county-wide Sheriff election. He reports voter estimated support among the two candidates, Pete Smith and James Driver, as well as the Black candidate, Nelson Brown, who was a write-in candidate. Professor McBride shows Black voters' support to Brown, who McBride determined to be the minority-preferred candidate, as 96.5%, and Black voters' support of candidate Driver as 6.3%. These estimates are greater than 100 percent which suggests model specification issues and potentially the interference

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of contextual effects which may be biasing the estimates.²⁷ Write-in candidates typically have significant candidate and campaign obstacles to overcome. Contextual effects such as the campaign environment, campaign resources, name recognition and spelling, and activities can potentially affect voter support and electoral outcomes. Therefore, Professor McBride's decision to remove certain elections and add an additional contest has biased his elections sample and results. By negating certain elections, he winnowed his statistical analysis to eleven elections and ignored two contests with an interracial candidate field where conditions for *Gingles* prong 2 were not satisfied.

2. *Gingles* Prong 3

There are six elections, in which Professor McBride's estimates show the minority-preferred candidate succeeding and thus no support for *Gingles* prong 3. Professor McBride writes in his supplemental report, "Overall, only three black candidates were successful in these elections."²⁸ He reports that the minority-preferred candidate won the BOE District #1 election in May 2014, the BOE District #5 election in May 2014, and the BOE District #3 election in November 2010.²⁹ Therefore, he found "...black voters cohesive in their support for black candidates of choice and whites voting as a bloc usually to defeat the black candidate of choice, especially if that candidate is black..."³⁰

Nevertheless, McBride cherry-picks his successes of the minority-preferred candidates by resting his findings for electoral successes on candidates only that win the seat outright and are Black.

In his supplemental expert report, he discounts the minority-preferred candidate Coley's win in the first round of the BOE, at-large 2014 electoral contest. McBride writes, "The contest that led to the runoff cannot be deemed a win for Coley since the runoff election determined the outcome in this instance."³¹ However, originally, Professor McBride reported this race as one where the minority-preferred candidate, Coley, was not defeated.³² Later, in his deposition, he testified with confusion about that conclusion because the race was a runoff and he did not know the impact of that fact.³³ In campaigns and elections, nevertheless, candidates who win in the initial contest and proceed to the runoff are successful candidates. They have won the first stage and now must campaign aggressively to win the second stage competition to serve in elective office. Thus, Coley's initial electoral gains of 36.7% of the vote over the next candidate, Roland, at 36.4%, should be seen first as a victory since he garnered more votes and should be classified as a success for the minority-preferred candidate. In addition, Professor McBride in his supplemental report does not count the BOE District #4 contest in 2014 as an electoral success for the minority-preferred candidate. But, he does write, "May 20, 2014 is the only election where the successful candidate was both the white and black preferred candidate."³⁴ The winner, Rick Barnes, was the Black preferred candidate according to McBride; therefore, his win should be counted and not discredited in the successes of minority-preferred candidates. Further, in his supplemental expert report, McBride reports that in the BOE District #6 contest in 2014, the minority-preferred candidate, Pride, lost to Mock 28.9% to his 71.0%.³⁵ However, in his first expert report, Professor McBride selected Mock as the minority-preferred candidate and designates a success for the Black preferred candidate.³⁶

From his first expert report, McBride's estimates show the minority-preferred candidate succeeding in seven elections and thus no support for *Gingles* prong 3. These elections are: BOE District #6 in May 2014, BOE District #1 in May 2014, BOE District #5 in 2014, BOE at-large District (two-year term) in 2014, BOE District #3 in 2010, BOE District #1 in 2008, and BOE District #3 in 2002. In each of these elections, McBride reports that the black preferred candidate "wins".³⁷

In his new report, Professor McBride has selected only certain elections to report. He has dropped electoral contests from 2002 to 2008 where minority-preferred candidates had successes. In the Sumter County BOE elections analyzed, the minority-preferred candidate is not *usually* defeated. Instead, the black-preferred candidate *usually* wins and has been successful in seven

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of twelve contests analyzed from 2002 to 2014 and has been successful in six of the eleven contests analyzed from 2010 to 2016. Therefore, the precondition of *Gingles* prong 3 is not supported.

IV. Concluding Opinion

In evaluating Professor McBride's supplemental expert report on racial polarized voting in Sumter County, Georgia, it is my expert opinion that his interpretations and conclusions do not sufficiently support a Section 2 vote dilution claim. Professor McBride's new data and analyses contain many of the same flaws as seen in his original expert report regarding the validity and specification of the statistical models and the reliability of the estimates of the voters' choices. In his supplemental expert report, Professor McBride has chosen to report findings on eleven elections over twelve years (2004 to 2016); whereas in his first expert report, he analyzed twelve elections from 2002 to 2014. Professor McBride chose to exclude from his supplemental analysis three Sumter County Board of Education elections from 2002 to 2008. It is understandable to include the most recent 2016 election as it is probative, but he has biased his electoral sample by selecting only those elections which are favorable to his asserted vote dilution claim. Furthermore, Professor McBride has vote estimates that exceed 100% meaning that voter's preferences are summing to totals greater than 100 which are unreliable and unrealistic given the bounded limit of estimates from 0 to 100. Two candidates in an electoral contest cannot receive greater than 100% of votes and thus voter support. Professor McBride also has changed estimates for certain candidates and has changed his designation of the minority-preferred candidate for specific contests in an election year. These changes and inconsistent estimates make Professor McBride's statistical analysis and therefore his findings and overall conclusions unreliable.

It is my expert opinion that the analysis of the election results from McBride's reports shows the following: in three of the eleven (or four of the twelve) elections the claim that the Black minority group is politically cohesive is unsubstantiated because the estimated Black and non-Black voters' support has significantly changed between reports questioning the statistical results and the Black vote is split and not coalesced behind one candidate, thus not meeting the second prong of *Gingles*. Finally, and most importantly for a Section 2 claim, the preferred candidates of Black minority voters won six of the eleven of the BOE contests from 2010 to 2016; therefore, the third prong of *Gingles* is not met because Anglo/white voters do not *usually* vote as a bloc to defeat the Black voters' preferred candidate.

Based upon these data in Professor McBride's report and my analysis of those data and results, it is my expert opinion that the evidence does not support *Gingles* prong 2 and 3, and therefore, McBride's report does not demonstrate vote dilution in these Sumter County Board of Education elections.

Footnotes

- 1 *Thornburg v. Gingles* 478 U.S. 30, 51 (1986)
- 2 Department of Justice. www.justice.gov. Accessed on September 8, 2014 and November 11, 2016.
- 3 King, Gary, Ori Rosen and Martin A. Tanner. 2004. *Ecological Inference: New Methodological Strategies*. New York: Cambridge University Press, and King, Gary. 1997. *A Solution to the Ecological Inference Problem: Reconstructing Individual Behavior from Aggregate Data*. New Jersey: Princeton University Press.
- 4 Professor Frederick G. McBride, Expert Report, 2014, pages 1-27 and Appendix C, pages 41-52. Professor Frederick G. McBride, Supplemental Expert Report, 2016, pages 8-24.
- 5 Professor Frederick G. McBride, Deposition, 2014, 83:11-13, 175: 16-22.
- 6 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 1.
- 7 *Thornburg v. Gingles* 478 U.S. 30 (1986). See also, Bullock, Charles S. 2010. *Redistricting, the Most Political Activity in America*. New York: Rowman & Littlefield Publishers, Inc.
- 8 Merriam-Webster Dictionary. www.merriam-webster.com. Accessed on October 24, 2016.

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- 9 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 1.
10 Professor Frederick G. McBride, Expert Report, 2014, page 41-52.
11 Professor Frederick G. McBride, Expert Report, 2014, page 24-26.
12 Professor Frederick G. McBride, Deposition, 2014, 129: 10-130:4.
13 Professor Karen Owen, Expert Report, 2014, page 5.
14 Professor Karen Owen, Expert Report, 2014, page 7.
15 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 4
16 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 4.
17 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 1, 13-20.
18 Professor Frederick G. McBride, Expert Report, 2014, pages 24 and 43.
19 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 16.
20 Professor Frederick G. McBride, Expert Report, 2014, page 44.
21 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 16.
22 Professor Frederick G. McBride, Expert Report, 2014, pages 24 and 41.
23 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 20.
24 Professor Frederick G. McBride, Expert Report, 2014, page 19.
25 Professor Frederick G. McBride, Expert Report, 2014, page 50.
26 Professor Frederick G. McBride, Expert Report, 2014, pages 25, 51, and 52.
27 For more discussion of biased estimates, see Gary King, Ori Rosen, and Martin A. Tanner. 2004. *Ecological Inference: New Methodological Strategies*. New York: Cambridge University Press.
28 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 8.
29 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 11.
30 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 25.
31 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 13.
32 Professor Frederick G. McBride, Expert Report, 2014, page 46.
33 Professor Frederick G. McBride, Deposition, 2014, 117:6-11, 120:4-9, 121:16-122:3
34 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 17.
35 Professor Frederick G. McBride, Supplemental Expert Report, 2016, page 20.
36 Professor Frederick G. McBride, Expert Report, 2014, page 41.
37 Professor Frederick G. McBride, Expert Report, 2014 pages 24-26.

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