

RHS

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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Docket number 17-1727

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Russell F. Walker,  
Appellant  
vs.  
North Carolina State Board of Elections  
and  
Hoke County Board of Elections,  
Appellees

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U.S. COURT OF APPEALS  
FOURTH CIRCUIT

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**INFORMAL BRIEF**

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RULING UNDER REVIEW

Appellant Walker seeks review of the final Order dismissing case 1:17-CV-78, dated June 8, 2017, by Judge Catherine Eagles of the United States District Court for the Middle District of North Carolina. Jurisdiction is granted to this Court by 28 U.S. Code §1291

### RELATED CASES

A petition for a Writ of Mandamus, 17-1383, was dismissed by this Court. There are no other cases related to this matter.

### ISSUE FOR REVIEW

Does Section 2 of the Voting Rights Act of 1965, currently codified at 52 U.S.C. §10301-- only apply to blacks, minorities etc. or not? Are majorities also to be included and protected by the law?

The greatest racial gerrymander in US history is the composition of the Board of Commissioners for Hoke County North Carolina. Basically the white voters comprise 51% of the voting public and the representation on the Board of Commissioners is 1 member out of 5 members, or a 2.5 (51% ÷ 20%) to 1 ratio of voters to representation. That is not my

idea of Equal Protection of the Law nor democracy in its crudest form.

This is a case of FIRST IMPRESSION. I cannot find a previously reported case where a majority group (white) has been disenfranchised by a minority (black) government. The District Court did not cite any case with a similar or nearly similar factual situation nor has either defendant, as of yet, cited such a case.

Section 2 of the Voting Rights Act of 1965, currently codified at 52 U.S.C. §10301, states as follows:

“No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner **which results** in a denial or abridgement of the right of **any** citizen of the United States to vote on account of race or color . . . .”

(emphasis added)

Presumably "any" includes white citizens. Nothing in this statute refers to "minority", "majority" or "discriminatory purpose", terms mentioned by the District Court in page 3 of its ORDER.

The District Court Order referred to Bartlett v. Strickland, 556 US 1 (2009). See section IIIB of Bartlett as follows:

"Of course, the "moral imperative of **racial neutrality** is the driving force of the Equal Protection Clause, . . ."

This comes from Bartlett and is its key phrase. Racial neutrality. Note that Walker is NOT asking for any kind of racial district only that districts be compact, having an approximately equal number of voters and be contiguous.

Refer to ¶28 of the Complaint. This is neutrality and reasonableness at their best.

Bartlett section IV states as follows:

Much remains to be done to ensure that citizens of all races have equal opportunity to share and participate in our democratic processes and traditions; and §2 must be interpreted to ensure that continued progress.

The situation in Hoke County is that "At-large" voting is used not just to discriminate, disparage but ultimately to destroy the voices and votes of the white population. Section 2 was enacted with a "results test" as the dispositive rationale.

The District Court claims that only a "minority population" has the protection of Section 2 in opposition to Bartlett. Is the District Court saying that "majority population" has no access and protection of the law. Talk about discrimination. Is that the meaning and the desired result of "Equal Protection of the Law"? Only minorities have any protection but majorities don't? What if the white voters in Hoke County were a minority of 49%, then would the whites have the protection of Section 2? If so that is just not illogical but insanity in operation.

On June 29, 1982 Reagan signed into law an amended Section 2 to create a "results" test, which prohibits any voting law that has a discriminatory effect irrespective of whether the law was intentionally enacted or maintained for a discriminatory purpose.

Viewing Hoke County politics under the microscope of a "totality of the circumstances." situation, shows us that Hoke County has never had a Republican Commissioner in its 106 years of existence. Presently there are 5 Democrats on the Board of Commissioners, 4 non-white (Negro and American Indian) and one white. What else needs to be said regarding the "totality of circumstances"? Can a racial gerrymander be any more racial than in Hoke County? I doubt it and I don't believe anyone can show me a more racially and politically polarized jurisdiction in the United States.

The bottom line truth is that the white voters in Hoke County do not have just a diluted influence, they have no influence except to pay taxes.

RELIEF REQUESTED

Walker prays that this case be remanded to the USDC for the Middle District of North Carolina with instructions to abolish "At-Large" voting for the County Commissioners and to set up five reasonably compact and approximately equal-number-of voters, districts with each district having one commissioner. Walker also prays that new elections be held under a district format as soon as possible

Respectfully submitted,



Russell F. Walker

20 June 2017

CERTIFICATE OF SERVICE

I certify that I have placed a copy of this Informal Brief in the U.S. mail, postage prepaid on 20 June 2017 to:

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