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U.S. COURT OF APPEALS
FOURTH CIRCUIT

No. 17-1727

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

**Russell F. Walker,
Appellant**

vs.

**North Carolina State Board of Elections
and
Hoke County Board of Elections,
Appellees**

PETITION FOR REHEARING EN BANC

RULING UNDER REVIEW

Appellant Walker seeks review of the Judgment of this Court on July 31, 2017 dismissing the underlying District Court 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.

STATEMENT REQUIRED BY RULE 35(b) Rehearing en banc is warranted because the panel decision conflicts with a decision of the United States Supreme Court and consideration by the full court is therefore necessary to secure and maintain uniformity of the court's decisions. The specific Supreme Court case is Bartlett v. Strickland, 556 US 1 (2009).

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?

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.

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 claimed 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. It's called **Taxation without Representation.**

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.

Respectfully submitted,



Russell F. Walker

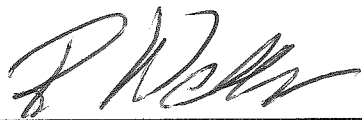
4 August 2017

CERTIFICATE OF SERVICE

I certify that I have placed a copy of this Informal Brief in the U.S. mail, postage prepaid on 4 August 2017 to:

Clerk
US Court of Appeals for the 4th Circuit
1100 E. Main St. Room 501
Richmond, VA 23219

The two defendants will receive copies of this Brief via the ECF computer system.



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