

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION**

GEORGIA STATE CONFERENCE OF )  
THE NAACP, *et al.*, )

Plaintiffs, )

v. )

FAYETTE COUNTY BOARD OF )  
COMMISSIONERS, *et al.*, )

Defendants. )

**CIVIL ACTION FILE**

**NO. 3:11-CV-123-TCB**

**PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Civil Rule 56.1, Plaintiffs Georgia State Conference of the NAACP, Fayette County Branch of the NAACP, Henry Adams, Terence Clark, Alice Jones, John E. Jones, Dan Lowry, Ali Abdur-Rahman, Aisha Abdur-Rahman, Lelia Richardson, Elverta Williams, and Bonnie Lee Wright (collectively, “Plaintiffs”) move for summary judgment on their claim that Defendants Fayette County Board of Commissioners, individual board members Herb Frady, Robert Horgan, Lee Hearn, Steve Brown, and Allen McCarty, in their official capacities, and Tom Sawyer, Director of the Fayette County Board of Elections and Voter Registration (collectively, “County

Defendants’’) <sup>1</sup> use a discriminatory at-large voting scheme to elect their members that dilutes the voting strength of Black citizens in Fayette County, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. §1973.

Plaintiffs assert that there is no genuine issue of material fact with respect to this claim. First, there is no genuine dispute that the three preconditions for demonstrating a vote dilution claim under *Thornburg v. Gingles*, 478 U.S. 30 (1986), have been met: (1) Fayette County’s Black population is sufficiently large and geographically compact to constitute a majority of the voting-age population in a properly apportioned single-member district (*Gingles* 1); (2) Black residents’ voting patterns are politically cohesive in elections involving candidates to the Board of Commissioners (*Gingles* 2); and (3) bloc voting by other members of the electorate consistently defeats Black-preferred candidates, such that *no Black candidate has ever been elected to that Board* (*Gingles* 3).

*Second*, Plaintiffs’ uncontradicted evidence shows that, under the totality of the circumstances, Fayette County’s Black residents have less of an opportunity than white residents to elect their preferred candidate. County Defendants’ current at-large method of electing its members, in combination with racially polarized voting, guarantees that Fayette County’s racial minorities cannot participate on

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<sup>1</sup> Plaintiffs move for summary judgment as against County Defendants only. Plaintiffs and Board of Education Defendants await this Court’s certification of an appeal to the Eleventh Circuit Court of Appeals of the denial of their Amended Consent Decree. *See* Doc. 84, Pls.’ Mot. to Certify Br. & Doc. 91, Pls.’ Mot. to Certify Reply Br.

equal terms in the County's political process. Section 2 was enacted to proscribe precisely this discriminatory result.

For the reasons stated above and as discussed more fully in the accompanying memorandum of law, there being no genuine issues of material fact on Plaintiffs' Section 2 claim, summary judgment is appropriate in this case. *See* Fed. R. Civ. P. 56(a).

DATED: September 13, 2012

Respectfully submitted,

/s/ Ryan P. Haygood  
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### **CERTIFICATE OF SERVICE**

I hereby certify that on September 13, 2012, I electronically filed *Plaintiffs' Motion for Summary Judgment* with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to counsel of record who are registered participants of the Court's CM/ECF system. I further certify that I mailed the foregoing document by first-class mail to counsel of record who are not CM/ECF participants as indicated in the notice of electronic filing.

/s/ Ryan P. Haygood

Ryan P. Haygood