

Congressional Testimony of Benard Simelton, President of Alabama NAACP
May 13, 2019

Good Afternoon, to The Honorable Chairwoman Fudge, our very own Honorable Terri Sewell, and other distinguished members. I am Benard Simelton, President of the Alabama State Conference of the National Association for the Advancement of Colored People, (Alabama NAACP). It is my honor today to provide you with a testimony of the experiences the Alabama NAACP has had regarding Civic Engagement activities in Alabama as it relates to voter suppression, and voter disenfranchisement.

I have been President of the Alabama NAACP since 2009 and have witnessed changes to voting in Alabama, most notable the Photo ID requirement and redistricting.

The mission of the NAACP is to ensure the **POLITICAL**, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination. For this testimony, I will underscore the **POLITICAL**.

I testified before the Congressional Black Caucus in September 2016, The State Battle for Voter Protection in 2016, sponsored by the Congressional Black Caucus Foundation. During this testimony, I spoke about Alabama being the center stage for the Voting Rights Act of 1965 because of its repressive laws that prevented Blacks from registering to vote.

I was at the NAACP's National Convention in Washington, DC in 2006 when NAACPs marched to our Legislators' Offices and asked them to vote to extend provisions of the Voting Rights Act (VRA) for another 25 years. That year, lawmakers of both parties agreed that Federal supervision was still required to protect the rights of racial minorities to cast ballots in some regions of the country. As then-Senator Barack Obama said, "Despite the progress these states have made in upholding the right to vote, it is clear the problem still exists."

Fast forward 13 years later to 2019, and 54 years after the original passage of the VRA, and we ask ourselves: Have we really made significant progress in equality in voting? I think the answer is that we have made some progress but the playing field is still not level.

In 2013, I was in the Supreme Court of the United States (SCOTUS) and heard the arguments concerning the constitutionality of the Voting Rights Act of 1965. To hear Justice Antonin Scalia say something to the effect that those arguing in favor of the Voting Rights Act must think that it is some kind of **RACIAL ENTITLEMENT** was gut wrenching. It disrespected the memories of the pain and suffering that those marchers on the Edmund Pettus Bridge in 1965 experienced when the Alabama State Troopers brutality

attacked, beat, and tramped on them with horses for trying to exercise their **FUNDAMENTAL RIGHT** to vote.

We have experienced various forms of Voter Suppression, especially since the Supreme Court rendered a decision that struck down various parts of the 1965 Voting Rights Act and I am here to share some of the more egregious examples.

When the SCOTUS handed down its decision in 2013 in the Shelby County v. Holder case, Alabama Legislators worked extremely hard to ensure that it is more difficult to vote and register to vote. First and foremost, Alabama implemented the photo ID law immediately after the SCOTUS's decision and experts from our lawsuit challenging the photo ID law estimated that 118,000 registered voters in Alabama were immediately disenfranchised.

Once again Alabama gained national attention and this time for disenfranchising citizens who had voted for years with a water bill or other utility bill or social security card. Voters like Willie Mims, a 93 year old veteran of Escambia County who was turned away because he did not have the photo ID required to vote.

In 2014, the Alabama NAACP wrote a letter to our Secretary of State's office expressing our concern over the voter photo ID Law. This law is especially disconcerting since Alabama has only ever prosecuted one case of in-person voter impersonation fraud. Our Secretary of State says he wants to make it easy to vote and difficult to cheat, but it is not even clear that the photo ID law would have prevented or caught this one instance of fraud.

In October 2015, Alabama closed numerous DMV offices in majority Black counties. In Alabama, people can apply to register to vote and for driver's licenses (photo ID for voting) at DMV offices. The purported reason for the closures was because of budget cuts. However, most of the office space for these DMV offices was donated to the DMV, and the officers who worked those locations remained on payroll, so the budget cut argument did not hold water. Additionally, most of these locations were in the Black Belt area of Alabama which is poor and rural areas, so people had to drive further to obtain the photo ID or renew their drivers' license in order to continue to vote. The majority of the people in the affected areas were Black. After the November 2016 elections and a ruling by the federal Department of Transportation that the DMV closures violated the Civil Rights Act, these DMV offices were reopened.

Alabama also has a provision in the Photo ID Law that allows two individuals who are working the polls on Election Day to sign an affidavit verifying an individual's identity if he or she does not have the proper ID. The Alabama NAACP received a complaint from an individual, Joshua Wahl, where the polls workers would not verify the identity of the

individual even though the workers knew him personally. Needless to say, he was not able to vote. Our experts in the photo ID litigation found that although most whites without a driver's license know their poll workers, few Black voters without a license know their poll workers.

We received a complaint from an individual who showed up to the polls to vote and when he presented his ID the poll workers said he was not eligible to vote because he had a felony conviction and after his challenge to the poll workers did not get anywhere, he went to the registrar and by the time he was able to clear up matter, the polls had closed and he was not able to vote. The situation was that there was another individual with the same name, but different date of birth who had the felony.

We are currently engaged in a federal lawsuit under the VRA against the Secretary of State for implementing the Photo ID Law. That lawsuit is currently pending before the federal Court of Appeals.

In addition, the NAACP became aware in 2012 that Alabama was not in compliance with the National Voter Registration Act of 1993, also known as the "Motor Voter Law," that requires agencies, such as the Department of Health Records (DHR), Medicaid, Department of Motor Vehicles (DMV), and others, to offer customers that they serve the opportunity to register to vote during a visit to their offices. Alabama agreed and knew that they were out of compliance, but took no steps to try to come into compliance until they were called out this blatant failure. In an article published in local newspapers, "Secretary of State John Merrill acknowledged that the state was not in compliance with the law, he said, 'It's like being pregnant,'" [Merrill told The Anniston Star](#). "Either you're fully in compliance with the law or you're not in compliance and we've never been compliant."

The NAACP and others entered into an agreement with various Alabama State agencies for them to take active measures to offer their customers the opportunity to vote, by putting up signs and asking them if they would like to register to vote. During the implementation of the agreement, these agencies were required to report the number of clients served and the number of clients they registered to vote on a quarterly basis and the data was compiled and sent to Demos, the organization providing legal representation to the Alabama NAACP in this matter.

The Alabama NAACP's efforts to enforce the Motor Voter Law is a large part of the reason that thousands of new Alabamians have become registered to vote in the last seven years.

We have also seen many issues with polling places. For example, during the last Mayoral Election in Mobile, the polling location at Mae Eanes Middle School was moved and voters showed up there to cast their vote as they had done in previous elections—but this time the polling place had moved. After some searching back and forth and using the internet, some of the voters were able to locate their new polling location, but others gave up and were not able to vote.

In the town of Wilton, in southwest Shelby County, their polling location was removed about a month before the special Senate Election in 2017. Several individuals called the Shelby County NAACP President, Reverend Kenneth Dukes, which prompted him to seek a response from the County Manager, but President Dukes never received an explanation.

Also in Shelby County, after the Shelby County v. Holder decision was rendered, Shelby County redrew their district lines just like many others in the Nation, and the new lines reduce the chances of having a majority-minority district.

The Alabama NAACP is currently in litigation with the State of Alabama challenging the at-large election of state appellate judges and the City of Pleasant Grove to change their method of electing City Council members from an at large voting system to voting by district. Even though Pleasant Grove is approximately 45+ percent African American, they have no African American on the city council. We have also sent letters to Madison County and Morgan County challenging the at-large aspects of their election systems under the Voting Rights Act.

Escambia County voters experienced a significant number of voters whose names were mysteriously absent from the roster during the last Midterm Election in 2018 as well as the Presidential Election in 2016.

During the Midterm Election in 2018 at least four students who attend college at Alabama A&M University registered to vote in Madison County because A&M is located in Madison County, but were not permitted to cast a regular ballot when they showed up to the polls to vote. One of the students registered to vote online and the other students registered to vote during an on campus registration event.

During each election, the NAACP receives complaints about machines malfunctioning and voters having to leave their ballots in hopes that they will be sent through the machine; not enough ballots at polling locations; and poll workers not trained properly to handle voters who understandably become frustrated with the system. Some poll workers are not trained that they need to provide a provisional ballot to anyone that demands one who has not cast a regular ballot. Like clockwork, during and after each federal election in particular, we also

receive several complaints about individual's names being removed from the registrar without them being notified. Often times individuals are running trying to get to work, trying to get back to work, or trying to get home from work, and when they face these obstacles, it becomes harder not to give up and go to one's responsibilities at home or to work.

During the November 14, 2017 special election to replace the late Rev Dr. Johnnie Robinson, Jr. as the District 2 City Councilman, Phenix City NAACP became aware of individuals voting in Phoenix City but did not live in those districts. They voted where they worked and not where they lived. The NAACP asked the DA and AG Marshall to look into this matter and despite repeated inquiries, nothing has happened on the complaint. The majority, if not all these individuals were white.

The Alabama NAACP in each of the counties where we have a Branch, spend numerous hours each during the election cycle, which is about every year educating voters, handing out information, hosting rallies, candidates forum, press conference, TV, radio, Facebook, phone banking, tweeting, and using other social media to get the word out, but we need additional help in educating our voters on how important it is register to vote, check their registration periodically, and finally voting. And we need enough trained people who work the polls and resources at polling sites so that we can make sure things run smoothly. But most importantly, we need to address the obstacles that stand in people's way even when they are doing everything right.

On behalf of the Alabama State Conference of the NAACP, I appreciate you all listening to me and other participants this afternoon and I hope our testimonies will provide you with the ammunition you need to convince congress to act to put voting at the top of the agenda. We are ready to do what it takes to turn this around, but we look to our esteemed Legislators in leading us through this effort.