

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)**

Caroline County Branch of the
National Association for the
Advancement of Colored People, *et al.*,

Plaintiffs,

v.

Town of Federalsburg, Maryland,

Defendant.

Civil Action No. 23-SAG-0484

DECLARATION OF CARL O. SNOWDEN

1. I, Carl O. Snowden, am over 18 years of age and am competent to testify. I provide this declaration in support of plaintiffs' Motion for Preliminary Injunction in this case.

2. Born and raised in Annapolis, I am a community activist, writer, former government official, and principal at Carl Snowden & Associates consulting firm. I am a founder and current Convener of the Caucus of African American Leaders, one of the Plaintiffs in this lawsuit. Additionally, I am a columnist with the Capital Newspapers, and author of a book collecting my columns, *Some People Watch Clocks To Tell What Time It Is, I Watch People To Tell What Time It Is*, which was published in June 2020.

3. I have been a civil rights activist and leader in Maryland throughout my life, beginning in childhood. As a young teenager in 1970, I was expelled from Annapolis High School along with 14 other students, after we organized a boycott of classes to protest the school's lack of African American teachers and African American studies courses. (Fortunately, local benefactors raised funds for me to complete my high school education at the private Key School

in Annapolis.) Also while a young adult, I organized a group called VOTE (an acronym for Voters Organized To Educate), in the aftermath of the acclaimed Alex Haley work *Roots*, that successfully advocated for Annapolis officials to create a memorial celebrating the triumph of the human spirit personified in the character Kunta Kinte, and acknowledging the City's role in the African slave trade.

4. My youthful civil rights activism brought me unwelcome and unlawful attention from the Federal Bureau of Investigation (FBI), which placed me under surveillance from the time I was aged 16 through 24, as part of its COINTELPRO program, through which the FBI illegally spied on civil rights proponents. As a result, I pursued legal action against the FBI, winning a \$10,000 settlement and forcing the FBI to expunge the files the government had illegally compiled about me.

5. Beginning in 1985, I served for three terms as an elected Annapolis City Alderman, after successfully resolving a legal challenge to the City's abuse of the electoral districting process to limit the influence of Black voters. Thereafter, I served under Governor Parris Glendening as an administrator in the Maryland Department of Juvenile Services, and as President of the Anne Arundel County Economic Opportunity Committee. Additionally, from 1998 to 2006, I served as Legislative Liaison and Special Assistant to Anne Arundel County Executive Janet Owens, working on intergovernmental relations for the County.

6. In 2007, I was appointed by Attorney General Douglas Gansler as the State of Maryland's first-ever Director of Civil Rights, where I served until 2012, conducting advocacy, investigation and mediation in civil rights matters statewide. While my work as Civil Rights Director spanned a wide range of issues, I was vigilant in that role about doing all I could to protect Marylanders' fundamental voting rights, which I view as preservative of all of our constitutional

freedoms. For example, from 2007-2008, I helped Mr. Gansler organize and served as convener for the Attorney General's Task Force on Voting Irregularities, which conducted hearings statewide and reported its recommendations to help ensure that election issues that occurred in connection with Maryland's 2006 elections were addressed and remedied in advance of the important 2008 Presidential Elections.¹

7. In 2011, I founded and convened the Caucus of African American Leaders ("CAAL"), which serves as one of the organizational plaintiffs in this case, alongside the Caroline County NAACP and individual Black voters of the Town of Federalsburg. CAAL is a membership-based consortium of organizations and individuals, including the NAACP, elected officials, and faith and community leaders, among others. We seek to raise awareness about current civil rights issues impacting the African-American community, particularly with respect to democracy and voting rights issues, by engaging in legal advocacy and encouraging the public to participate in local, state, and national elections to effect positive change. In addition to organizing demonstrations and participating in legal causes like this one, CAAL hosts monthly meetings to discuss issues affecting the community, and we solicit donations for other civil rights organizations. I have served as CAAL's Convener in Annapolis throughout the life of the organization. As our membership expanded on the Eastern Shore in recent years, I have also worked with Rev. James Jones, who serves as CAAL's Convener on the Eastern Shore. Both Rev. Jones and I have been involved extensively in supporting Black voters' efforts to address the challenged voting rights violations in Federalsburg.

¹See

<https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/005000/005368/unrestricted/20071452e.pdf>.

Civil Rights Needs, Yesterday and Today, on Maryland's Eastern Shore

8. As the Plaintiffs have detailed in this lawsuit and numerous historians have chronicled, Maryland's Eastern Shore has a long and disgraceful history of racial violence and discrimination, extending from the time of the first settlers until long after the heyday of the civil rights movement. Black residents have suffered through racial segregation and discrimination in all aspects of life, including in the areas of political participation, education, housing, government infrastructure and services, employment, and law enforcement abuse. The long shadow of this history has deeply affected the Shore's Black residents of today, including those in Caroline County and the Town of Federalsburg. In Federalsburg specifically, discrimination continues in many aspects of life, including in the form of election practices that deny Black residents equal rights to vote and to participate in self-governance.

9. Over the course of four decades, I have worked extensively with civil rights lawyers to advance voting rights for Black and BIPOC Marylanders through enforcement of the landmark Voting Rights Act of 1965. Although this work included a Voting Rights Act lawsuit I participated in as a plaintiff successfully challenging the racially discriminatory election system in the City of Annapolis, the great majority of the voting rights work I have done has been to address violations that arose on the Eastern Shore. There, white residents for centuries have used the government and election rules to exert power and control over Black citizens by excluding them from the political process and from any role in their local governments.

10. My Eastern Shore voting rights work began in earnest in the mid-1980s, when I teamed up with veteran civil rights lawyer C. Christopher Brown – himself an Eastern Shore native – and Maryland Attorney General Stephen Sachs to work with residents trying to address discrimination in election practices then pervasive across the Shore. It is no joke to say that when

we crossed the Chesapeake Bay then to undertake this work, it was like stepping back in time. While just a short drive from the State capitol, the Eastern Shore was like a different world entirely – a world that felt more like 1960s Mississippi than it did 1980s Maryland, a world characterized by racial apartheid not seen in other parts of our state for decades. It was almost as if the civil rights movement had somehow missed Maryland’s Eastern Shore.

11. Decades had passed, and still the large Black populations of Shore communities remained completely absent from government, business and civic life. You could go into a government office or a local shop and never see a Black face; those who were employed were hidden in the back rooms, engaged only in service work or sweeping up after white people. Black Shore residents felt afraid, oppressed and hopeless.

12. Given the palpable fear Black residents had that those who rocked the boat would suffer retaliation, it took substantial time and encouragement for us to build community trust that change could come about through legal challenges. But slowly and surely, we did that, and courageous Black men and women committed to take a stand against racial oppression on the Shore – especially in the areas of voting rights and employment.

13. In one community after another, Black residents joined together and with us to file Voting Rights Act lawsuits very similar to this lawsuit now being brought by Federalsburg’s Black voters. Like this lawsuit, these earlier actions challenged racially discriminatory at-large election systems. They also challenged other election features, some of which are present in Federalsburg, that enhance discrimination inherent in the at-large structure. These included dual registration requirements for local and state elections, anti-single-shot provisions like staggered terms and designated posts, as well as practices that discourage Black participation in elections, like the siting of polling places at all-white volunteer fire companies that functioned like white men’s clubs and

often made Black voters feel unwelcome. As Maryland's federal court recognized in another Eastern Shore voting rights case in which I participated as a witness, all of these practices are legally problematic, in that they create obstacles to Black participation and reinforce the minority vote dilution inherent in at-large systems. *See Marylanders for Fair Representation v. Schaefer*, 849 F. Supp. 1022, 1061 (D. Md. 1994) (three-judge-court) (citing to my testimony on these points.)

14. Following election challenges brought by the U.S. Justice Department against the City of Cambridge and Dorchester County in 1984, the first private lawsuits I recall were in 1985. Working with attorneys Chris Brown, Alan Legum and me, Black residents in the Towns of Easton, Princess Anne and Snow Hill simultaneously filed lawsuits on the same June day, challenging at-large municipal election systems that shut them out of government.² Looking back now, the response by white officials in these communities is so appalling it is almost laughable. For example, Princess Anne Town Attorney Logan Widdowson assured the *Washington Post* that no problem existed *because* the town had "never had a black to file for public office since at least 1972 when I became city attorney." The white Town Manager agreed, proprietarily adding: "There's been no discrimination here *We have a very good rapport with our black people.*" These comments seem outrageous now, but they accurately depict the white supremacist mindset then firmly in place.

15. Notwithstanding their initial contention that all was well and that these lawsuits were doomed to fail, all three Towns quickly settled, with the challenged discriminatory at-large election structures being replaced with racially fair district systems. Thereafter, similar legal

² See P. Valentine, *Voting Rights Suit Names 3 Maryland Towns*, Washington Post, June 13, 1985, available at: <https://www.washingtonpost.com/archive/local/1985/06/13/voting-rights-suit-names-3-md-towns/e8fb3e7d-d8f9-45ad-b10a-1afeb759152f/>

challenges followed in towns and counties across the Eastern Shore, with Black voters and DOJ ultimately securing reform of at-large elections systems in Somerset, Worcester, Wicomico and Dorchester Counties, Pocomoke City, Salisbury, Berlin, and Hurlock, in addition to Cambridge, Easton, Snow Hill and Princess Anne.

16. Some white officials resisted this change more than others. For example, even a decade after those 1985 lawsuits, white officials in Worcester County resisted reform, contending there was no problem with all-white government – that it was just happenstance that no Black person had won election to county office in 250 years. See E. Meyer, *Suing to Gain A Voice for Blacks*, Washington Post, November 8, 1993.³ Echoing the 1985 comments of Princess Anne officials, the white Worcester County Commission President “Sonny” Bloxom proclaimed: “Maybe we're blind, but we can't see why the plaintiffs don't feel they have access to the government now. We don't feel that blacks have been shut out of the political process.” *Id.* Fortunately, the federal judge hearing that case, *Honiss Cane v. Worcester County*, saw things more clearly than Mr. Bloxom; after a long and drawn out legal battle, Judge Joseph Young required Worcester County to replace its at-large election system with districts, just as all the other Eastern Shore governments had done without wasting hundreds of thousands of taxpayer dollars fighting to keep discriminatory systems in place.

17. Over time, these lawsuits and the reforms implemented through court rulings and settlements brought historic and transformative change to the affected communities – literally changing the face of local Eastern Shore politics and affording Black residents a seat at table of government for the first time.

³ Available at: <https://www.washingtonpost.com/archive/local/1993/11/08/suing-to-gain-voice-for-blacks/63e797c9-d920-44c9-808e-6dfe969fe66f/>

18. Unfortunately, however, this successful campaign seems to have bypassed Caroline County and the Town of Federalsburg. All these years later, the situation in Federalsburg still looks today much like it looked in those other Eastern Shore communities of the 1980s and 1990s. The government is now and has always been all white as a result of the Town's old-style at-large election system, and voters in the minority – Black voters – are denied an equal voice in their government. Because of this, Black residents feel unrepresented and disconnected from their government, as if the white officials who run the Town don't care about them and scarcely even see them.

19. Problems with the Federalsburg election system and practices are several. First, of course, the at-large structure submerges Black voters in the larger electorate of white voters, enabling the white majority to minimize the influence of the Black minority by overriding Black voter preferences so that their candidates of choice are always defeated. Second, the dilution of Black votes inherent in the at-large structure is reinforced by the staggering of terms, because this practice makes it impossible for minority voters to “single shoot” for their candidates of choice within a larger pool. By this, I mean that by staggering elections so that only two of the four council seats are contested at a time, with participation by the at-large electorate in all elections, Federalsburg makes it unworkable for Black voters to use their votes in a way that gives a strategic advantage to their chosen candidates through “single-shot” voting – meaning voting only for their top candidate and no other – as they could without the staggering. This is the type of election feature that the Senate identified as an improper means of enhancing discrimination when it enacted the Voting Rights Act; as a result, many courts have recognized it is best to avoid staggered terms when creating racially fair election systems.

20. Additionally, there are other factors present in Federalsburg that the Town has used in the past and/or currently uses that discourage engagement and election turnout by Black voters. Most obvious of these is the Town's retention of stand-alone municipal elections conducted in odd years, on a month and day when no other elections are being conducted. This discourages turnout by all voters, who may not even realize an election is going on; but it is especially problematic for Black voters like those in Federalsburg who otherwise do not feel welcomed or engaged by local government. Records from Federalsburg's recent elections – showing participation by under 200 people per election – illustrate this effect of off-year, stand-alone elections.⁴ The staggering of Council terms, so that only half the Council is up for election at a time, further depresses municipal turnout, by minimizing the stakes of each election. Also, as Plaintiff Roberta Butler attests, there is a single polling place for municipal elections, and never have polls been placed in the area of Town where Black residents live. Indeed, on at least some occasions Mrs. Butler recalls, the polling place has been located at the local Volunteer Fire Company – an institution that on the Eastern Shore is typically all-white or nearly so in membership, and thus can be a place where Black people feel unwelcome. Combined, these factors make the current at-large, staggered election system in Federalsburg one that is both structurally designed to override the will of Black voters, and that is employed in a way that minimizes Black engagement and turnout as much as possible.

21. Finally, I must comment on the unprecedented and, to me, downright racist proposal introduced in late February of this year by Federalsburg's current all-white government

⁴For example, as discussed by Professor Kassra Oskooii in his report, in the 2017 election in which Plaintiff Roberta Butler and Ms. Angel Greene challenged two white candidates for two open council seats, a total of fewer than 125 votes appear to have been cast. The top vote getter, the unopposed Mayoral candidate garnered 117 votes; the two winning white Council candidates received 79 and 70 votes, while the losing Black candidates received 44 and 33 votes. See https://www.myeasternshoremmd.com/times_record/news/mayor-two-councilmembers-sworn-in/article_243da184-6302-5ad5-8b95-2bd6ac0233c2.html

to cancel this year's scheduled election so that the white incumbents can hold over in office more than a year beyond the terms they were elected to serve. Never in my time doing civil rights work in Maryland – even in those long-ago days described above on the Eastern Shore – have I seen this kind of outrageous power grab by white officials. Cancellation of the Federalsburg municipal election amid the Town's celebration of its bicentennial would deny the fundamental right to vote to all Federalsburg voters. But Black voters, who would be denied the opportunity to finally integrate their government in this historic year, would feel this most harshly. Indeed, for the Plaintiffs and other Black residents who have bravely stood up to challenge race discrimination in the existing system, the Town's very proposal feels like retaliation and punishment. It would simply be lawless to allow the incumbent white officials to unilaterally extend their own terms in office, and the notion that they profess to do this in the name of election reform is absurd.

22. Fortunately, all of these issues can all be overcome, and the rights of Federalsburg's Black voters can be protected through prompt overhaul of Federalsburg's election system and use of a racially fair system to conduct this year's elections as scheduled. Just as the election reforms achieved through voting rights litigation of an earlier era brought transformative change to towns and counties across the Eastern Shore, this same transformation can -- and I think must -- happen now in Federalsburg. By replacing the Town's at-large, staggered term election system with a racially fair district plan as Black voters request, all community members can begin to share in a governmental system that has for too long been run by and for the benefit of only its white residents. It may have been a long time coming, but I believe the chimes of justice are finally tolling for Caroline County and the Town of Federalsburg.

I declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information, and belief.



Executed on March 4, 2023

Carl O. Snowden