

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

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

Plaintiffs,

v.

Civil Action No. 23-MJM-03325

Wicomico County, Maryland, *et al.*,

Defendants.

DECLARATION OF DR. EDDIE BOYD, JR.

1. I, Dr. Eddie Boyd, Jr., am over 18 years of age and am competent to testify. I am a Black registered voter residing in Wicomico County, Maryland, and an individual named plaintiff in the above-captioned case. I provide this declaration based on personal knowledge in support of Plaintiffs' Motion for Preliminary Injunction.

2. Born and raised in Louisiana, I am a community activist, parent and retired university mathematics professor who has lived on Maryland's Eastern Shore since 1982. A graduate of Grambling State University, I earned a master's degree from the University of North Texas, and received my doctorate in mathematics from Oklahoma State University. Following teaching stints at other colleges, I moved to Wicomico County in 1983, after taking a position in the mathematics department at the University of Maryland, Eastern Shore. I taught mathematics and computer science at UMES for over 25 years, serving two terms as Chair of the Mathematics Department, as well as leading the University's School of Business and Technology as its Dean. Seven years after taking over the deanship, I returned to my first love of teaching, continuing in

that capacity at the University until my retirement in 2014. Also during my years in Wicomico County, my wife and I raised three children, each of whom attended and graduated from the Wicomico County public school system.

3. Both as a graduate and a longtime professor at historically Black universities, my life and career have been dedicated to ensuring racial equity in education and fair representation in government for Black people. While earning me numerous awards over the years, this commitment was never intended to benefit me personally, but rather, to better the world generally and to further opportunities for Black people who have historically been oppressed. Beyond my work life, I have promoted these ideals by volunteering in nonprofit and community organizations such as the Wicomico County NAACP, the Wicomico Democratic Club, the Salisbury Neighborhood Housing Association, the School Board Selection Committee (convened to make recommendations to fill occasional vacancies on the Board between elections) and my church, the Wesley Temple United Methodist Church, which since my retirement has been the primary focus of my volunteerism. In recognition of my efforts, in May of this year I was honored by the Wicomico Democratic Club with its 2024 President's Award for outstanding achievements to further community good throughout my lifetime.

4. In furtherance of these same goals, beginning in 1995, I served for a decade as an appointed member of the Wicomico County School Board. In that role, I worked to ensure equal treatment and fair representation for all children and families involved in the public school system. This was especially important to me given the County's history of racial segregation and discrimination in its public education system, continuing into the 1970s when the federal government withheld funding from Wicomico schools due to the County's defiance in refusing to desegregate its elementary schools. Throughout my tenure on the Board, my voice and those

of other Black Board members were critical in raising concerns about matters impacting Black students and families, given Wicomico's history and its continued effects on Black residents. For example, during my Board service, the school system hired the first and only Black School Superintendent in Wicomico County's history, Dr. Charlene Boston. After my term ended, and much to my surprise, the Board elected not to renew Dr. Boston's contract, replacing her with a white male who I viewed as far less qualified for the position. In this and other ways discussed below, the legacy of Wicomico County's racist history continues today, which is one of the reasons reform of both Board of Education and County Council elections is so important, and why I have joined as a Plaintiff in this voting rights lawsuit.

My Past Work to Promote Race Equity in Wicomico County

5. Although my School Board position was the only one I held as an appointed or elected public official, my work for equity in Wicomico County began much earlier. Soon after moving to Maryland in 1982, I became involved in community and political activities in Wicomico County, beginning with my involvement as a leader in a group called "New Directions", an organization of primarily Black activists in Salisbury. The stated purpose of New Directions was to promote "social and political change in the community in a unified manner." In an effort to increase Black political participation, New Directions evaluated candidates for office as to their positions on issues of import to the Black community, endorsed candidates, sponsored voter registration and education drives, and offered campaign support to Black candidates.

6. At that time, Wicomico County had a five-member County Council, elected at large, that was all white throughout history with the single exception of a short period from 1978 to 1981 when a Black Republican Councilman named Emerson Holloway (who died midway through his single term) served. The Council was then the governing body of the

County, with no elected County Executive, only an appointed County Manager. In 1987, the United States Department of Justice sued Wicomico County, challenging the five-member at-large system under Section 2 of the Voting Rights Act. New Directions collaborated with DOJ officials in pursuing that challenge, and I personally testified for the organization during the court trial.

7. After the DOJ lawsuit was filed, Wicomico County officials began considering possible plans for changing the election system, including the option of expanding the Council to seven members. Public input was solicited, and New Directions was very active in this process. At an April 19, 1988 meeting of the then-all-white County Council, it was announced that the Council was considering two plans, both of which would expand the Council to seven members: The first, proposed by a local business group, the Greater Salisbury Committee, had four districts and three at-large seats; and a second, proposed by the Council, was the current 5-2 plan. The public was invited to weigh in on these proposals.

8. During the April 19, 1988 meeting, I addressed the Council on behalf of New Directions, critiquing both the Council and Greater Salisbury Committee plans due to their retention of a partial at-large structure, which we viewed as racially discriminatory. I stated unequivocally that New Directions and the Black community generally were opposed to any plan that retained at-large seats, due to vote dilution inherent in the at-large structure in Wicomico County. As alternatives, New Directions proposed two options of its own that we considered racially fair: The first was a plan of five single member districts, and the second a plan with seven single-member districts. No member of the County Council nor anyone affiliated with the County ever asked to review the New Directions plans, and they were not seriously considered.

9. Over Black voters' objections, the County Council thereafter introduced a Legislative Bill to reform the Council through expansion to seven members, with five elected from single-member districts, and two elected at large. This bill – dubbed the “5-2 Plan” – was placed on the ballot by the state legislature at the initiation of the County, and adopted by the majority white electorate in November 1988. It was first used during the 1990 election, and has been in continuous use for County Council elections since then.

10. Although this change did not provide the full relief Black residents were hoping for, and we were concerned that the County's retention of two at-large seats would deny full equality to Black residents, it did at least provide a realistic opportunity for Black residents to gain one seat at the table of County government. New Directions and I worked hard through community organizing and voter education efforts in the Black community, to help ensure we seized the opportunity to elect a Black Council member in the 1990 election. As a result, Black candidate Rudolph C. Cane won election to the County Council in 1990 from the single majority-Black district. In every election since, a Black candidate has won election and served in that one position, which has been an improvement over the all at-large system which had consistently shut out Black candidates and maintained an all-white Council.

Continuing Discrimination in Wicomico's Election Systems

11. Three decades of elections since the 5-2 election system was adopted for the Council in 1988 have borne out the concerns of New Directions, demonstrating that entrenched racial polarization in voting in Wicomico County has consistently placed the at-large positions for County Council off limits to Black voters and candidates, even as the County's Black population share increased over time. That is, despite Black population growth from 22.3% in 1990 to nearly 30% in 2020, white voters and officials have continued to dominate government

and marginalize Black voters, with 86% of elected Council members being white officials preferred by white voters, and just 14% Black officials preferred by Black voters.

12. Specific examples of vote dilution that caused Black-preferred candidates to be shut out by the at-large structure include the 2018 attempt by Black candidate Jamaad Gould to win election to one of the at-large seats, where he finished fourth among four candidates, despite winning the great majority of the Black vote county-wide. Likewise, former official Edward Taylor—who earned two military honors for his service in the Korean War, led an exemplary 35-year career in public education in the County, and represented the County’s minority district for 12 years from 1994–2006—ran for an at-large seat in 2010. Like Mr. Gould, however, Mr. Taylor finished last in the at-large General Election that year despite carrying *100 percent* of the African American vote. In every election since that time – in 2014, 2018, and 2022 – both Council members elected at large have been white. Indeed, since the 5-2 election system was put into place in 1990, the only Black candidate elected to any Council seat has been the one elected in the single majority-Black district. Given this track record, most Black candidates believe running for the at-large seats is futile, and don’t even bother, focusing all their efforts on the single majority-Black district.

13. A memorable earlier example of an excellent Black candidate being shut out of office by an at large structure dates back to 1998, in House of Delegates District 38, a multimember district spanning parts of Wicomico, Somerset and Worcester Counties. In that election, Lt. Col. Ernest Leatherbury – an extremely well-known and liked Black candidate then recently retired as a Maryland State Police Commander renowned locally for his 25-year MSP career rising through the ranks to become the highest-ranking Black MSP official in history—was defeated at large by three white candidates in the three-member district. As someone who knew and deeply respected

Lt. Col. Leatherbury, that defeat reinforced for me what I already knew about how deep racial polarization in voting patterns prevented even the most celebrated Black candidates from winning office.

14. Witnessing this pattern, fully a decade ago, in 2013, I worked with Black Wicomico County residents, including former Councilman Ed Taylor, the Wicomico County Branch of the NAACP and the American Civil Liberties Union of Maryland, in raising complaints about the entrenched, continuing discrimination inherent in Wicomico County's 5-2 election system, by submitting a formal request that the United States Department of Justice reopen its investigation of Wicomico County elections. Our request traced the history of vote dilution in the County since 1990, and included detailed, expert analysis of racial polarization in voting patterns since the 5-2 system was put into place. It further demonstrated that a fairer election plan of seven single member districts – the same system for which I had advocated on behalf of New Directions back in 1988 – could overcome this pattern of discrimination, with two majority-Black election opportunities for Black voters. Despite substantial public support for this reform, neither the Department of Justice nor Wicomico County took any action, and we lacked the financial resources to challenge the matter ourselves, thus leaving the discriminatory system in place for another decade.

15. To make matters worse, despite known concerns about racial vote dilution inherent in the County's 5-2 election system, in 2016 this racially discriminatory plan was imported into the Wicomico County Public School system's governing structure, as codified in Md. Ann. Code, Educ. Art. §3-13A-02. As noted above, prior to this, the seven-member Board of Education historically had been appointed by the governor, as it was during my tenure on the Board. The appointed system required that four members be from one political party and three

from the other, with the majority going to the party of the incumbent governor. This system allowed Black representation beyond that ever seen through Council elections, with two of the seven School Board seats often being occupied by Black officials, as was true when I served. But when white residents became unhappy with the appointed board, alleging that their interests were not fully represented, reform was pursued by County and School officials to change the Board to an elected body. Despite concerns I expressed publicly – both as a longtime School Board member and a Black County resident and parent – that this change would result in racial vote dilution and a lack of fair representation on the Board, the County pushed through a legislative bill that put the matter up for popular referendum with Wicomico's majority-white electorate in 2016.

16. Since then, only one Black School Board member has ever served at any time – the single member elected from the majority Black district, despite runs by Black candidates for the at-large positions and in majority-white districts. That is, the same vote dilution that has persistently undermined fairness in Council elections now plagues School Board elections as well. For example, in the first election conducted under the new system for School Board in 2018, Black candidates Talana Watson and Tyrone Cooper ran for the at-large positions. Both lost, to two white candidates. In 2022 also, the two candidates elected at-large to the School Board were white. As with the County Council, since the change from an appointed to an elected school board, the only Black member has been the one elected from the majority-Black single-member district. In a public school system that is more than 60 percent BIPOC, this lack of fair representation in the school's governing body seems highly problematic to me.

17. Continuing examples of incidents of racism injurious to Black and BIPOC students in the Wicomico County school system abound, demonstrating persistent, widespread problems, and non-responsiveness of school leaders to concerns of Black families. On a systemic level, these

problems were so extreme and the school system's response so inadequate that in 2016 students and parents took their complaints to the U.S. Department of Justice which launched an investigation showing that Wicomico County Public Schools were engaging in discrimination against Black and Hispanic students. The investigation concluded that staff over-relied on school resource officers to address routine classroom management issues, with Black students overrepresented in the incidents, and that Black and Hispanic students received harsher consequences than white students but were not misbehaving in more serious ways. Early in 2017, the Wicomico school system entered into a settlement agreement with the Justice Department requiring ongoing reporting through 2019 to demonstrate measures taken to ameliorate the discrimination.

18. Notwithstanding this agreement, egregious incidents of racial threats and violence continue to arise in Wicomico schools. For example, in 2019, middle school and high school students in Mardela Springs complained to school officials that racist songs had been posted to a music sharing website used by students, including songs with lyrics celebrating slavery using racial slurs, and advocating whips to enforce white supremacy.¹

19. Further, as recently as June of 2022, the high-school aged child of a white Wicomico School Board member posted a video of himself on social media brandishing what appeared to be a scoped rifle, threatening Black students and encouraging others to shoot at [n-word]s “for fun.”² School system officials, calling the video shocking and revolting, disclaimed

¹ Racist Songs Under Investigation By Wicomico County Board of Education, WBOC (Jan. 7, 2019), available at https://www.wboc.com/archive/racist-songs-under-investigation-by-wicomico-county-board-of-education/article_4033692b-f43a-512b-8025-e008ae75d7e7.html.

² See S. Berlin, Board Members Son Caught Telling Students to Shoot Black People ‘For Fun,’ Newsweek (June 17, 2022), available at <https://www.newsweek.com/board-members-son-caught-telling-students-shoot-black-people-fun-1716688>.

that it any way reflected “the feelings or teachings of the student’s school or Wicomico County schools.³ Yet, despite calls that she resign, the student’s mother refused to resign from the School Board, instead forging ahead with an (ultimately) unsuccessful reelection campaign. The Wicomico County Sheriff’s Office investigated the incident and ultimately charged the student with a misdemeanor offense. Black parents expressed outrage about handling of the incident, calling it a hate crime. Salisbury City Council member April Jackson – the daughter of my old New Directions colleague Billy Gene Jackson – said: “There’s a double standard here because if this was one of our brown boys or brown young men, this would have been done a whole lot different.”

20. As a former School Board member and a lifelong educator, such blatant race discrimination within the Wicomico school system is deeply troubling to me. And it seems undeniable that race discrimination inherent in the election system that governs the Board of Education sets the tone that allows such racism to proliferate even today throughout our public schools.

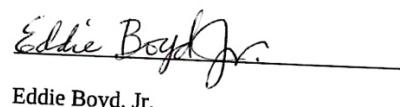
21. Overall, since the 5-2 election system was put into place for the County Council in 1990, and for the School Board in 2016, every single candidate elected at large to each body has been white, as has every official elected to any district except the single majority-Black district. I strongly believe this needs to change to establish a system that gives equal voting rights to Black residents of Wicomico County.

22. This need for reform is obvious to me, and I had certainly hoped that our filing of this lawsuit would be enough to finally convince Wicomico County officials to implement changes

³ Wicomico County Sheriff’s Office Investigating Racist Threat Made Online By Parkside High School Student, WBOC (June 16, 2022), available at https://www.wboc.com/news/wicomico-county-sheriffs-office-investigating-racist-threat-made-online-by-parkside-high-school-student/article_fef30a1e-edb8-11ec-9986-f3104d924e80.html.

to make the election system racially fair. Briefly following our filing of suit, things seemed to be moving in that direction. But that changed in May, when the County Council introduced a ballot measure promoted and debated as one to remove the Office of the County Executive. Although I initially thought putting this important question to voters was a good idea, as soon as I saw the actual text of Resolution 70-2024, I became alarmed. What jumped out at me as a Plaintiff in this lawsuit is that it makes retention of the illegal 5/2 election system prerequisite to the removal of the County Executive. So, if a majority of voters approve the measure in November, that discriminatory system will be locked in as the choice of the electorate. For me, this is highly problematic for two reasons: First, it conflicts with the goals of this lawsuit and the voting rights reform effort I have put so much work into over decades. And second, it effectively places me in an impossible position as a voter: Either I endorse the Defendants' racially discriminatory system in order to eliminate the Executive position, or I continue to stand against this illegal election system and vote against the substantive measure I otherwise might favor. This denies me free choice on a ballot measure that will have enormous consequences for our County in the years ahead, and as such is terribly unfair to me and other Black voters I know who feel the same.

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



Eddie Boyd, Jr.

Executed on July 8, 2024