

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION**

RODNEY D. PIERCE and
MOSES MATTHEWS,

Plaintiffs,

v.

THE NORTH CAROLINA STATE BOARD
OF ELECTIONS, et al.,

Defendants.

Case No. 4:23-cv-193-D

NOTICE OF SUPPLEMENTAL BARRETO DECLARATION

In light of the colloquy with the Court at the January 10 hearing relating to Appendix Table B1 of Dr. Matt Barreto's expert report (located at page 20 of the report and page 21 of ECF 17-2), Plaintiffs respectfully submit the attached supplemental declaration of Dr. Barreto. As the supplemental declaration makes clear, Senate Districts 1 and 2 in the 2023 enacted map will not perform for Black-preferred candidates.

Dated: January 12, 2024

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Respectfully submitted,

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**Special Appearance*

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel and parties registered in said system.

Dated: January 12, 2024

/s/ R. Stanton Jones _____
R. Stanton Jones

SUPPLEMENTAL DECLARATION OF DR. MATT BARRETO

On January 10, 2024 plaintiffs' lawyers contacted me to inquire about Table B1, page 20 of my original declaration dated November 21, 2023, specifically the last two rows of the table regarding the performance analysis for the enacted districts at issue in this case using results from the 2022 State Senate elections.

Senate District 2 in the 2023 enacted map contains portions of multiple districts from the prior State Senate map which was used in the 2022 elections, specifically prior districts 1 and 3. Upon inspection of the data for the 2022 State Senate elections, I noticed that only one of those prior districts (district 3) had a contested State Senate election in 2022, meaning the 2022 election in that prior district featured two candidates competing against each other. In the other prior district (district 1), large portions of which are now part of enacted Senate District 2, the 2022 State Senate election was uncontested.

The portion of current Senate District 2 that had a contested State Senate election in 2022 consists of only Halifax, Warren, and Martin counties. All of the other counties within current Senate District 2 were part of the prior district in which only a Republican candidate ran unopposed. Those counties, which comprise a majority of current Senate District 2, are Chowan, Washington, Hyde, Pamlico, and Carteret. Because most of the counties within current Senate District 2 did not have a contested State Senate election in 2022, it is not feasible to conduct a full performance analysis for current Senate District 2 using the 2022 State Senate elections. However it is possible using other statewide elections such as U.S Senate or Supreme Court positions which can be easily analyzed for performance results.

The vote shares in Table B1 of my original declaration include only the results of contested elections; uncontested elections are excluded. Accordingly, the row showing the performance analysis for current Senate District 2 using the 2022 State Senate elections is reporting only the 2022 vote shares in Halifax, Warren, and Martin counties. The vote shares in this row do not include any of the votes for State Senate in 2022 from any of the other counties within current Senate District 2. Thus, all this row shows is that a hypothetical district containing only Halifax, Warren, and Martin counties would perform for Black-preferred candidates based on the 2022 State Senate elections.

This is important because Halifax, Warren and Martin counties represent a heavily African American portion of current Senate District 2. In these three counties combined, African Americans constitute 48.4% of the voting age population (VAP) compared to 44.5% White according to the U.S. Census 2020 decennial survey PL 94-171. By contrast, the entirety of current Senate District 2 is only 30% African American VAP. This explains why the election in prior district 1 was uncontested in 2022: that district was so heavily Republican that no Democratic candidate ran.

Thus, if we tally the total votes cast across all of the 2022 State Senate elections, not just the contested elections as reported in Table B1, current Senate District 2 will not perform for Black-preferred candidates. When all 2022 State Senate elections are counted across both contested and uncontested races in the counties now within current Senate District 2, 51,019 ballots were

cast for white-preferred (Republican) State Senate candidates, while only 16,877 ballots were cast for Black-preferred (Democratic) State Senate candidates. Overall, 75.1% of ballots cast in 2022 State Senate elections went to Republican State Senate candidates in enacted Senate District 2, compared to only 24.9% for Black-preferred candidates. These results are consistent with all other elections in 2022 in which current Senate Districts 1 and 2 do not perform for Black-preferred candidates using any prior election.

Given that the majority of counties within current Senate District 2 were part of a prior district where the Republican candidate ran unopposed in 2022, the results of the 2022 State Senate elections are less probative in analyzing the performance of current Senate District 2. Instead, it is far more probative to analyze the performance of current Senate District 2 using 2022 statewide elections which were contested in all counties now within Senate District 2. My Table B1 reported this performance analysis using 7 statewide elections in 2022, and under all of those elections, current Senate Districts 1 and 2 do not perform for Black-preferred candidates.

This question about conducting performance analysis using 2022 State Senate elections does not affect my conclusion that current Senate Districts 1 and 2 will not perform for Black-preferred candidates. Nor does it affect any of my other conclusions in my original declaration.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

January 12, 2024



Dr. Matt A. Barreto

Agoura Hills, California