

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

<b>HANCOCK COUNTY BOARD OF SUPERVISORS</b>	§	
<b>V.</b>	§	
<b>RUHR</b>	§	<b>NO. 1:10CV564 LG-RHW</b>

**(CONSOLIDATED WITH)**

<b>NAACP, et al.</b>	§	
<b>V.</b>	§	<b>NO. 3:11CV124 LG-RHW</b>
<b>AMITE COUNTY BOARD OF SUPERVISORS</b>	§	

**SECOND AMENDED COMPLAINT**

**JURISDICTION**

1. This is an action for declaratory and injunctive relief for violation of rights secured to plaintiffs by the United States Constitution. The federal question jurisdiction of this Court is invoked pursuant to the 14<sup>th</sup> amendment to the United States Constitution, 28 U. S. C. §§ 1331, 1343, 2201, and 2202.

**VENUE**

2. The venue for this action is in the Jackson Division of the United States District Court for the Southern District of Mississippi because the defendants reside within this venue.

**PARTIES**

3. Plaintiff, the Amite County, Mississippi Branch of the NAACP (“National Association for the Advancement of Colored People”) is a civil rights organization whose membership consists primarily of African American citizens and many registered voters throughout

Amite County, Mississippi, including Supervisor Districts 1, 2, 3, 4, and 5 in Amite County, Mississippi.

4. Plaintiff, Glenn Wilson, is a registered African-American voter in Supervisor District 1 in Amite County, Mississippi.

5. Plaintiff, Hugh McGhee, is a registered African-American voter in Supervisor District 4 in Amite County, Mississippi.

6. Plaintiffs bring this action individually and, pursuant to *Fed. R. Civ. P. 23(a), (b)(2), and (c)*, on behalf of themselves and all others similarly situated as a class action with the class defined as “all African-American citizens and voters in Amite County, Mississippi.”

7. With respect to the class, (a) the class is so numerous that joinder of all members is impracticable, (b) there are questions of law and fact common to the class, (c) the claims of the representative parties are typical of the claims of the class, (d) the representative parties will fairly and adequately protect the interests of the class, and (e) the parties opposing the class have acted and refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.

8. Defendant, the Amite County, Mississippi Board of Supervisors, is a local governmental body of the State of Mississippi responsible for conducting primary, special, and general elections for the office of supervisor, constable, and justice court judge for Amite County, Mississippi. This defendant may be served with the process of this Court by serving the Chancery Clerk, Ronny Taylor, whose address is Post Office Box 680, Liberty, Mississippi 39645.

9. Defendant, the Amite County, Mississippi Democratic Executive Committee (“ACDEC”), is a political party and quasi-governmental entity responsible for conducting primary

elections for the Democratic Party in Amite County, Mississippi. This defendant may be served with the process of this Court by serving its Chairperson, Rosie Wilson, whose address is Centerville, Mississippi 39631.

10. Defendant, the Amite County, Mississippi Republican Executive Committee (“ACREC”), is a political party and quasi-governmental entity responsible for conducting primary elections for the Republican Party in Amite County, Mississippi. This defendant may be served with the process of this Court by serving its Chairperson, Arnie Henderson, Mississippi State Republican Party Headquarters, Jackson, Mississippi 39205.

11. Defendant, the Amite County, Mississippi Board of Election Commissioners, is a local governmental body of the State of Mississippi responsible for conducting special and general elections for the office of supervisor, constable, and justice court judge for Amite County, Mississippi. This defendant may be served with the process of this Court by serving its Chairperson, Nelson Dawson, whose address is Liberty, Mississippi 39645.

12. Defendant, Sharon Walsh, is a local governmental official and Circuit Clerk for Amite County, Mississippi who, pursuant to § 23-15-299, Miss. Code Ann. (1972), is responsible for conducting elections for supervisor, justice court judge, and constable for Amite County, Mississippi. This defendant’s address is Liberty, Mississippi 39645.

### **FACTS**

13. The population for Amite County, Mississippi according to the 2010 federal decennial census is 13,131 persons of whom 5,427 (or 41.33%) are African-American.

14. Amite County, Mississippi is governed by a five (5) member board of supervisors elected from single member districts.

15. Members of the Amite County, Mississippi Board of Supervisors are elected by popular vote to four year terms of office.

16. The terms of office for current members of the Amite County, Mississippi Board of Supervisors expire December 31, 2015.

17. Political party primary nomination elections for the current term of office for members of the Amite County, Mississippi Board of Supervisors were held on Tuesday, August 2, 2011.

18. The qualification deadline for candidates for supervisor was March 1, 2011.

19. A majority vote is required for political party nomination elections in Mississippi.

20. Political party second primary nomination or run-off elections for the current term of office for members of the Amite County, Mississippi Board of Supervisors were held on Tuesday, August 23, 2011.

21. A general election was held on Tuesday, November 8, 2011.

22. The ideal population for each supervisor district for Amite County, Mississippi is 2,624 persons according to the 2010 federal decennial census.

23. The total population for each supervisor district, the black population for each supervisor district, and the percentage of black population for each supervisor district in Amite County, Mississippi according to the 2010 federal decennial census is as follows:

<u>Supervisor District</u>	<u>Total Population</u>	<u>Black Population</u>	<u>Black Pop. %</u>
1	2,514	677	26.93%
2	2,870	1,505	52.44%
3	1,971	825	41.88%

4	3,259	1,128	34.52%
5	2,517	1,295	51.45%

24. The supervisor districts for Amite County, Mississippi have a total population deviation of 1,288 persons according to the 2010 federal decennial census with a maximum deviation percentage of 49.05%.

25. The Amite County, Mississippi Branch of the NAACP, is a civil rights organization whose members include and which represents citizens and registered voters Supervisor Districts 2 and 4 which are overpopulated and under represented, and the plaintiff is aggrieved by that under representation.

26. Plaintiff, Glenn Wilson, is a citizen and voter in Supervisor District 1, which has a substantial black population, and plaintiff, Glenn Wilson, does not want the black voting strength in Amite County, Mississippi diluted.

27. Plaintiff, Hugh McGhee, is a citizen and voter in Supervisor District 4, which is overpopulated and underrepresented and which has a substantial black population, and plaintiff, Hugh McGhee, is injured by that underrepresentation and he does not want the black voting strength in Amite County, Mississippi diluted.

28. Amite County, Mississippi is a jurisdiction covered by the preclearance requirements of § 5 of the Voting Rights Act of 1975, as amended and extended, 42 U. S. C. § 1973c, that has a long and official history of racial discrimination against African-American citizens and voters that has affected their right to register, vote, and participate in the political process.

29. Voting in elections in Amite County, Mississippi is racially polarized.

30. White bloc voting in Amite County, Mississippi is statistically significant.

31. The Amite County, Mississippi Board of Supervisors failed to redistrict the county's supervisor districts to comply with the one-person one-vote principle of the Equal Protection Clause of the 14<sup>th</sup> amendment to the United States Constitution and obtain preclearance of any new redistricting plan prior to the March 1, 2011 candidate qualification deadline, the August, 2011 political party primary nomination elections, or the November, 2011 general election.

32. The Amite County, Mississippi Board of Supervisors adopted a redistricting plan for the county's supervisor districts after the March 1, 2011 candidate qualification deadline and submitted the plan to the United States Attorney General for § 5 (42 U. S. C. § 1973c) review, but the United States Attorney General entered a timely objection to the redistricting plan.

33. The existing apportionment scheme for Amite County, Mississippi results in discrimination against African-American voters in violation of rights secured to plaintiffs by Section 2 of the Voting Rights Act of 1965, as amended, 42 U. S. C. § 1973.

34. The present supervisor districts are grossly malapportioned.

35. The plaintiffs are aggrieved because supervisor elections were held under the grossly malapportioned existing apportionment scheme that resulted in discrimination against African-American voters with the candidates elected being allowed to hold office for a full four year term of office.

36. The existing apportionment scheme for Amite County, Mississippi results in discrimination against African-American voters in violation of rights secured to plaintiffs by Section 2 of the Voting Rights Act of 1965, as amended, 42 U. S. C. § 1973.

37. The present supervisor districts are grossly malapportioned.

38. The plaintiffs have been aggrieved because the 2011 elections were held under the

grossly malapportioned existing apportionment scheme with the candidates elected being allowed to hold office for a full four-year term under the malapportioned districts.

39. Plaintiffs will continue to be aggrieved if the supervisors elected under the existing apportionment scheme are allowed to hold office for the full four year term of office.

40. African-American voters in Amite County, Mississippi are politically cohesive in Mississippi.

41. The African-American population in Amite County, Mississippi is geographically large and insular such that several black majority supervisor districts could be maintained or created.

42. African-American citizens and voters in Amite County, Mississippi suffer from the lingering effects of gross disparities in socioeconomic factors that adversely affect their ability to effectively participate in the political process and elect candidates of their choice to elective office.

43. African-American voters in Amite County, Mississippi have been denied equal opportunity to participate in the political process and to elect representatives of their choice under the totality of the circumstances.

44. All of the actions and inactions of the defendants, as mentioned above, have been intentional and deliberate or have resulted in impermissible discrimination against the plaintiffs.

45. As a proximate results of the actions and inactions of the defendants, as mentioned above, the plaintiffs have suffered a violation of their constitutional and statutory rights.

### **CAUSES OF ACTION**

#### **14<sup>th</sup> AMENDMENT EQUAL PROTECTION ONE PERSON ONE VOTE**

46. The existing redistricting plan for Amite County, Mississippi is unconstitutionally malapportioned and violate rights secured to plaintiffs by the Equal Protection Clause of the 14<sup>th</sup>

Amendment to the United States Constitution and 42 U. S. C. § 1983.

**VOTE DILUTION CLAIM -§ 2 of the VOTING RIGHTS ACT OF (1965)**

47. The existing redistricting plan for Amite County, Mississippi results in discrimination against African-American voters in violation of rights secured to plaintiffs by Section 2 of the Voting Rights Act of 1965, as amended, 42 U. S. C. § 1973.

**CAUSATION, INJURY, AND REMEDY**

48. As a proximate result of the actions and inactions of the defendants, as mentioned above, plaintiffs have suffered a violation of their federal constitutional rights, and plaintiffs have incurred expenses, attorney fees, and court costs.

**EQUITABLE RELIEF**

49. Plaintiffs request the a declaratory judgment, pursuant to 28 U. S. C. §§ 2201 and 2202, that the defendants have violated rights secured to plaintiffs by the 14<sup>th</sup> amendment to the United States Constitution and Section 2 of the Voting Rights Act of 1965, as amended, 42 U. S. C. § 1973, and plaintiffs requested pre-election injunctive relief and now request post-election injunctive relief of setting aside the 2011 elections and ordering special elections with shortened terms of office for members of the Board of Supervisors.

50. And, plaintiffs request an award of court costs and attorney fees and litigation expenses pursuant to 42 U. S. C. §§ 1973[e] and 1988.

**WHEREFORE, PREMISES CONSIDERED**, plaintiffs respectfully request the following legal and equitable relief:

a. A declaratory judgment, pursuant to 28 U. S. C. §§ 2201 and 2202, that the present apportionment scheme and the actions and inactions of the defendants violate rights secured

to plaintiffs by the 14<sup>th</sup> amendment to the United States Constitution and Section 2 of the Voting Rights Act of 1965, as amended, 42 U. S. C. § 1973;

b. A temporary restraining order, preliminary injunction, and/or a permanent injunction enjoining the defendants from conducting elections under the existing redistricting plans for supervisor in Amite County, Mississippi;

c. An Order setting aside the 2011 elections for Supervisor and ordering a special election for Supervisor for Amite County, Mississippi;

d. A temporary restraining order, preliminary injunction, and/or a permanent injunction requiring that any new redistricting plan for supervisors for Amite County, Mississippi comply with the 14<sup>th</sup> and 15<sup>th</sup> amendments to the United States Constitution, 42 U. S. C. § 1983, and §§ 2 and 5 of the Voting Rights Act of 1965, as amended and extended, 42 U. S. C. §§ 1973 and 1973c;

e. Award plaintiffs court costs and a reasonable attorney's fee pursuant to 42 U. S. C. §§ 1973j(e), and 1988; and

f. Grant plaintiffs general relief.

This the 5<sup>th</sup> day of November, 2012.

Respectfully submitted,  
AMITE COUNTY, MISSISSIPPI BRANCH OF THE  
NAACP, GLENN WILSON, and HUGH MCGHEE,  
on behalf of themselves and all others similarly situated

*/s/ Carroll Rhodes*

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**CERTIFICATE OF SERVICE**

I, CARROLL RHODES, hereby certify that I have this day electronically filed using the Court's ECF filing system a true and correct copy of the above and foregoing Amended Complaint, and the Court has electronically served a copy of the motion upon the following:

Justin L. Matheny, Esq.  
Special Assistant Attorney General  
Post Office Box 220  
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Tomie Cardin, Esq.  
Butler, Snow, O'Mara, Stevens & Cannada  
Post Office Box 6010  
Ridgeland, Mississippi 39157-6010

This the 5<sup>th</sup> day of November, 2012.

*/s/ Carroll Rhodes*

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CARROLL RHODES