

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

**HANCOCK COUNTY BOARD OF SUPERVISORS** §  
**V.** § **NO. 1:10CV564 LG-RHW**  
**RUHR** §

**(CONSOLIDATED WITH)**

**NAACP, et al.** §  
**V.** § **NO. 3:11CV121 HTW-LRA**  
**COPIAH COUNTY BOARD OF SUPERVISORS** §

**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 Southern Division of the United States District Court for the Southern District of Mississippi because the defendants reside within this venue.

**PARTIES**

3. Plaintiff, the Hazlehurst, 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 Copiah County,

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

4. Plaintiff, Nanette Thurmond-Smith, is a registered African-American voter in Supervisor District 3 in Copiah County, Mississippi.

5. Plaintiff, Pamela Jefferson, is a registered African-American voter in Supervisor District 5 in Copiah County, Mississippi.

6. Plaintiff, Robert Catchings, is a registered African-American voter in Supervisor District 2 in Copiah County, Mississippi.

7. 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 Copiah County, Mississippi.”

8. 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.

9. Defendant, the Copiah 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 Copiah County, Mississippi. This defendant may be served with the process of this Court by serving the Chancery Clerk, Steve Amos, whose address is Post Office Box 507, Hazlehurst, Mississippi 39083.

10. Defendant, the Copiah County, Mississippi Democratic Executive Committee

(“CCDEC”), is a political party and quasi-governmental entity responsible for conducting primary elections for the Democratic Party in Copiah County, Mississippi. This defendant may be served with the process of this Court by serving its Chairperson, Victor Dixon, whose address is Hazlehurst, Mississippi 39077.

11. Defendant, the Copiah County, Mississippi Republican Executive Committee (“CCREC”), is a political party and quasi-governmental entity responsible for conducting primary elections for the Republican Party in Copiah County, Mississippi. This defendant may be served with the process of this Court by serving its Chairperson, Don Taylor, whose address is Crystal Springs, Mississippi 39059.

12. Defendant, the Copiah 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 Copiah County, Mississippi. This defendant may be served with the process of this Court by serving its Chairperson, Catherine Jackson, whose address is Crystal Springs, Mississippi 39059.

13. Defendant, Edna C. Stevens, is a local governmental official and Circuit Clerk for Copiah 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 Copiah County, Mississippi. This defendant’s address is Hazlehurst, Mississippi 39083.

### **FACTS**

14. The population for Copiah County, Mississippi according to the 2010 federal decennial census is 29,449 persons of whom 14,983 (or 50.87%) are African-American.

15. Copiah County, Mississippi is governed by a five (5) member board of supervisors

elected from single member districts.

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

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

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

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

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

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

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

23. The ideal population for each supervisor district for Copiah County, Mississippi is 5,890 persons according to the 2010 federal decennial census.

24. 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 Copiah 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	5,658	3,582	63.31%
2	7,165	2,019	28.18%

3	5,811	3,669	63.14%
4	4,788	3,291	68.73%
5	6,027	2,422	40.19%

25. The supervisor districts for Copiah County, Mississippi have a total population variance of 2,377 persons according to the 2010 federal decennial census with a maximum deviation percentage of 40.36%.

26. The Hazlehurst, Mississippi Branch of the NAACP, is a civil rights organization whose members include and which represents citizens and registered voters Supervisor Districts 2 and 5 which are overpopulated and under represented, and the plaintiff is aggrieved by that under representation.

27. Plaintiff, Nanette Thurmond-Smith, is a citizen and voter in Supervisor District 3, which is a black majority district, and plaintiff, Nanette Thurmond Smith, does not want the black voting strength in Copiah County, Mississippi diluted.

28. Plaintiffs, Pamela Jefferson and Robert Catchings, are citizens and voters in Supervisor District 5 and 2, respectively, which are over populated and under represented, and they are aggrieved by that under representation.

29. Copiah 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.

30. Voting in elections in Copiah County, Mississippi is racially polarized.

31. White bloc voting in Copiah County, Mississippi is statistically significant.

32. The Copiah 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, and the November, 2011 general election.

33. The existing apportionment scheme for Copiah 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 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.

36. 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.

37. African-American voters in Copiah County, Mississippi are politically cohesive in Mississippi.

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

39. African-American citizens and voters in Copiah 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.

40. African-American voters in Copiah 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.

41. 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.

42. 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**

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

43. The existing redistricting plan for Copiah 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.

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

44. The existing redistricting plan for Copiah 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**

45. 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**

46. 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.

47. And, plaintiffs request an award of court costs and attorney fees and litigation expenses pursuant to 42 U. S. C. §§ 1973l(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 Copiah County, Mississippi;

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

d. A temporary restraining order, preliminary injunction, and/or a permanent injunction requiring that any new redistricting plan for supervisors for Copiah 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. §§ 1973l(e), and 1988; and

f. Grant plaintiffs general relief.

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

Respectfully submitted,  
HAZLEHURST, MISSISSIPPI BRANCH OF THE  
NAACP, NANETTE THURMOND-SMITH, PAMELA  
JEFFERSON, and ROBERT CATCHINGS, on behalf of  
themselves and all others similarly situated

*/s/ Carroll Rhodes*

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CARROLL RHODES, ESQ., MSB # 5314  
LAW OFFICES OF CARROLL RHODES  
POST OFFICE BOX 588  
HAZLEHURST, MS 39083  
TEL.: (601) 894-4323  
FAX: (601) 894-1464  
e-mail: [crhode@bellsouth.net](mailto:crhode@bellsouth.net)

DEBORAH MCDONALD, MSB #2384  
P.O. BOX 2038  
NATCHEZ, MS 39120  
TEL.: (601) 445-5577  
[attorneydmc@bellsouth.net](mailto:attorneydmc@bellsouth.net)  
*Attorneys for Plaintiffs*

**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  
Jackson, Mississippi 39205

Elise B. Munn, Esq.  
Berry & Munn, P. A.  
Post Office Drawer 768  
Hazlehurst, Mississippi 39083

James D. Shannon, Esq.  
Shannon Law Firm  
100 West Gallatin Street  
Hazlehurst, Mississippi 39083

This the 5<sup>th</sup> day of November, 2011.

*/s/ Carroll Rhodes*

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CARROLL RHODES