

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

EAST ST. LOUIS BRANCH NAACP, *et al.*,

Plaintiffs,

v.

ILLINOIS STATE
BOARD OF ELECTIONS, *et al.*,

Defendants.

Civil Action No. 1:21-cv-05512

**Circuit Judge Michael B. Brennan
Chief District Judge Jon E. DeGuilio
District Judge Robert M. Dow, Jr.**

**Three-Judge Court
Pursuant to 28 U.S.C. § 2284(a)**

Expert Report of Franita Tolson, J.D.

**Vice Dean for Faculty and Academic Affairs
Professor of Law
Professor of Political Science and International Relations (Courtesy)
USC Gould School of Law
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Los Angeles, CA 90089**

On behalf of Plaintiffs East St. Louis Branch NAACP, Illinois State Conference of the NAACP,
and United Congress of Community and Religious Organizations

I. Purpose and Organization of this Report

1. The plaintiffs in *East St. Louis Branch NAACP et al. v. Illinois State Board of Elections et al.* (the “East St. Louis NAACP Plaintiffs”) have asked me to provide historical context for the political power of the African American community in East St. Louis and the community’s ability to elect their candidates of choice. This report describes how the East St. Louis Race Riot of 1917 decimated the political power of the African American community in

the city. It took decades after the riot for this community to regain comparable levels of influence like that which existed in the pre-1917 period, and to translate this influence into electing their preferred candidates at the local and state levels.

II. Credentials

2. I am Vice Dean for Faculty and Academic Affairs and Professor of Law at University of Southern California Gould School of Law, where I also hold a courtesy appointment in the Political Science and International Relations Department. My scholarship and teaching focus on election law, constitutional law, and legal history. I write on many topics including partisan gerrymandering, political parties, the Elections Clause, the Voting Rights Act of 1965, and the Fourteenth and Fifteenth Amendments. My work uses history as a methodology to illuminate modern day controversies over the right to vote and debates over the scope of congressional power to regulate elections. My research has appeared or will appear in leading law reviews including the *Harvard Law Review*, *Yale Law Journal*, *Stanford Law Review*, *California Law Review*, *University of Pennsylvania Law Review*, and *Vanderbilt Law Review*. I am also one coauthors of the leading election law casebook, *The Law of Democracy* (Foundation Press, 6th ed., forthcoming 2022). My forthcoming book, *In Congress We Trust?: Enforcing Voting Rights from the Founding to the Jim Crow Era*, will be published in 2022 by Cambridge University Press. Attached to this report as Appendix A is my Curriculum Vitae.

3. As a nationally recognized expert in election law, I have written for or appeared as a commentator for mass media outlets including *The New York Times*, *The Los Angeles Times*, *Wall Street Journal*, *Reuters*, and *Bloomberg Law*. I have testified before Congress (both House and Senate) on voting rights issues four times between 2019 and 2021. I also consult on voting rights litigation and redistricting processes, both for amicus briefs and as a compensated expert. In 2020, I authored a legal analysis at the request of Senators Elizabeth Warren and Richard Durbin regarding a proposed constitutional amendment that would explicitly protect the right to vote. During the fall of 2020, CNN employed me as an election law analyst, and I continue to appear on that network and others. I am also a voting rights consultant for Facebook, and helped the platform develop a voter information center that helped over four million people register to vote during the 2020 election cycle. I currently co-host an election themed podcast, *Free and*

Fair with Franita and Foley, with Ned Foley of The Ohio State University Moritz College of Law.

4. The analyses and opinions expressed in this report are my own. I am being compensated for my time at an hourly rate of \$400. My compensation in this matter is not in any way contingent or based on the content of my opinions or the outcome of this or any other matter.

III. A Brief Social and Political History of the African American Community in East St. Louis, Illinois

5. Illinois's status as a Northern state has, at times, obscured that its history is just as marred by racism and violence as that of many southern states. Slavery existed in the Illinois territory for nearly a century prior to its entry into the union and continued, in a modified form, for 25 years after Illinois' admission as a free state.¹ Between 1819 and 1853, the state legislature passed a series of "black laws" that prohibited black people from entering the state, attending its schools, serving on its juries, or testifying in its courts. During the Civil War, Illinois, though it had abolished slavery in its 1848 state constitution, resisted any efforts by the federal government to abolish slavery in the south. In 1861, Illinois was the first state to ratify a proposed constitutional amendment that would have prohibited the federal government from abolishing slavery in the states where it already existed.² In a similar vein, the Illinois legislature condemned the Emancipation Proclamation, which freed enslaved persons located in states then in rebellion against the United States, despite its implementation by native son, Abraham Lincoln.³

6. There was significant political controversy surrounding whether the adoption of the Thirteenth Amendment required Illinois' black laws to be repealed, laws that did not enslave African Americans but nonetheless subjected them to restrictions not imposed on white people. Democrats and at least some Republicans in the state legislature feared that repeal would make the state an attractive destination for freedmen seeking to leave the South.⁴ Notably, even those

¹ Tara McClellan McAndrew, *Illinois Issues: Slave State*, Oct. 20, 2016, available at <https://www.nprillinois.org/illinois/2016-10-20/illinois-issues-slave-state>.

² Roger D. Bridges, *Equality Deferred: Civil Rights for Illinois Blacks, 1865-1885*, 74 J. ILL. ST. HIST. SOC. 82 (1981).

³ Irving Dillard, *Civil Liberties of Negroes in Illinois since 1865*, 56 J. ILL. ST. HIST. SOC. 592 (1963).

⁴ Bridges, *supra* note 2, at 86.

Republicans who supported rescinding the laws denied that repeal would be an affirmative sanction for black people to sit on juries, marry white people, or vote.⁵ After abolishing these laws, the Illinois Constitution extended suffrage rights only to “white male citizen[s], above the age of twenty one years,” and not to similarly situated black people.

7. The ratification of the Fourteenth Amendment, section 2 of which imposed a penalty of reduced representation in Congress if a state abridged or denied the right to vote of any non-felon male citizen, 21 or older, also did not change this status quo. In 1868, Illinois quickly ratified the Fifteenth Amendment, which prohibited racial discrimination in voting, yet the state continued to deny black males the right to vote in its Constitution. The limitation of voting and office holding to white male citizens was formally erased from the state Constitution on May 13, 1870, which was after the official ratification of the Fifteenth Amendment in March 1870.⁶ While the number of African Americans in the state did not substantially increase with repeal of the black laws or the ratification of the Fifteenth Amendment, growing from 0.9% to 1.1% from 1865-1870, later years would experience growth slowly, at first, and then at a steady pace in the first decades of the twentieth century. African Americans, fleeing racism and a poor Southern economy, looked to Northern factories and industrialized cities, like East St. Louis, as an opportunity to build a new life.

The Political Status of African Americans in East St. Louis: 1900-1917

8. By the mid-1870s, black people were numerous enough to be a political force in Cook County (home of Chicago) as well as a few other Illinois counties in the state including Adams, Alexander, Gallatin, Madison, Pulaski, and St. Clair (home of East St. Louis).⁷ In the late nineteenth century, black people in Pulaski County, in particular, enjoyed more substantial success in electing black candidates than in other parts of southern Illinois.⁸ By 1900, these residents made up approximately 35-40% of the electorate in the county.⁹

⁵ *Id.*

⁶ *Id.* at 94.

⁷ *Id.* at 98.

⁸ See Shirley J. Carlson, *Black Migration to Pulaski County, Illinois*, 80 ILL. HIST. J 37, 45 (1987) (“Pulaski County blacks were more successful in electing candidates than were blacks in other areas, perhaps because candidates for political office in Pulaski County were nominated by primary elections, rather than appointed by a central committee...”).

⁹ *Id.* at 46.

9. The success of black political candidates in other southern Illinois counties did not necessarily translate to success in St. Clair County; indeed, the story of black electoral politics in East St. Louis is complicated. Residents in East St. Louis did not elect significant numbers of black candidates in the early decades of the twentieth century, with leading black politicians serving only in positions on the St. Clair County Board of Supervisors and in a few other appointed political positions.¹⁰ Despite this limited success, African Americans built a political infrastructure in the city that not only influenced city politics, but that was separate and distinct from the white political machine that existed at the time.¹¹ The stream of black migration into East St. Louis helped African Americans further expand their political strength.¹² The number of black men 21 and older increased from 649 out of an electorate of 9,841 (or 6.5%) in 1900 to 2,286 out of an electorate of 21,005 (or 10.9%) in 1910.¹³ Black influence in East St. Louis further increased once women in Illinois gained the right to vote in 1913.

10. The story of black political power in East St. Louis was defined by the status of African Americans as a swing bloc seeking to use their influence in exchange for patronage. At various points, this community aligned with Republicans, Democrats, and various third-party organizations in hopes of maximizing their political influence. For example, some black political leaders—including William T. Scott, the vice president of the local Negro National Democratic League—hoped to break the Republican Party’s grip on the community, borrowing the strategy of African-Americans in Chicago who had been able to receive patronage from Democratic mayors grateful for their support.¹⁴ In 1904, Scott abandoned this strategy entirely, and instead sought to establish an independent party, the National Negro Liberty Party, that catered to the needs of black Americans.

11. While the National Negro Liberty Party failed to attract a substantial following, black residents in East St. Louis remained an influential voting bloc that faced substantial discrimination, particularly as white residents shifted their support from the Republican to the

¹⁰ Charles L. Lumpkin, *Black East St. Louis: Politics and Economy in a Border City, 1860-1945* 194 (dissertation) (2006). Professor Lumpkin notes that authorities used the riot as an excuse to purge these officials from their positions. *Id.* (noting how “local authorities had quickly apprehended leading black politicians on charges of initiating the mass racial violence and used the massacre as an excuse to remove black elected and appointed officials from various political positions.”).

¹¹ CHARLES L. LUMPKIN, *AMERICAN POGROM: THE EAST ST. LOUIS RACE RIOT AND BLACK POLITICS* 45 (2008).

¹² *Id.* at 55.

¹³ *Id.* at 71.

¹⁴ *Id.* at 63. Lumpkin, *supra* note 10, at 99.

Democratic Party.¹⁵ Yet black people would continue to shift their support among different constituencies when doing so proved politically advantageous. For example, black voters aligned themselves with white Democrats who formed the local Independent Municipal Party, an alliance that led to substantial electoral successes for the party in 1903. After the Independent Municipal Party failed to honor promises of patronage, black voters threw their support behind the Colored Lincoln-Roosevelt Republican League in 1906.¹⁶ Black voters' willingness to shift their support from one political movement to the next triggered backlash from white party bosses and machine politicians.¹⁷

12. From 1913 to 1917, black people in East St. Louis were caught in the middle of a struggle between white machine politicians and white progressives, both of whom fought for control of city hall and offered token reform to the black community in exchange for their support.¹⁸ These elections were nonetheless marked by racist imagery, appeals, and fear tactics by both sides, who both sought to delegitimize the African American community and its power to swing elections for their benefit. African Americans, particularly with their growing numbers, became useful scapegoats upon which to lay blame for the city's problems. At this time, East St. Louis was a haven for vice, where corruption thrived and laborers struggled to make an honest living. By 1917, these attacks on the black community, and fear of their political strength, helped to fuel the racism that ignited into a full-blown riot.¹⁹

The Economic Status of African Americans in East St. Louis: 1900-1917

13. Between 1910 and 1930, African Americans migrated to the Northern states and other parts of the South in greater numbers than in any period in American history. Southern discrimination and racial violence prompted many black people to go north. After the Supreme

¹⁵ *Id.* at 64-65 (“As white working people strengthened their ties with the national Democratic Party, they accepted the party’s embrace of segregation and disenfranchisement of African Americans in the southern states.”).

¹⁶ LUMPKIN, *supra* note 11, at 66-67.

¹⁷ *Id.* at 67-68.

¹⁸ “Mollman Chosen East St. Louis Mayor,” *St. Louis Post-Dispatch*, Apr. 7, 1915 (noting that Mollman defeated the prior white incumbent by 27 votes); “Commission Plan Has an Early Lead in East St. Louis,” *St. Louis Post-Dispatch*, Nov. 6, 1917 (detailing the struggle between these two factions over East St. Louis’ municipal government). Under East St. Louis’ commission system, only the mayoral candidates ran for a specified office and the remaining elected candidates to the City Council were elected at-large (as opposed to each councilman being elected from a specific subdistrict, as under the aldermanic system).

¹⁹ LUMPKIN, *supra* note 11, at 71.

Court decided *Plessy v. Ferguson* in 1896,²⁰ which institutionalized racism by permitting states to mandate separate facilities for white and minority populations, black people were officially relegated to a second-class citizenship that left them vulnerable to mistreatment by white people.²¹ Between 1882 and 1900, more than 3,000 black people were lynched nationwide, and the vast majority of these lynchings occurred in the South. After 1900, the overall number of lynchings never fell below 50 per year, with a high of 105 in 1901.²²

14. Times of economic hardship only added to this tension because, while periods of relative prosperity brought a reduction in racial violence, violence usually increased in periods of depression.²³ The depression that the South experienced between 1913 to 1915 was no exception to this pattern. From 1913 to 1915, Southern farmers suffered a severe agricultural depression because of the boll weevil, an insect that feeds on cotton plants and buds. Wages and prices were at an all-time low, and in some cases, many black landowners were forced to become tenant farmers or sharecroppers, which led to further impoverishment.²⁴ The economic situation predictably caused an increase in lynchings at the hands of white mobs. When cotton prices started to rise again in 1915, the number of lynchings decreased by about 32%.²⁵

15. East St. Louis was no stranger to the mass migration of Southern black people, given that the city had already experienced substantial growth in its black population from 1900-1910. However, the disintegration of the Southern economy caused an even greater in-migration from 1910-1917 because of East St. Louis's positive employment prospects, with 86.9% of East St. Louis's black population employed in gainful occupations.²⁶ According to school enrollment data, East St. Louis's black population doubled from 5,882 in 1910 to approximately 10,617 persons in 1917.²⁷ Incredibly, much of this increase occurred in 1917 alone. The congressional committee that investigated the riot suggested that between ten and twelve thousand black people migrated to East St. Louis during the first few months of 1917. Similarly, Mayor Fred Mollman of East St. Louis, in his testimony before the Labor Committee of the Illinois State Council of

²⁰ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

²¹ Richard D. Chesteon, *Bibliographical Essay: The Legal Validity of Jim Crow*, 56 J. NEGRO HIST. 284 (1971).

²² EDWARD L. AYERS, *THE PROMISE OF THE NEW SOUTH: LIFE AFTER RECONSTRUCTION* 156 (1992).

²³ See E.M. Beck and Stewart E. Tolnay, *The Killing Fields of the Deep South: The Market for Cotton and the Lynching of Blacks, 1882-1930*, 55 AM. SOCIOLOGICAL REV. 526 (1990).

²⁴ E. MARVIN GOODWIN, *BLACK MIGRATION IN AMERICA FROM 1915 TO 1960: AN UNEASY EXODUS* 11 (1990).

²⁵ Beck and Tolnay, *supra* note 23.

²⁶ United States Bureau of the Census, *Thirteenth Census of the United States* (1910), at 66.

²⁷ ELLIOT M. RUDWICK, *RACE RIOT AT EAST ST. LOUIS, JULY 2, 1917* 65 (1964).

Defense, suggested that between three and six thousand black people migrated to the city in early 1917.²⁸ Newspaper reports showed the same variation, with the *St. Louis Globe-Democrat* claiming that the black population numbered more than twenty thousand prior to the riot.²⁹

16. While the numbers varied, it is undisputed that there was a substantial increase in the African American population in the months immediately preceding the July 1917 riot. The growth of the African American community in East St. Louis predictably increased competition for jobs in the local stockyard, meat packing, and manufacturing plants, but not by as much as some of the numbers touted by newspapers and elected officials would have one think. Between 1910 and 1920, there was a net loss of 1,156 American born white males in the 15-44 age group, due to out-migration and deaths. When the population of foreign-born white people was examined for the same period, there was a decrease of 2,443 white males. This net loss of 3,599 white working age males caused a shortage of white labor in the East St. Louis factories in 1917.³⁰ The influx of black workers helped prevent a labor shortage that would have otherwise occurred.

17. The unprecedented influx of black people into East St. Louis made it easy for white residents to exaggerate their overall number. While there was a large increase in the black population, the number fell well short of the multitudes alleged to have migrated to the city by officials and newspaper reports. Many residents failed to differentiate between black people who came to stay in East St. Louis and those who only came through the city, given its status as a gateway to the North and the West. Many black people simply passed through on their way to other cities. Some stayed, but if no jobs materialized within a few days, they went elsewhere.³¹ Some migrating black people also traveled in groups of fifty or more, which attracted considerable attention when they passed through the city, causing many white people to assume that these individuals were coming to East St. Louis to stay.³² Either way, the influx of black workers in uncertain numbers created significant racial tension in the city.

18. Employers in East St. Louis, like employers across the North, exploited this hostility between the two groups by hiring black workers for lower wages and, in some cases,

²⁸ “Hearings Before the Illinois State Council of Defense Labor Committee,” June 1917.

²⁹ RUDWICK, *supra* note 27, at 158.

³⁰ *Id.* at 171-172.

³¹ *Id.* at 162-63.

³² *Id.* at 161.

replacing white workers with black workers during labor strikes.³³ During this time, many unions, including the American Federation of Labor (A.F. of L), either excluded black people or had anti-black policies such as organizing only skilled workers.³⁴ Since many African Americans who migrated from the South faced displacement in most trade professions, this bias provided the unions with a means of limiting the labor supply within an industry and keeping the black population out of the union. By the mid-1920s, only 82,000 black people out of a total black workforce of 2.5 million were members of the A.F. of L.³⁵ Like black people in so many other Northern cities, African Americans in East St. Louis were forced into the role of strikebreakers, generating backlash for serving not only a political swing bloc, but also for crossing the picket line to do the jobs that white workers refused to do.

19. Unsurprisingly, increased union activity by white workers, like variances in the cost of the cotton crop, also correlated to increased racial violence against black people.³⁶ The use of black workers as strikebreakers and the subsequent violence that ensued was not a situation unique to East St. Louis. Competition for jobs lay behind much of the rioting in Northern cities. For example, in Philadelphia, Pennsylvania, white workers in a large sugar refinery went on strike in 1917, and the owners of the plant attempted to break the strike by using black laborers. White workers rioted, killing one black worker and wounding several others.³⁷ Similar incidents occurred in Virden and Pana, Illinois, in 1898 when coalmine

³³ See Robert Asher, *Documents of the Race Riot at East St. Louis*, 65 J. ILL. STATE HIST. SOC. 327, 332 (1972) (letter of Halie Elvira Queen, survivor of East St. Louis race riot). As Ms. Queen recounted:

There had been continued trouble in [E]ast [S]t. [L]ouis between Capital and Labor and strike after strike had occurred. In nearly every case the employers had refused the demands of the strikers and had put Negroes in their places. The owner of a certain Aluminum Plant testified that in order to prevent strikes he had maintained his business on a principle of hate. He employs one third white Americans, one third Negroes and one third foreigners, knowing that each group hates the other so heartily that they will never combine against the shop. The Negroes who took the places of the strikers became interested in their work and were promoted so rapidly that they began to acquire better homes, furniture and clothing than the whites.

Id. See also United States House of Representatives Hearings re: Riot at East St. Louis, Illinois, 65th Cong. 19 (1918) (testimony of Hailie Elvira Queen).

³⁴ See JACQUELINE JONES, *AMERICAN WORK: FOUR CENTURIES OF BLACK AND WHITE LABOR* 325 (1998). For example, black men as a group had worked in the iron industry for many generations, but by the early twentieth century, three-fourths of all black ironworkers were still classified as laborers and only 8% were skilled. *Id.* at 306-07.

³⁵ *Id.* at 327.

³⁶ Susan Olzak, *Labor Unrest, Immigration, and Ethnic Conflict in Urban America, 1880-1914*, 94 AM. J. OF SOCIOLOGY 1304 (1989).

³⁷ See Henderson H. Donald, *The Effects of the Negro Migration on the North*, 6 J. NEGRO HIST. 438 (1921).

operators brought in armed black miners to break a strike. Nine miners and ten guards were killed in the ensuing gun battles. Violence also accompanied the use of black strikebreakers in several other Chicago labor confrontations in 1894, 1895, 1904, and 1905.³⁸ In 1905, black drivers in Chicago delivering mail were pummeled with brass knuckles, injured with bricks, and severely beaten following a labor confrontation.³⁹ These incidents are only a small sample of the labor violence between black and white communities during this period. As the number of unions grew from 31 in 1880 to 183 in 1914, there was a twenty-fold increase in the rate of attacks on black people over the same period.⁴⁰

The East St. Louis Race Riot of 1917: The Destruction of the Political and Economic Foundations of the Black Community

20. As of April 1917, the Aluminum Ore Company, the largest industrial plant in East St. Louis, employed about 1900 men on a higher pay scale than many of the other plants in the city. During the previous fall, there was a brief strike that the workers won, but the company began increasing its black labor force to limit the future demands of white workers. According to company statistics, the number of black workers rose from 280 in November 1916, to 410 in December, and by February of 1917, the company employed 470 African Americans. Prior to 1913, the workforce at the plant had been all white.⁴¹ During the months of December and January 1917, when about two hundred black residents were hired, more than that number of White laborers were fired, and nearly all of them were members of the Aluminum Ore Employees Protective Association, a union with A.F. of L affiliation formed to protect the white laborers. On April 18, 1917, the union at the Aluminum Ore Company went on strike.⁴²

21. During the first several days of the walkout, production was sharply reduced, and the union appeared to be winning the strike. However, after the company brought in strikebreakers, the strikers caved. Many of the workers used as strikebreakers to destroy the union were white, but the narrative that persisted was that black workers who had recently migrated to East St. Louis had crossed the picket line. By the end of May, white laborers had

³⁸ See PAUL A. GILIE, RIOTING IN AMERICA 112 (1996).

³⁹ See William M. Tuttle, *Labor Conflict and Racial Violence: The Black Worker in Chicago, 1894-1919*, in BLACK LABOR IN AMERICA 93 (1969).

⁴⁰ Olzak, *supra* note 36, at 1327-28.

⁴¹ RUDWICK, *supra* note 27, at 16-19.

⁴² *Id.* at 17.

convinced themselves that “perhaps violence was the only effective method to frighten Negroes away from East St. Louis.”⁴³

22. On May 28, 1917, sixty delegates of the East St. Louis Central Trades and Labor Union, a federation of A.F. of L craft unions, appeared before Mayor Mollman and the City Council. At this meeting, the union lodged a formal protest against black migration and warned that unless conditions were corrected, there would be a “holocaust that would make the 1908 Springfield riot look like ‘a tame affair.’”⁴⁴ The street outside the meeting was packed with hundreds of white laborers, who varied from members of a women’s union to the striking laborers from the Aluminum Ore Company. There were so many people in attendance that the meeting had to be moved to the City Hall auditorium.⁴⁵

23. At the meeting, Mayor Mollman warned against “hotheadedness” and pleaded with the workers not to attack black residents. As the men were leaving the meeting, rumor circulated that a black robber had accidentally shot a white man during a robbery. Within minutes, these rumors were exaggerated into claims that a white woman had been insulted and white women had been shot. The mob, estimated to be as many as three thousand people, rushed to the downtown intersection of Broadway and Collinsville Avenue, the busiest intersection in town, and beat every black person in sight. Black men were pulled out of streetcars and beaten, and black women were threatened with lynching. The crowd also destroyed several black establishments. In desperation, Mayor Mollman called the Illinois National Guard Headquarters in Springfield to get help subduing the rioters.⁴⁶

24. By the early hours of May 29th, the crowd had dissipated. Shortly after two o’clock in the morning, hundreds of black people carrying suitcases were seen heading for the bridges that led to St. Louis. In this minor riot, several black people were shot, others were severely beaten, but no one was killed.⁴⁷ Although white people had started the riot and proclaimed their intentions to finish the job at a later date, the East St. Louis Police Department devoted most of its efforts to making sure that black people were disarmed.

⁴³ *Id.* at 26.

⁴⁴ *Id.* at 23.

⁴⁵ *Id.* at 28

⁴⁶ RUDWICK, *supra* note 27, at 30.

⁴⁷ *Id.*

25. In the aftermath of the May 28th riot, no precautions were taken to avoid a repeat despite the obvious warning signs.⁴⁸ City officials did nothing to discover the identity of the rioters, nor was anyone prosecuted for the May 28th disturbances.⁴⁹ In addition, Illinois Governor Lowden knew of the tense situation in East St. Louis, but by June 20th, only a few national guardsmen remained in East St. Louis. At the end of June, policemen and national guardsmen showed up at the homes of black men and confiscated their weapons.⁵⁰ To many white residents, the disarming of the black population was treated as an invitation for renewed rioting. From May 28th until the outbreak of the second riot on July 2nd, white people beat and attacked several black people, and the local police and state militia did nothing to stop these sporadic outbreaks of violence. These attacks, and the lack of protection from officials, were a chilling premonition of the violence that would soon engulf the city.⁵¹

26. On the night of July 1st, a Ford car (possibly two), fired shots into black homes along Market Street between ten-thirty and midnight. When the car circled again, residents were ready and returned the fire.⁵² A squad car, also a Ford, was dispatched to investigate. When the squad car, driven by two detectives dressed in civilian clothes, turned onto Bond Avenue from Tenth, it was met by gunfire. Samuel Coppedge, one of the detectives, was killed instantly and the other, Frank Wadley, died the next day. A man named Roy Albertson, who was a reporter for the *St. Louis Republic*, witnessed the deaths, and his account alleged that “the police car turned into Bond Avenue meeting more than 200 rioting [armed] Negroes... [who] without a word of warning opened fire.”⁵³ Albertson also wrote that black people prearranged the murder, triggering an unprovoked and senseless killing. It was not until later, while testifying for the congressional committee investigating the riot, that Albertson admitted that the deaths could have been a case of mistaken identity.⁵⁴

27. But his admissions came too late. Albertson’s account of the alleged cold-blooded murder of two lawmen by black residents, which was printed by other newspapers, confirmed the view that black people were “intoxicated by new Northern freedom” and had

⁴⁸ See “Mollman Warned Often of Danger of Race Outbreak,” *St. Louis Post-Dispatch*, Oct. 31, 1917 (noting that mayor and city council had been warned several times prior to May 28th that there would be race riots).

⁴⁹ RUDWICK, *supra* note 27, at 35.

⁵⁰ Asher, *supra* note 33.

⁵¹ RUDWICK, *supra* note 27, at 35.

⁵² *Id.* at 38.

⁵³ See H. Rep. No. 1231, at 14 (1918). See also RUDWICK, *supra* note 27, at 38.

⁵⁴ See H. Rep. No. 1231 (1918). See also RUDWICK, *supra* note 27, at 39-40.

turned into “aggressors who had determined by any unlawful means to take control of the city.”⁵⁵ On the morning of July 2nd, the bullet-riddled police car was parked in front of the police station in downtown East St. Louis. After seeing the car, an angry crowd marched down to the intersection of Collinsville Avenue and Broadway and murdered one black person. Between ten and eleven that morning, other African Americans were attacked along Collinsville Avenue.

28. For hours, dozens of African Americans, regardless of age, were beaten by the angry mob. By early afternoon, black people who lay bloody in the streets were calmly shot by their white assailants. Black people were tortured and lynched throughout the evening and night of July 2nd. Black homes on Main Street, Brady Avenue, Third Avenue, and Broadway Street were set afire.⁵⁶ When some black residents attempted to escape their burning homes, they were shot.⁵⁷ Fires destroyed over three hundred homes and some black residents, including children, were thrown back into the flaming embers. Reporters described white rioters as having “a visible coolness and premeditation about it . . . this was not the hectic and raving demonstration of men suddenly gone mad.”⁵⁸ Most of the violence took place within the proximity of the militiamen and police officers. In some cases, the soldiers took part in the rioting, and in others, they were unwilling to help save black victims. According to the *East St. Louis Journal*, “khaki-uniformed” men shot two Black people. Afterwards, rioters “slapped their thighs and said the Illinois National Guard was all right.”⁵⁹

29. By the end of the riot, white residents estimated that as many as 400 black people lost their lives. Black newspapers reported that the number fell somewhere between one hundred and two hundred deaths,⁶⁰ and other sources had numbers that varied.⁶¹ In reality, no one will ever know the actual number of deaths that occurred as a result of the riot. On July 4th and 5th, several mutilated bodies were found in the Cahokia Creek, discoveries that substantiated reports

⁵⁵ *Id.*

⁵⁶ United States House of Representatives Hearings re: Riot at East St. Louis, Illinois, 65th Cong. 15 (1918) (comments of Rodenberg) (noting that rioters “burned 310 houses, and the Broadway Opera House; and it was a misfortune that entailed an awful expense on the city. Under the law of Illinois the city is responsible for any damage caused by a mob, and the city will have approximately a million dollars to pay as the result of this mob action.”).

⁵⁷ RUDWICK, *supra* note 27, at 45, 54.

⁵⁸ *Id.* at 44-46.

⁵⁹ See H. Rep. No. 1231, at 20-21 (1918) (noting that Col. Tripp, who oversaw the militia, was under investigation and facing a court martial after the riot).

⁶⁰ RUDWICK, *supra* note 27, at 50.

⁶¹ See Asher, *supra* note 33, at 327 (noting that “at least 50 persons were killed and 240 buildings destroyed; estimates of property damage ran as high as \$1,400,000.”).

that the mob threw many of the victims in the creek. While whole bodies might float to the surface, charred remains would not. Many East St. Louis residents claimed that white mobs dumped ashes and burned bones of the victims into the creeks. Sources claiming that the death toll was higher than reported argued that many African Americans were missing and unaccounted for (and may have been buried in mass graves),⁶² but since there is no way of knowing those black people who were residents of East St. Louis and those who were not, then an accurate accounting is likely impossible.⁶³ Official reports state that 39 black people and nine white people died as a result of the rioting.⁶⁴

30. The white rioters in East St. Louis showed no remorse, and the “mardi-gras atmosphere that characterized the city” on July 3rd reflected this unsympathetic attitude. Thousands of white people spent the day downtown displaying souvenirs, such as pieces of hats, jackets, and shirts taken from many of the black victims of the riot. Among the collectibles paraded around were cinders taken from the corpses of some victims.⁶⁵ For weeks, white rioters continued to beat black residents and made several attempts to burn their homes. Nine white people were given prison terms for their part in the riot; only four were found guilty of homicide, even though at least 39 blacks were killed.⁶⁶ Thirteen blacks were convicted of killing the two policemen, even though the evidence was shaky at best. Forty-one people were found guilty of misdemeanors, and among them were men who shot and injured black people.⁶⁷

31. The violence in East St. Louis had varying effects on people across the country. Some black people found the news reports too unbelievable to be true and suggested that it was a story invented by the Southern press to frighten migrants and discourage people from making the trip north. According to historian Elliott Rudwick, the *Atlanta Constitution* boasted that “nowhere in the South could a Negro be slaughtered for wanting to earn a living.” Other Southern papers published similar stories, cautioning black people that the “East St. Louis affair will happen all over the North when there is no longer enough work for all and white men want their jobs.”⁶⁸ This premonition would prove true as race riots marred much of the Northern

⁶² United States House of Representatives Hearings re: Riot at East St. Louis, Illinois, 65th Cong. 24-25 (1918) (testimony of Hailie Elvira Queen).

⁶³ RUDWICK, *supra* note 27, at 51.

⁶⁴ See H. Rep. No. 1231 (1918).

⁶⁵ RUDWICK, *supra* note 27, at 67, 71.

⁶⁶ PEARL KLUGER, *PROGRESSIVE PRESIDENTS AND BLACK AMERICANS* 348-349 (1976).

⁶⁷ RUDWICK, *supra* note 27, at 113; Kluger, *supra* note 66.

⁶⁸ RUDWICK, *supra* note 27, at 62-63.

landscape in the years following the East St. Louis riot: Washington D.C. (1919) and Chicago (1919), which resulted in the deaths of 39 and 38 people, respectively;⁶⁹ Tulsa (1921), with estimates of 50 to 300 deaths;⁷⁰ Detroit (1943), which had a death toll of 34 people;⁷¹ and a series of other race riots across the North in the ensuing decades.

32. After the riot, numerous individuals and organizations implored President Woodrow Wilson for federal intervention to protect black people in East St. Louis and to issue a statement condemning the rioters. Several black groups even requested interviews with the President, but were declined due to “international business.” President Wilson did not issue a statement concerning the violence in East St. Louis until almost a year after the incident.⁷²

33. While Wilson neglected the situation in East St. Louis, Congressman Dyer (Missouri) and Senator Sherman (Illinois) introduced a joint resolution authorizing Congress to investigate the East St. Louis riot on the grounds that it disrupted interstate commerce.⁷³ Although the committee discovered that labor and politics were some of the causes of the July 2nd riot, they repeated many of the same erroneous statements that had fueled the violence. For example, the final report stated, “ten thousand or more strange negroes added to the already large colored population soon made East St. Louis a center of lawlessness,” a population boom that caused white women to “be afraid to walk the streets” because they were “openly insulted by drunken negroes.”⁷⁴ The report also detailed the “naked prostitutes performing lewd dances” and the salons and gambling houses that resulted from the increase of black residents in East St. Louis.

34. In reality, many of the vices in East St. Louis took place under the watch of corrupt white politicians and policemen. During the years before the race riot, East St. Louis had a reputation for being “a wide open, wild and woolly gambling town.”⁷⁵ There were many

⁶⁹ See Gillian Brockell, *The Deadly Race Riot ‘Aided and Abetted’ by The Washington Post A Century Ago*, THE WASH. POST, July 15, 2019; Karen Grigsby Bates, *Red Summer in Chicago: 100 Years After the Race Riots*, NPR, available at <https://www.npr.org/sections/codeswitch/2019/07/27/744130358/red-summer-in-chicago-100-years-after-the-race-riots>.

⁷⁰ See Oklahoma Commission to Study the Tulsa Race Riot of 1921, Final Commission Report 123 (2001) (“There were an undetermined number of deaths, both black and white, with estimates ranging from the official count of 36 to approximately 300.”).

⁷¹ See Michael Jackman, *Forgotten History: Detroit’s 1943 Race Riot Broke Out 75 Years Ago Today*, DETROIT METRO-TIMES, June 20, 2018.

⁷² Kluger, *supra* note 66, at 342-343.

⁷³ *Id.* at 348.

⁷⁴ See H. Rep. No. 1231 (1918).

⁷⁵ RUDWICK, *supra* note 27, at 197.

establishments and people whom the law did not reach regardless of what was written in the statute books, and this helped to create a disregard for the law among all citizens and ultimately enabled them to believe that there was no law against mob action.⁷⁶ The so-called “Black Valley” was the primary location of many of these vices, giving it and its black residents the appearance of being corrupt, even though all races partook in the organized crime in this area. While the congressional report claimed that less than a year before the riot, “80 percent of the murders committed were by negroes, rape was frequent,” and “a host of petty offenses kept the law-abiding citizens in a state of terror,” many of these allegations were exaggerations used to incite white backlash and violence.⁷⁷

35. The crimes allegedly committed by black people were also exaggerated and fabricated by the press to incite its white readers. Prior to the riot, the *St. Louis Republic* played on the sensitivities of the people by running the headline: “25,000 Whites Were ‘Doomed’ in Negro Murder Plot.”⁷⁸ According to the story, the riot on July 2nd had forestalled a plot to massacre innocent women and children on July 4th. The *East St. Louis Journal* further embellished the story by writing that the invading army was to contain 1,500 men in 3 divisions. Stories such as these significantly added to the tensions leading up to the riot. Similar stories were published in the newspapers prior to the riots in Chicago and Washington, D.C. as well.⁷⁹

36. Another factor relevant to the outbreak of violence is that much of the unrest occurred during World War I.⁸⁰ Almost every American war, including the Civil War, has been accompanied by labor violence, and racial antagonism played a large role in this violence. The amount of racial violence between white people and black people has been consistently high for almost every period that America was at war in the twentieth century. Occurring, as it did, in the broader context of World War I, the labor and political conflict in East St. Louis made it ripe for a race riot. White people resented black people for threatening their way of life, in both the political and economic domains, and the growing black population of East St. Louis ultimately caused their resentment to be channeled through racial violence. This violent episode, and its

⁷⁶ *Id.* at 215-216.

⁷⁷ See H. Rep. No. 1231 (1918).

⁷⁸ Terry Ann Knopf, *Race, Riots, and Reporting*, 4 J. OF BLACK STUD. 309 (1974).

⁷⁹ *Id.* at 309-10.

⁸⁰ According to historian Warren Schaich in his comparative study of collective racial violence and war, “official violence is contagious whether it is exercised by police or by a whole nation waging war.” Warren Schaich, *A Relationship Between Collective Racial Violence and War*, 5 J. BLACK STUDIES 378 (1975).

impact of the political and economic prospects of the East St. Louis black community, resonated for decades.

East St. Louis from 1917 to the 1960s: The Black Community Struggles to Rebuild

37. The story of African Americans in East St. Louis following the riot is the story of a community in tatters. The property damage and loss of life was breathtaking in its scope, the progress made by that community both politically and economically in the first decades of the twentieth century essentially erased. In the years following the riot, however, African Americans did not abandon East St. Louis entirely—the 1920 census reported 7,437 black residents, which might not have been at its 1917 highs but was certainly an increase from the 5,882 residents present in 1910.⁸¹ This community was still numerous enough to have a presence in the political and economic domains, but was stymied by city officials and machine politicians who feared that African Americans would once again become a powerful voting bloc.

38. Following the riot, white businessmen and civic leaders controlled the city, and there was little progress on matters of racial equality and justice. Black residents remained in segregated housing, and white politicians and business owners segregated more places of public accommodation in the wake of the riot, including movie theaters and restaurants.⁸² Black businesses, some of which burned down during the riot, were not rebuilt, and the number of black owned business remained static for many years.⁸³ East St. Louis remained segregated well after it became a violation of Illinois law, with the black community struggling to once again gain a foothold in local politics and the labor force.⁸⁴

39. Unlike their counterparts in Chicago, blacks in East St. Louis did not send elected representatives to the city council, the Illinois state legislature, or the halls of Congress for decades. Prior to the riot, members of the East St. Louis City Council were elected by district. Shortly after the riot, white politicians spearheaded a change to the form of government from districts to an at-large structure to limit the political influence of African Americans. This at-

⁸¹ LUMPKIN, *supra* note 11, at 142 (noting that “the July pogrom sent at least 7,000 black townspeople seeking permanent residency elsewhere. Had the violence not occurred, East St. Louis might have experienced the same rate of growth in its African American population as Chicago...”).

⁸² *Id.*

⁸³ *Id.* at 153.

⁸⁴ *Id.* at 194 (stating that “Black East St. Louisans endured, after the racial massacre of July 1917, an expanded, rigorous customary segregation that violated long-standing Illinois civil rights laws”).

large election scheme all but ensured that blacks would have zero political representation. Following the change, members of the City Council were elected at large, and the white majority could vote in a bloc to defeat any candidates preferred by the black minority.⁸⁵

40. The increasing influence of the Ku Klux Klan in the region also made it difficult for blacks to enjoy any electoral success, although they sometimes joined with anti-Klan white residents to defeat Klan backed candidates in East St. Louis.⁸⁶ African Americans found other ways to influence politics, notably by working as precinct committee politicians and operatives that lobbied individual city commissioners for patronage.⁸⁷ In addition, black residents continued to field candidates for local office; established influential civic, political and religious groups; and formed alliances with moderate white organizations throughout the 1920s and 1930s. But none of these efforts translated into the actual election of black candidates to public office or consistent patronage for the black community.

41. For example, in 1926, black mortician Julius Marshall ran for the state legislature, and he would have won if only a small number of white residents had voted for him.⁸⁸ Marshall's loss highlighted that the black community continued to face difficulty in electing their preferred candidates during this period. They had to navigate the same white political machine that had sought to stymie their effectiveness as a voting bloc prior to the riot. During this period, black people also shifted their support from the Republican to the Democratic Party, becoming a dedicated bloc for the party in national elections but, unlike their counterparts in Chicago, they were unable to translate this support into electing black candidates. African Americans had greater success in Chicago in electing their preferred candidates, even though Chicago's black community had also been victimized by a white mob in a 1919 race riot. The first congressional district, which encompassed black areas of Chicago, saw a succession of black congressmen elected to office—Oscar de Priest in 1928, Arthur Wergs Mitchell in 1934, and William Levi Dawson in 1942.⁸⁹ In East St. Louis, segregation, white supremacy, and Democratic machine

⁸⁵ Donald E. Franklin, "Ironic Twist in East St. Louis Government Change," *St. Louis Post-Dispatch*, Apr. 7, 1974. See also Lumpkin, *supra* note 10, at 10 ("Reformers, looking to end black political influence and machine boss rule, reconstructed city government by instituting a commission form of municipal government that replaced ward level-based elections with citywide voting.").

⁸⁶ LUMPKIN, *supra* note 11, at 169.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Dillard, *supra* note 3, at 615.

politics constrained black electoral success and activism, and the community's standing was further undermined during the Great Depression.⁹⁰

42. Nevertheless, East St. Louis's black community utilized boycotts and political activism to push for racial equality, seeking to agitate from outside the formal structures of electoral politics.⁹¹ From the 1920s until the 1960s, local black leaders lobbied local employers to hire black workers; filed grievances with the federal government about the exclusion of blacks from certain industries; went on strikes to protest the treatment of black workers; and engaged in other grassroots efforts to address segregation and discrimination during this period.⁹²

43. Still, this activism did not translate into electoral success and the black community, although politically cohesive, did not necessarily coalesce behind the black candidate because of the strength of the political machine. By the 1960s, East St. Louis had one of the largest populations of not only black residents, but black registered voters because of white flight. Nonetheless, the black community had yet to elect a black mayor.⁹³

44. In 1967, a black man, Elmo Bush, ran for mayor of East St. Louis, heading up an all-black Democratic ticket.⁹⁴ Despite their political strength and the depressing socioeconomic circumstances in the city, a majority of the black community did not support Bush, who had promised to address these ills.⁹⁵ Instead, Bush lost in the primary to the white incumbent, and longtime mayor, Alvin G. Fields. Many black people continued to support the entrenched Democratic political machine because of doubts of what a black politician could accomplish within the context of a city dominated by a white political machine.⁹⁶

East St. Louis from the 1970s to the Present: Protecting the Black Community through the Voting Rights Act of 1965

45. After decades of marginal political representation, the black community elected a steady stream of black representatives in the 1970s—more than a half century after the riot that

⁹⁰ Lumpkin, *supra* note 11, at 174.

⁹¹ *Id.* at 180-81.

⁹² *Id.* at 185-200.

⁹³ WILLIAM E. NELSON, JR. AND PHILIP J. MERANTO, ELECTING BLACK MAYORS: POLITICAL ACTION IN THE BLACK COMMUNITY 35 (1977) (noting that the “majority resulted from an absolute loss of white population and a gain of black population in ESL [East St. Louis] between 1950 and 1967”).

⁹⁴ *Id.* at 40-41, 45.

⁹⁵ *Id.* at 40; ANDREW J. THEISING, MADE IN THE USA: EAST ST. LOUIS, THE RISE AND FALL OF AN INDUSTRIAL RIVER TOWN (2003).

⁹⁶ NELSON, *supra* note 93, at 43.

had decimated their political strength. East St. Louis elected its first black mayor, James E. Williams, in 1971.⁹⁷ During this election, the black community also elected two black commissioners to the City Council—including Elmo Bush, who had been defeated in the mayoral election of 1967.⁹⁸ In 1975, the now majority-black East St. Louis City Council dismantled the at-large election scheme that had prevented black residents from electing their preferred candidates to the city council. The commission structure, in which candidates for city council were elected at large by the electorate, was replaced with the aldermanic district system that had existed prior to the 1917 race riot.⁹⁹

46. Under the 2011 redistricting plan, House District 114 was the only state legislative district in the metro East St. Louis area that continuously had a black state representative, and it had been represented by a black state legislator since 1975. Senate Bill 927 (“S.B. 927), which is the redistricting plan passed by the legislature and approved by the Illinois Governor on September 24, 2021, threatens the black community’s hard-fought political power in Metro East, which took decades to amass following the 1917 race riot.¹⁰⁰ S.B. 927 splits the black community in the Metro East area over numerous districts, diluting their voting strength and reducing their chances of electing their preferred representative.

47. I understand from reading the Complaint that the East St. Louis NAACP Plaintiffs have brought a claim under Section 2 of the Voting Rights Act. Section 2 prohibits the use of any voting practice that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.”¹⁰¹ Section 2 is violated “if, based on the totality of the circumstances, it is shown that . . . [members of a protected minority group] have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.”¹⁰² The Supreme Court, in *Thornburg v. Gingles*, established three preconditions that plaintiffs must meet to prove vote dilution in violation of Section 2 of the Voting Rights Act: (1) a minority group must be “sufficiently large and

⁹⁷ *Negro Wins in East St. Louis*, NY TIMES, Apr. 6, 1971, available at <https://www.nytimes.com/1971/04/07/archives/negro-wins-in-e-st-louis.html>.

⁹⁸ Donald E. Franklin, “New E. St. Louis Council Divided,” *St. Louis Post-Dispatch*, May 6, 1971.

⁹⁹ Paul Delaney, *East St. Louis, Decayed and Desperate, Still Has Hope*, NY TIMES, April 23, 1975, available at <https://www.nytimes.com/1975/04/23/archives/east-st-louis-decayed-and-desperate-still-has-hope.html>.

¹⁰⁰ Information about the approval of S.B. 927 can be accessed on the state legislature website: <https://www.ilga.gov/legislation/billstatus.asp?DocNum=927&GAID=16&GA=102&DocTypeID=SB&LegID=133554&SessionID=110>.

¹⁰¹ 42 U.S.C. § 1973(a).

¹⁰² 42 U.S.C. § 1973(b).

geographically compact to constitute a majority in a single-member district”; (2) the group must be “politically cohesive;” and (3) the majority must vote “sufficiently as a bloc to enable it ... usually to defeat the minority’s preferred candidate.”¹⁰³

48. For decades, the black community that has formed the core of House District 114 has consistently elected a black representative, and as the history shows, white Democrats have not historically advanced the interests of the black community in the East St. Louis metro area. Under S.B. 927, black voters will have less opportunity to elect their preferred candidates because the plan fragments the black voters in the Metro East region across Districts 112, 113 and 114 in service of white Democrats who are not, and have not been, this community’s preferred candidate.¹⁰⁴

49. It is my understanding that, once the *Gingles* preconditions are established, courts then consider the totality of the circumstances “to determine, based upon a searching practical evaluation of the past and present reality whether the political process is equally open to minority voters. This determination is peculiarly dependent upon the facts of each case and requires an intensely local appraisal of the design and impact of the contested electoral mechanisms.”¹⁰⁵ A number of factors may be relevant to the court’s inquiry in this case, including:

- the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process;
- the extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process;
- the extent to which members of the minority group have been elected to public office in the jurisdiction; and
- whether there is a significant lack of responsiveness on the part of elected officials to the particularized needs of the members of the minority group.¹⁰⁶

¹⁰³ *Thornburg v. Gingles*, 478 U.S. 44 (1986).

¹⁰⁴ *See Johnson v. De Grandy*, 512 U.S. 997, 1007 (1994) (noting that the voting strength of a politically cohesive minority group can be diluted “by fragmenting the minority voters among several districts where a bloc-voting majority can routinely outvote them”).

¹⁰⁵ *Gingles*, 478 U.S. at 79.

¹⁰⁶ *Id.* at 36-37.

50. As the history recounted above shows, the black community in East St. Louis spent decades unable to elect their preferred candidates, opting instead to seek patronage and fight inequality by aligning with candidates who were, at best, mildly interested in advancing their goals and, at worst, hostile to their interests. Black East St. Louisans lived in segregated housing, lacked sufficient public services, and had limited employment opportunities, despite intense lobbying of city and state officials to be more responsive on these issues through their religious and civic organizations. For decades, white Democrats and the white Democratic machine in the East St. Louis metro area ignored or sought to undermine the interests of the black community. While the black community in Chicago had been able to successfully use the city's Democratic machine to enjoy patronage and elect a succession of black aldermen and congressmen in the half century following that city's 1919 race riot,¹⁰⁷ the black community in the East St. Louis metro area had not been able to enjoy a similar rebound.

51. Indeed, Mayor Alvin G. Fields, who was the mayor of East St. Louis for two decades (1951-1971), was a product of the political machine that had long ignored the black community. Upon his retirement, the *St. Louis Post-Dispatch* noted that Fields' enemies describe him as "a political boss with a deaf ear for the have-nots."¹⁰⁸ His record was replete with promises made to the black community that never manifested,¹⁰⁹ and the tenor of his administration reflected a community still sharply split along racial lines.¹¹⁰ By the time that East St. Louis's black community was finally able to exercise their hard-fought political power, electing the city's first black mayor and a majority-black city council, the city's population had dwindled amidst high unemployment and crime.¹¹¹ Major crimes increased from 1,833 in 1962

¹⁰⁷ Chicago's first black mayor, Harold Washington, was not elected to the office until 1983 (although he served in Congress and as a state legislator prior). Washington was a product of Chicago's Democratic Party machine that had furthered the ambitions of many black politicians who had enjoyed some form of elected office in the half century prior to Washington's election. See Abdul Alkalimat, *Chicago: Black Power Politics and the Crisis of the Black Middle Class*, 19 BLACK SCHOLAR 45, 45 (1988). In contrast, the black community in East St. Louis was not able to successfully exploit that city's Democratic machine to elect a significant number of black candidates, at any level, and it is not until the black population exceeded 70% that they were able to consistently elect their preferred candidates.

¹⁰⁸ James Sprehe, "East St. Louis Mayor Survives 20-Year Reign," *St. Louis Post-Dispatch*, May 4, 1971.

¹⁰⁹ "Mayor Promises East Side Job Law," *St. Louis Post-Dispatch*, Mar. 25, 1971 (promising a black delegation that attended a city council meeting that the city would pass a new ordinance in place of a 1968 resolution that had guaranteed jobs for low-income residents).

¹¹⁰ *Id.* (noting that black delegation informed the mayor that "white persons bearing arms were patrolling construction sites, and that policemen were harassing blacks who took part in demonstrations").

¹¹¹ Donald E. Franklin, "Critical Report Issued on E. St. Louis Police," *St. Louis Post-Dispatch*, Feb. 4, 1971 (discussing a report by the International Association of Chiefs of Police that described the city as "violent and crime-ridden" "whose police department is 'without effective direction and control'"); Delaney, *supra* note 99.

to 4,389 in 1969,¹¹² and in 1970, the city had a deficit of \$1.275 million even though the city's income had substantially increased since 1966.¹¹³ East St. Louis struggled with significant poverty during this period, as one study observed:

33 percent of black males in the labor force were unemployed; the median family income for blacks was \$2,509; a full 52 percent of employed blacks earned less than \$3,000 per year; the median school year completed for adults was 8.1; and only 32 percent of the blacks living in sound housing units. In short, a large segment of the black community in ESL lived in poverty-stricken circumstances.¹¹⁴

52. Because African American political leaders inherited a bankrupt and corrupt city,¹¹⁵ this situation made it difficult for the black community to overcome the lingering effects of discrimination that had defined their existence since the 1917 riot. In 1975, East St. Louis's population stood at 70,000 people, a significant drop from its 1950 high of 82,366. As of the 2020 census, the city's population has dropped to 26,047 and is 96.3% black.¹¹⁶ St. Clair County, which includes East St. Louis, has also seen population decline in the last ten years.¹¹⁷ The city continues to be marked by high unemployment, low wages, violence and blight. The median household income is \$24,343, with 33.4% of residents living in poverty, and an unemployment rate of 6.9%, well in excess of the national number.¹¹⁸ As of 2019, East St. Louis had the highest murder rate of any city in the United States, with 96 murders per 100,000 people, exceeding the rate of major cities like Chicago and Detroit.¹¹⁹ Pollution from decades of manufacturing has also had a long term impact on health outcomes for residents of the city, and the city remains a haven for polluters. As one study noted, "City officials say this relatively

¹¹² Franklin, *supra* note 111.

¹¹³ "East St. Louis Fiscal Mess," *St. Louis Post-Dispatch*, Nov. 9, 1970 (noting that the fiscal mismanagement occurred because, among other things, the city council granted "outlandish pay increases to its union employees, thereby absorbing \$700,000 in new revenues from the state").

¹¹⁴ NELSON AND MERANTO, *supra* note 93, at 35-36.

¹¹⁵ Sprehe, *supra* note 108 ("Twenty years ago, when Fields took office as mayor, the city was broke and in debt. He made a speech then, saying if the city was to survive, there would have to be financial aid from the state and federal governments. Last week, in discussing his 20-year tenure in office, Fields said the same thing, only now the debt is larger and the need for state and federal aid is greater.")

¹¹⁶ See Quickfacts, East St. Louis city, Illinois, *available at* <https://www.census.gov/quickfacts/fact/table/eaststlouiscityillinois/LND110210>.

¹¹⁷ See Quickfacts, St. Clair County, Illinois, *available at* <https://www.census.gov/quickfacts/fact/table/stclaircountyillinois/PST045219>.

¹¹⁸ *Id.* See also George Pawlaczky and Beth Hundsdorfer, *Seventy-Five percent of East St. Louis murders over 19 year-period went unsolved*, ST. LOUIS PUBLIC RADIO, May 30, 2021.

¹¹⁹ Pawlaczky and Hundsdorfer, *supra* 118 (noting that "[t]here were 453 murders within the 14-square-mile border of East St. Louis from 2000 to 2018).

small town has 153 hazardous waste handlers and no fewer than 26 business reporting toxic releases, many of them airborne.”¹²⁰ Thus, the black community in East St. Louis struggles with the lingering effects of past discrimination, which has had, and continues to have, a deleterious effect on the educational, employment, and health prospects of this community.

IV. Conclusion

53. The black community in the East St. Louis region had to rebuild following a devastating race riot, an effort that took decades, and has continued to struggle with access to employment, health care, and social support. For years, white politicians were insulated from electoral accountability because of machine politics and deliberate efforts to minimize the political influence of the African American community. The tide finally began to turn in the 1970s, with the election of black state representatives in former House District 114, but this community still faces substantial hurdles in electing its candidates of choice who are responsive to its needs. For over forty years, former House District 114 sent a black representative to the state legislature with the overwhelming support of black residents in East St. Louis and St. Clair County, decisively allowing them to translate their numbers, after decades of missed opportunities, into effective political influence at the state level. As this report shows, fracturing the black community in the East St. Louis metro region over multiple districts, given the challenges that this community has faced both historically and in the present, undoubtedly sets this community further back and makes it far more challenging for them to elect a candidate of their choice.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 10, 2021 in Los Angeles, California.



Professor Franita Tolson

¹²⁰ JENNIFER F. HAMER, ABANDONED IN THE HEARTLAND 168 (2011).

Appendix A

FRANITA TOLSON

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Visiting Professor of Law

Los Angeles, CA

July 2019-Present

June 2017-Present

April 2021-Present

February 2016

- **Courses:** Constitutional Law I & II; Election Law; Electing A President (undergraduate course)
- **Service:** Faculty Advisor – Southeast Asian Law Students Association (2019-Present); Co-Chair, Race and the Law Academic Affairs Subcommittee (2020-2021); Academic Affairs (2018-2019); Admissions (2018-2019); Appointments (2017-2018); Experiential Readiness Committee (2017-2018)
- **Reviewer:** NYU PRESS; ELECTION LAW JOURNAL; PUBLIUS; CAMBRIDGE UNIVERSITY PRESS; ROUTLEDGE
- **Podcast:** Co-Host, *Free and Fair with Franita and Foley*
- **Blog:** Co-Blogger, *Election Law Blog*

THE UNIVERSITY OF CHICAGO LAW SCHOOL

Walter V. Schaefer Visiting Professor of Law

Chicago, IL

Spring 2021

FLORIDA STATE UNIVERSITY COLLEGE OF LAW

Betty T. Ferguson Professor of Voting Rights

Associate Professor (with tenure)

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Tallahassee, FL

2012 – 2017

2014 – 2017

2009 – 2014

- **Courses:** Constitutional Law II; Election Law; Employment Discrimination; First Amendment; Legislation and Regulation; Race and the Law.
- **Committees:** Appointments (2016-2017 (Chair), 2014-2015, 2012-2013); Member, FSU Provost Search Committee (2015); Faculty Enrichment (2014-2015 (Chair), 2010-2011); Faculty Senate (2010-2015); Admissions (2016-2017, 2013-2014); Judicial Clerkships (2009-2012).
- **Honors/Awards:** Nominee, FSU University Teaching Award (2016, 2014); Summer Research Grant Recipient (Summer 2009, 2011- 2016); First Year Assistant Professor Research Grant Recipient (Summer 2010).
- **Symposium (organizer):** “The Law of Democracy at a Crossroads: Reflecting on Fifty Years of Voting Rights and the Judicial Regulation of the Political Thicket” (March 2015).

- **Blogs:** Huffington Post, available at <http://www.huffingtonpost.com/franita-tolson/>.
 - Guest blogger at the Faculty Lounge, available at <http://www.thefacultylounge.org/> (June 2011), and Prawfsblawg, available at <http://prawfsblawg.blogs.com/> (August 2011, February 2012, November 2012, December 2014, October 2016).

NORTHWESTERN UNIVERSITY SCHOOL OF LAW

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2008 – 2009

- **Courses:** Election Law; The Legal History of Race.

OTHER EMPLOYMENT

FACEBOOK

Menlo Park, CA

Voting Rights Expert

May 2020 – Present

CNN

Atlanta, GA

Election Law Analyst

September 2020 – December 2020

PEOPLE FOR THE AMERICAN WAY

Washington, D.C.

Senior Fellow

October 2017 – December 2018

NON-ACADEMIC EMPLOYMENT

**HON. ANN CLAIRE WILLIAMS, UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

Chicago, IL

Law Clerk

2007- 2008

**HON. RUBEN CASTILLO, UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Chicago, IL

Law Clerk

2005 - 2007

SIDLEY AUSTIN LLP

Chicago, IL

Summer Associate, Law Clerk

2004 - 2005

- Contributor, *Class Certification Issues for Non-Federal Question Class Actions – Defense Perspective*, 728 PLI/Lit 221 (2005)

BLACKWELL SANDERS PEPPER MARTIN LLP

St. Louis, MO

Summer Associate

Summer 2003

EDUCATION

THE UNIVERSITY OF CHICAGO LAW SCHOOL

J.D., 2005

- Member, *The University of Chicago Law Review*
- Recipient, Thomas Mulroy Prize for Oral Advocacy, Hinton Moot Court Competition (2004-2005)
- Research Assistant, Professor Cass Sunstein (2003-2004)

TRUMAN STATE UNIVERSITY - Kirksville, Missouri

B.A./B.S., History, 2001

Cum Laude

- **Awards:** President's Honorary Full Tuition Scholarship · Departmental Honors in History · Truman State University Dean's List · Truman State University Student Excellence Award · National Dean's List · Ronald E. McNair Scholar · Member, Phi Alpha Theta History Honor Society
- **Study Abroad:** University of Liverpool - Liverpool, England (Summer 2001) · Erasmus University - Rotterdam, the Netherlands (Summer 2001) · University of Burgundy - Dijon, France (Summer 2000)

PUBLICATIONS

BOOKS:

- THE LAW OF DEMOCRACY (Foundation Press, 6th ed, forthcoming 2022) (with Samuel Issacharoff, Pamela Karlan, Richard Pildes, and Nathaniel Persily)
- IN CONGRESS WE TRUST?: ENFORCING VOTING RIGHTS FROM THE FOUNDING TO THE JIM CROW ERA (under contract, Cambridge University Press) (forthcoming 2022)
 - Originally Titled, A PROMISE UNFULFILLED: SECTION 2 OF THE FOURTEENTH AMENDMENT AND THE FUTURE OF THE RIGHT TO VOTE

BOOK CHAPTERS:

- *Do We Alter or Do We Abolish?: Race and Voting Rights in an Age of Suppression*, in Aziza Ahmed and Guy Charles, ed., RESEARCH HANDBOOK ON LAW AND RACE IN THE U.S. (Edward Elgar) (forthcoming 2022).
- *Republicanism Redefined: The Constitutional Status of Political Parties after the Ratification of the Twelfth Amendment*, in Mark Tushnet and Dmitry Kochenov, eds., RESEARCH HANDBOOK ON THE POLITICS OF CONSTITUTIONAL LAW (Edward Elgar) (forthcoming 2022).
- *Section 5 of the Voting Rights Act of 1965: A Eulogy and A Path Forward*, in Eugene Mazo, ed., OXFORD HANDBOOK OF AMERICAN ELECTION LAW (Oxford University Press) (forthcoming 2022)

- *The Equal Sovereignty Principle as Federalism Sub-Doctrine: A Reassessment of Shelby County v. Holder*, in CHRISTOPHER P. BANKS, ED., *CONTROVERSIES IN AMERICAN FEDERALISM AND PUBLIC POLICY* (Routledge) (2018).
- *Offering a New Vision for Equal Protection: The Story of Harper v. Virginia State Board of Elections*, in JOSHUA A. DOUGLAS AND EUGENE MAZO, EDS., *ELECTION LAW STORIES* (Foundation Press) (2016).

ARTICLES:

- *The Spectrum of Congressional Authority over Elections*, 99 BOSTON UNIVERSITY LAW REVIEW 317 (2019).
 - Selected as the “Download of the Week” and made the list of “Top Ten Downloads of 2019” on Larry Solum’s *Legal Theory Blog*
 - Reprinted in *CIVIL RIGHTS LITIGATION AND ATTORNEY FEES ANNUAL HANDBOOK* (2019)
- *Election Law “Federalism” and the Limits of the Anti-Discrimination Framework*, 59 WILLIAM & MARY LAW REVIEW 2211 (2018).
- *What is Abridgment? A Critique of Two Section Twos*, 67 ALABAMA LAW REVIEW 433 (2016).
- *Protecting Political Participation through the Voter Qualifications Clause of Article I*, 56 BOSTON COLLEGE LAW REVIEW 159 (2015).
- *The Constitutional Structure of Voting Rights Enforcement*, 89 WASHINGTON LAW REVIEW 379 (2014).
- *Benign Partisanship*, 88 NOTRE DAME LAW REVIEW 395 (2012).
- *Reinventing Sovereignty?: Federalism as a Constraint on the Voting Rights Act*, 65 VANDERBILT LAW REVIEW 1195 (2012).
- *Partisan Gerrymandering as a Safeguard of Federalism*, 2010 UTAH LAW REVIEW 859 (2010).
- *The Boundaries of Litigating Unconscious Discrimination: Firm-Based Remedies in Response to a Hostile Judiciary*, 33 DELAWARE JOURNAL OF CORPORATE LAW 347 (2008).

ESSAYS:

- *Parchment Rights*, ___ HARVARD LAW REVIEW ONLINE ___ (forthcoming 2022) (invited submission).
- *Enforcing the Political Constitution*, 74 STANFORD LAW REVIEW ONLINE ___ (forthcoming 2022) (invited submission).
- *Countering the Real Countermajoritarian Difficulty*, ___ CALIFORNIA LAW REVIEW ___ (forthcoming 2022) (response to Pamela Karlan, *The New Countermajoritarian Difficulty* (Jorde Lecture)).
- *“In Whom is the Right of Suffrage?”: The Reconstruction Acts as Sources of Constitutional Meaning*, 169 UNIVERSITY OF PENNSYLVANIA LAW REVIEW (forthcoming 2021).
 - Selected as the “Download of the Week” on Larry Solum’s *Legal Theory Blog*
- *What is “Appropriate” Legislation?: McCulloch v. Maryland and the Redundancy of the Reconstruction Amendments*, 73 ARKANSAS LAW REVIEW 111 (2020) (Review of DAVID SCHWARTZ, *THE SPIRIT OF THE CONSTITUTION; JOHN MARSHALL AND THE 200-YEAR ODYSSEY OF MCCULLOCH V. MARYLAND* (2019)).

- *Levinson and Balkin are Both Right?: Article V, the Constitution of Conversation, and the Cost of Political Dysfunction*, 68 DRAKE LAW REVIEW 237 (2020) (Review of Sanford Levinson and Jack M. Balkin, DEMOCRACY AND DYSFUNCTION (2019)) (invited submission).
- *The Elections Clause and the Underenforcement of Federal Law*, 129 YALE LAW JOURNAL FORUM 171 (2019) (invited submission).
- *Practical Equality and the Limits of Second Best Strategies for Justice*, 34 CONSTITUTIONAL COMMENTARY 477 (2019) (Review of Robert Tsai, PRACTICAL EQUALITY: FORGING JUSTICE IN A DIVIDED NATION (2019)) (invited submission).
- *The Federalism Implications of Campaign Finance Regulation*, 164 UNIVERSITY OF PENNSYLVANIA LAW REVIEW ONLINE 247 (2016) (invited submission).
- *The Law of Democracy at a Crossroads: Reflecting on Fifty Years of Voting Rights and the Judicial Regulation of the Political Thicket*, 43 FLORIDA STATE UNIVERSITY LAW REVIEW 345 (2016) (symposium introduction).
- *Congressional Authority to Protect Voting Rights After Shelby County and Arizona Inter Tribal*, 13 ELECTION LAW JOURNAL 322 (2014) (invited submission) (peer reviewed).
- *The Union as a Safeguard Against Faction: Congressional Gridlock as State Empowerment*, 88 NOTRE DAME LAW REVIEW 2267 (2013) (invited submission).
- *Second Order Diverse in Name Only?: Sovereign Authority in Disaggregated Institutions*, 48 TULSA LAW REVIEW 455 (2013) (invited submission).
- *Increasing the Quantity and the Quality of the African-American Vote: Lessons for 2008 and Beyond*, 10 BERKELEY JOURNAL OF AFRICAN-AMERICAN LAW & POLICY 313 (2008).

OTHER WRITINGS

- *Why the Mob Thought Attacking the Capitol was their 1776 Moment*, THE LOS ANGELES TIMES, Jan. 21, 2021, available at <https://www.latimes.com/opinion/story/2021-01-21/insurrection-capitol-attack-patriotism-1776>.
- *What America Should Learn from the 2020 Election*, THE LOS ANGELES TIMES, Nov. 6, 2020, available at <https://www.latimes.com/opinion/story/2020-11-06/joe-biden-donald-trump-election-lessons>.
- *In the Messiest Contested Election, One Man Saved the System From Itself*, THE NEW YORK TIMES, Nov. 3, 2020, available at <https://www.nytimes.com/2020/11/03/us/samuel-randall-1876-election.html>.
- *Tuesday Has Come and Gone: Renewing My Plea on Behalf of Voters*, ELECTION LAW BLOG, Nov. 1, 2020, available at <https://electionlawblog.org/?p=118392>.
- *Worried About Tuesday's Election? Not Me*, ELECTION LAW BLOG, Nov. 1, 2020, available at <https://electionlawblog.org/?p=117980>.
- *Legal Analysis of Right to Vote Amendment*, prepared for Senators Elizabeth Warren and Richard Durbin, July 29, 2020.
- *Democracy as Slogan*, ACS BLOG, May 30, 2020, available at <https://www.acslaw.org/expertforum/democracy-as-a-slogan/>.

- *The Default of American Politics: The Perpetual and Never-ending Prospect of an Election Meltdown*, A Review of Richard L. Hasen, ELECTION MELTDOWN: DIRTY TRICKS, DISTRUST, AND THE THREAT TO AMERICAN DEMOCRACY (2020), BALKINIZATION, Mar. 2, 2020, available at <https://balkin.blogspot.com/2020/03/the-default-of-american-politics.html>.
- *The Rise of Stealth Canons?: A Review of Anita Krishnakumar*, Passive Avoidance, JOTWELL, July 8, 2019, available at <https://conlaw.jotwell.com/the-rise-of-stealth-canons/>.
- *Taking the Elections Clause Seriously after Rucho v. Common Cause*, ELECTION LAW BLOG, July 2, 2019, available at <https://electionlawblog.org/?p=105963>.
- Op-Ed, *Why Won't Judicial Nominees Affirm Brown v. Board of Education?*, May 16, 2018, LAW 360, available at <https://www.law360.com/articles/1044140/why-won-t-judicial-nominees-affirm-brown-v-board-of-ed->
- Op-Ed, *Fairness Demands the Protection of the Administrative State*, THE HILL, Apr. 2, 2018, available at <https://thehill.com/opinion/judiciary/381200-fairness-demands-the-protection-of-the-administrative-state>.
- Op-Ed, *A Second Bite at the Apple? State Constitutions and the Ethos of Fairness in Elections*, THE HILL, Jan. 20, 2018, available at <https://thehill.com/opinion/campaign/369706-a-second-bite-at-the-apple-state-constitutions-and-the-ethos-of-fairness-in>.
- Husted, Arizona Inter Tribal, and Lessons from the Constitutional Structure, ACS BLOG, Aug. 17, 2017, available at <https://www.acslaw.org/acsblog/all/franita-tolson>.
- *Setting a Voting Rights Agenda in an Era of "Legal" Disenfranchisement*, ACS: WHAT'S THE BIG IDEA? (issue brief) (October 2016).
- *Ordering State-Federal Relations through the Elections Clause*, THE INTERACTIVE CONSTITUTION, National Constitution Center, available at <http://constitutioncenter.org/interactive-constitution/articles/article-i/ordering-state-federal-relations-through-the-elections-clause-tolson/clause/23> (May 2016).
- *How Should We Celebrate 50 Years of Voting Rights? By Anticipating and Preempting Future Challenges*, ACS BLOG, Aug. 14, 2015, available at <https://www.acslaw.org/acsblog/how-should-we-celebrate-50-years-of-voting-rights-by-anticipating-and-preempting-future>.
- *Life after Shelby County: Revisiting Title I of the Civil Rights Act of 1964*, ACS BLOG, July 24, 2014, available at <https://www.acslaw.org/acsblog/all/franita-tolson>.
- *Shelby County One Year Later: Good for Voting Rights?*, THE HUFFINGTON POST, June 24, 2014, available at http://www.huffingtonpost.com/franita-tolson/shelby-county-one-year-voting-rights_b_5525469.html.
- Op-Ed, *Voting Rights at a Crossroads*, TALLAHASSEE DEMOCRAT, June 2, 2013, available at <http://www.tallahassee.com/story/opinion/columnists/2014/06/02/franita-tolson-voting-rights-crossroads/9787859/>.
- *What About the Voters? Requiring Proof of Citizenship to Register to Vote in Federal Elections*, THE HUFFINGTON POST, Mar. 24, 2014, available at http://www.huffingtonpost.com/franita-tolson/what-about-the-voters-req_b_5021393.html.

- *The Importance of Tunnel Vision in Fixing the VRA's Coverage Formula*, THE HUFFINGTON POST, Jan. 23, 2014, available at http://www.huffingtonpost.com/franita-tolson/voting-rights-act-preclearance_b_4653095.html.
- *Affirmative Action Lives to Fight Another Day*, NATIONAL BAR ASSOCIATION MAGAZINE (Fall 2013/Winter 2014).
- *The Perils of Two-Tier Voter Registration Systems*, JUSTICE WATCH, Oct. 13, 2013, available at <http://www.afj.org/blog/the-perils-of-two-tiered-voter-registration-systems>.
- *Does Congress have authority to set voter qualifications for federal elections?*, JUSTICE WATCH, June 18, 2013, available at <http://afjjusticewatch.blogspot.com/2013/06/guest-blog-does-congress-have-authority.html>.
- *Defending the NVRA from the Ever-Present and Persistent Specter of State Sovereignty*, JUSTICE WATCH, Mar. 21, 2013, available at <http://afjjusticewatch.blogspot.com/2013/03/defending-nvra-from-ever-present-and.html>.
- *Scrapping Section 4(b) of the Voting Rights Act: Not the Compromise that We Want*, JUSTICE WATCH, Feb. 27, 2013, available at <http://afjjusticewatch.blogspot.com/2013/02/scrapping-section-4b-of-voting-rights.html>.
- Op-Ed, *What of Congressional Power over Voting?*, REUTERS, Feb. 12, 2013, available at <http://blogs.reuters.com/great-debate/2013/02/12/what-of-congressional-power-over-voting/>.
- Op-Ed, *Affordable Care Act Should Survive if Court Follows Precedent*, THE PALM BEACH POST, Mar. 23, 2012, available at <http://www.palmbeachpost.com/opinion/commentary/commentary-affordable-care-act-should-survive-if-court-2257713.html>.
- *Litigating Under the Voting Rights Act after The Texas Redistricting Cases*, THE FEDERAL LAWYER MAGAZINE (June 2012).
- *Civil Rights or Social Wrongs?: A Comparative Analysis of Discriminatory Laws Against Jews in Nazi Germany and Against Blacks in the State of Indiana*, THE MCNAIR SCHOLARLY REVIEW OF TRUMAN STATE UNIVERSITY, Vol. 8 (Spring 2002).
- *A Byproduct of Industrialization: The East St. Louis Race Riot of 1917*, THE MCNAIR SCHOLARLY REVIEW OF TRUMAN STATE UNIVERSITY, Vol. 7 (Spring 2001).

WORKS IN PROGRESS

- IN THE PEOPLE WE TRUST?: EXPANDING VOTING RIGHTS FROM THE PROGRESSIVE ERA TO THE PRESENT

CONFERENCES AND WORKSHOPS ATTENDED

- Faculty Workshop, UCI Law (March 2022) (forthcoming) (invited).
- Faculty Workshop, University of Richmond Law School (forthcoming March 2022) (invited).

- Symposium, *Guns, Violence, and Democracy*, Harvard Law School (forthcoming March 2022) (invited).
- Symposium, *Safeguarding the Fundamental Right to Vote*, Stanford Law School (forthcoming February 2022) (invited).
- Panelist, AALS Conference on Rebuilding Democracy and the Rule of Law (May 2021) (invited).
- Panelist, Law and Society Annual Meeting (May 2021).
- Faculty Workshop, Yale ISP (April 2021) (invited).
- Faculty Workshop, Loyola University Chicago School of Law (February 2021) (invited).
- Harvard Law & Politics Workshop (February 2021) (invited).
- Faculty Workshop, Fordham Law School (February 2021) (invited).
- Faculty Workshop, The Ohio State University Mortiz College of Law (February 2021) (invited).
- Faculty Workshop, St. John's Law School (January 2021) (invited).
- Faculty Workshop, University of Pennsylvania Carey School of Law Legal History Workshop (January 2021) (invited).
- Commentator, Brennan Center Jorde Symposium, UC Berkeley School of Law (November 2020) (invited).
- Faculty Workshop, University of Colorado Law School (October 2020) (invited).
- Faculty Workshop, Pepperdine Law School (October 2020) (invited)
- Panelist, William & Mary Law School Supreme Court Preview (September 2020) (invited).
- American Political Science Association Annual Meeting (September 2020)
 - Chair, *Bush v. Gore 2.0*
 - Discussant, Electoral College Reform
- Panelist, *How to Protect the Health of Our Democracy*, ACS National Convention (June 2020) (invited).
- Faculty Workshop, Washington and Lee University School of Law (February 2020) (invited).
- *How Long Must Women Wait for Liberty?: Women's Suffrage and Women's Citizenship in the Long History of the 19th Amendment*, Universite de Lille & Universite Paris-Est Marne-la-Vallee (January 2020).
- Faculty Workshop, St. Louis University School of Law (November 2019) (invited).
- Symposium, *The Electoral College: Open Questions, Paths Forward*, Harvard Law School (October 2019) (invited).
- Conference on Sanford Levinson and Jack Balkin's *Democracy and Dysfunction*, Drake University Constitutional Law Center (September 2019) (invited).
- Faculty Workshop, University of Alabama School of Law (invited) (September 2019).
- Presenter/Organizer, *Election Law: Looking Back at 2018 and Looking Ahead to 2020*, SEALS Conference (July 2019).
- "Author Meets Reader" Roundtable on Robert Tsai, *Practical Equality*, Law and Society Conference (May 2019).
- Faculty Workshop, University of Washington School of Law (forthcoming May 2019) (invited).
- "Author Meets Reader" Roundtable, Franita Tolson, *A Promise Unfulfilled*, National People of Color Conference (March 2019).
- Faculty Workshop, University of Denver School of Law (March 2019) (invited).
- Symposium on Reconstruction, Duke Law School (March 2019) (invited).
- Faculty Workshop, University of Chicago Law School (November 2018) (invited).

- Presenter, Annual Meeting of the American Society of Legal History (November 2018).
- Participant, Constitution Day Supreme Court Review, Rehnquist Center at the University of Arizona James E. Rogers College of Law (September 2018) (invited).
- Commentator, Lutie Lytle Conference, SMU Dedman School of Law (July 2018).
- Presenter/Organizer, *The Fourteenth Amendment at 150*, Law and Society Conference (June 2018).
- Presenter, *The Constitution and Political Parties*, Stanford Law School (May 2018) (invited).
- Faculty Workshop, University of San Diego School of Law (May 2018) (invited).
- Symposium, *Federalism: Past, Present, and Future*, Pepperdine Law School (March 2018) (invited).
- Presenter, National Conference of Constitutional Law Scholars (March 2018) (invited).
- Symposium, *Walking the Line: Modern Gerrymandering and Partisanship*, University of Georgia School of Law (February 2018) (invited).
- Panelist, *A New Battle in the Fight for Voting Rights*, ACS National Convention (June 2017) (invited).
- Faculty Workshop, Saint Louis University School of Law (January 2017) (invited).
- AALS Annual Meeting (January 2017).
 - Panelist, *Lessons from the 2016 Elections (and Implications for the Future)*
 - Panelist, *Presidential Politics and the Future of the Supreme Court: Post-Election Reflections and Forecasts for the 'Post-Racial' Post-Obama White House*
- Faculty Workshop, Antonin Scalia Law School at George Mason University (November 2016) (invited).
- Constitutional Law Colloquium, Loyola University Chicago School of Law (November 2016).
- Culp Colloquium, Duke Law School Center on Law, Race, and Politics (May 2016) (invited).
- Faculty Workshop, University of Notre Dame Law School (April 2016) (invited).
- Faculty Workshop, University of Illinois College of Law (April 2016) (invited).
- Symposium, *Elective Perspective: Judicial Regulation of Politics in an Election Year*, University of Kentucky School of Law (March 2016) (invited).
- Constitutional Law Schmooze, University of Maryland Francis King Carey School of Law (February 2016) (invited).
- Faculty Workshop, University of North Carolina – Chapel Hill (February 2016) (invited).
- Faculty Workshop, Duke Law School (February 2016) (invited).
- Faculty Workshop, USC Gould School of Law (February 2016) (invited).
- Panelist, *Drawing Lines: The Limits to a State's Redistricting Powers*, ACS National Convention (June 2015) (invited).
- Symposium on the Fiftieth Anniversary of the Voting Rights Act, University of Alabama School of Law (February 2015) (invited).
- Faculty Workshop, Emory University School of Law (January 2015).
- Panelist, Campaign Finance Hot Topics Panel, AALS Annual Meeting (January 2015).
- Symposium on the Fiftieth Anniversary of the Voting Rights Act, LSU Law Center (January 2015) (invited).
- Faculty Workshop, William & Mary Law School (November 2014).
- Constitutional Law Colloquium, Loyola University Chicago School of Law (November 2014).
- Culp Colloquium, Duke Law School Center on Law, Race, and Politics (May 2014) (invited).
- Constitutional Law Schmooze, University of Maryland Francis King Carey School of Law

- (February 2014) (invited).
- Panelist, *The Right to Vote: From Reynolds v. Sims to Shelby County and Beyond*, AALS Annual Meeting (January 2014) (invited).
 - Constitutional Law Colloquium, Loyola University Chicago School of Law (November 2013).
 - Legal Scholarship Workshop, University of Chicago Law School (November 2013) (invited).
 - Constitutional Law and Theory Colloquium, Cornell Law School (October 2013) (invited).
 - Faculty Workshop, University of Utah S.J. Quinney College of Law (September 2013) (invited).
 - Panelist, *The Future of the Voting Rights Act after the Shelby County Case*, American Political Science Association Annual Meeting (August 2013) (invited).
 - Panelist, *Judicial Decision Making and Election Administration: The Role of the Courts in the 2012 Election*, Southeastern Association of Law Schools Annual Meeting (August 2013).
 - Rising Stars Panel, *Fresh Perspectives and the Future of Federalism*, ACS National Convention (June 2013) (invited).
 - Constitutional Interpretation Schmooze, ACS National Convention (June 2013) (invited).
 - Culp Colloquium, Duke Law School Center on Law, Race, and Politics (May 2013) (invited).
 - Panelist, *Social Equality: Looking Forward/Looking Back after the 2012 Presidential Election*, Indiana University Maurer School of Law (April 2013) (invited).
 - Panelist, *Mapping the Ballot Box*, University of California-Berkeley School of Law (March 2013) (invited).
 - Symposium, *Congressional Gridlock*, Notre Dame Law School (November 2012) (invited).
 - Legal Scholarship Workshop, Northwestern University School of Law (November 2012) (invited).
 - Legal Scholarship Workshop, University of Chicago Law School (November 2012) (invited).
 - Loyola University Chicago School of Law Constitutional Law Colloquium (November 2012).
 - Faculty Workshop, Washington University School of Law (October 2012) (invited).
 - Symposium in Honor of Heather Gerken, University of Tulsa School of Law (September 2012) (invited).
 - Workshop, “Assessing the U.S. Constitution: Twenty First Century Responses to Eighteenth-Century Assumptions,” Stanford Law School (July 2012).
 - Culp Colloquium, Duke Law School Center on Law, Race, and Politics (May 2012) (invited).
 - Federalism Theory Colloquium, Vanderbilt University Law School (April 2012) (invited).
 - Faculty Workshop, Florida International University School of Law (March 2012) (invited).
 - Prawfsfest!, Loyola Law School Los Angeles (December 2011).
 - Symposium, *Major Developments in Redistricting*, The Baldy Center for Law and Policy at the University of Buffalo School of Law (October 2011) (invited).
 - Loyola University Chicago School of Law Constitutional Law Colloquium (October 2011).
 - Southeastern Law Schools Junior/Senior Faculty Workshop – Wake Forest University School of Law (October 2011).
 - Law and Society Meeting (June 2011).
 - Critical Race Theory Conference, UCLA (March 2011).
 - *Federalism and its Future*, University of Texas at Austin School of Law (February 2011).
 - Southeast Association of Law Schools Annual Meeting (July 2010).
 - Law and Society Meeting (May 2010).
 - Indiana Law Review Election Law Symposium, Indiana University - Indianapolis School of Law

- (April 2010) (invited).
- AALS Annual Meeting (January 2010).
 - Legal Scholarship Workshop, University of Chicago Law School (October 2009) (invited).
 - Big Ten Aspiring Scholars Conference (August 2009).
 - Law and Society Meeting (May 2009).
 - Midwest Political Science Association Meeting (April 2009).
 - Northwestern University School of Law, Employment Law Colloquium (February 2009) (invited).
 - *Do We Still Need Affirmative Action?*, Northwestern University School of Law (January 2009).
 - Legal Scholarship Workshop, University of Chicago Law School (December 2008) (invited).
 - Workshop on Conducting Empirical Legal Scholarship: the Advanced Course (October 2008).
 - The Midwest Law and Economics Association Conference (October 2008).
 - Workshop on Conducting Empirical Legal Scholarship (July 2008).
 - *Setting the Agenda: Examining the Critical Legal Issues Facing African-Americans and Minority Communities in the 2008 Election*, University of California-Berkeley School of Law (November 2007).

SELECT SPEAKING ENGAGEMENTS

- Testimony before the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, “Restoring the Voting Rights Act: Combating Discriminatory Abuses,” September 22, 2021.
- Testimony before the U.S. House Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights, and Civil Liberties, “The Need to Enhance the Voting Rights Act: Practice-Based Coverage,” July 27, 2021.
- Testimony before the U.S. House Committee on House Administration, “The Elections Clause: Constitutional Interpretation and Congressional Exercise,” July 12, 2021.
- Panelist, Debate Defends Democracy: Is a Politics Free SCOTUS possible? (w/ Emily Bazelon, Alicia Bannon, and Aaron Tang), Federal Hall, May 18, 2021.
- *Constitutionalizing Our Democratic Expectations*, Keynote, Symposium: “Widening the Lens of Racial Justice: Unmasking the Layers of Racial and Social Inequality,” Southwestern Law School (February 2021).
- Panelist, Debate Defends Democracy: Presidential Power & Presidential Transition (w/ David Frum, Michael Waldman and John Avlon), Federal Hall, Jan 12, 2021.
- *The Inevitability of American Democracy*, Keynote, University of Kansas School of Law (November 2020) (invited).
- *The Ghost of Bull Connor: Understanding the "New" Era of Voter Suppression*, Allman Lecture, Southern Methodist University (October 2020) (invited).
- Panelist, *Faithless Electors and the Will of the People*, Hammer Museum, available at <https://hammer.ucla.edu/programs-events/2020/faithless-electors-forum> (August 2020).
- *Past is Prologue? The Fight for the Right to Vote in the Twenty-First Century*, Summer Teacher Institute, National Constitution Center (July 2020).
- Constitutional Happy Hour, Hammer Museum, available at <https://hammer.ucla.edu/programs-events/2020/constitution-happy-hour-2020> (February 2020)
- *Defining the Political Community of the Nineteenth Amendment*, Brendan Brown Lecture,

Loyola University New Orleans College of Law (February 2020).

- “Democracy and Federalism: Friends or Foes?,” Panel Discussion with Guy Charles, Josh Douglas, and Adam Winkler (January 2020), available at <https://www.c-span.org/video/?467829-1/law-professors-voting-rights>.
- Testimony before the U.S. House Committee on the Judiciary, Sub-Committee on the Constitution, Civil Rights, and Civil Liberties, “Congressional Authority to Protect Voting Rights after *Shelby County v. Holder*,” Sept. 24, 2019, video available at: <https://judiciary.house.gov/legislation/hearings/congressional-authority-protect-voting-rights-after-shelby-county-v-holder>.
- *Understanding the Rule of Law Through the Lens of the Elections Clause*, Rule of Law Summer Teacher Institute, National Constitution Center (July 2018).
- *Creating An Affirmative Vision for the Right to Vote in the Wake of the 2016 Elections*, Frank J. Battisti Lecture, Case Western Reserve School of Law (October 2016).
- *Developing A Voting Rights Agenda in the Age of Post-Racial Politics*, Tallahassee Women Lawyers (September 2016).
- Panelist, *Freedom Summer Remembered: Emerging Issues, Policy Paradigms and Civic Behavior*, Clark Atlanta University, Atlanta, GA (November 2014).
- Panelist, *Overview of Post-Shelby County Issues and Pending Voting Rights Litigation*, ACS Voting Rights Litigation Training, Atlanta, GA (October 2014).
- Speaker, *The 50th Anniversary of the Civil Rights Act – What Progress Has Been Made, What Ground Has Been Lost, and What the Future Holds*, National Association of Appellate Court Attorneys Annual Conference, Savannah, GA (July 2014).
- Speaker, *The March Ongoing: Voting Rights in the 21st Century*, Jewish Council for Public Affairs Plenum, Atlanta, GA (March 2014).
- Debate with Hans Von Spakovsky over *Shelby County v. Holder*, FSU College of Law (September 2013).
- Speaker, Continuing Legal Education Workshop, NAACP National Meeting (July 2013).
- Testimony on the Equal Rights Amendment before the Florida House of Representatives, Committee on Local and Federal Affairs (April 2013).
- Speaker, Tallahassee Women Lawyers Association, “Assessing the New Florida Election Law and its Impact on Election 2012” (June 2012).
- Speaker, Truman State University, “On Being A Responsible Citizen” (March 2012).
- Speaker, University of Chicago Law School, American Civil Liberties Union, “The Dawning of the Age of Obama: Reassessing Campaign Finance, Politics, and Race in the Wake of the 2008 Election” (November 2008).

PROFESSIONAL ACTIVITIES

AMERICAN CONSTITUTION SOCIETY

2018 - Present

- Member, Board of Directors

ASSOCIATION OF AMERICAN LAW SCHOOLS

2010 - Present

- Founding Member, Section on Election Law
 - Chair (2017-2018)
 - Chair-Elect (2016-2017)

- Treasurer (2014-2015)
- Member, AALS Standing Committee on Sections (2017-2019)
- Member, Section on Constitutional Law
- Member, Section on Civil Rights
- Member, Section on Minority Groups

FLORIDA BAR ASSOCIATION

2009 - 2011

- Member, Equal Employment Opportunities Law Section

OTHER

- Member of the Illinois Bar (inactive)
- Member of the United States Supreme Court Bar

Appendix B: Materials Considered

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