



April 13, 2016  
**Via Email Only**

Macon-Bibb County Board of Elections  
2445 Pio Nono Avenue  
Macon, Georgia 31206  
Attention: Ms. Jeanetta Watson  
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Mr. Reginald B. McClendon  
Assistant County Attorney  
Macon Bibb County  
Government Center  
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**[RMcClendon@maconbibb.us](mailto:RMcClendon@maconbibb.us)**

**Re: Objections to the Relocation of the Godfrey 2 (Memorial Gym)  
Polling Location to the Sheriff's Office**

Dear Members of the Board, Ms. Watson and Mr. McClendon:

On behalf of the Georgia State Conference of the NAACP, the Georgia Coalition for the Peoples' Agenda and the Lawyers' Committee for Civil Rights Under Law, we are writing in reference to concerns that have been brought to our attention about the Board of Elections' decision on February 18, 2016 to relocate the Godfrey 2 (Memorial Gym) polling place to the Bibb County Sheriff's District 2 Office for the May 24th state primary and the November 8th general elections and runoffs.

It is our understanding that the BOE made this decision 1) without giving serious consideration to how this move will deter voters, particularly voters of color, from casting a ballot; 2) without giving voters reasonable advance notice of the plan to relocate this polling location and without providing voters with any meaningful opportunity to be heard on the issue; and 3) without considering reasonable alternatives for the temporary location of this polling place. As discussed below, the BOE's decision to relocate this polling location to the Sheriff's office may give rise to a claim under Section 2 of the Voting Rights Act of 1965 by the affected voters. Therefore, we urge the BOE to immediately reconsider this decision and to find a more suitable and neutral location that will not deter voters from casting a ballot.

As you are undoubtedly aware, the statistics compiled by the Georgia Secretary of State's Office show that African Americans comprise the largest number of registered voters in the Godfrey 2 (Memorial Gym) precinct, with a total of 1166 as of March 9, 2016. *See*, [http://sos.ga.gov/index.php/Elections/voter\\_registration\\_statistics](http://sos.ga.gov/index.php/Elections/voter_registration_statistics). By contrast, there are only 150 White voters assigned to this precinct. *Id.*

While we recognize that there are many outstanding law enforcement officers who risk their lives every day and provide exemplary service to the communities they serve in a non-discriminatory way, the fact remains that many people of color have negative perceptions of law enforcement and with good reason. Law enforcement has unfortunately played a central role in the suppression of the African American vote through the course of our nation's history. The horrific violence and intimidation tactics that law enforcement employed against unarmed and non-violent protestors who sought equal access to the ballot, particularly in the South during the years and months leading up to President Lyndon Johnson's signing the Voting Rights Act of 1965, are seared on the minds of many African American voters.

More recently, the use of excessive and deadly force by law enforcement against African Americans and other people of color, including the use of deadly force by police that took the lives of Eric Garner, Tamir Rice, Eric Harris, Laquan McDonald, Walter Scott, Freddie Grey, Michael Brown and others, has increased the negative perception of law enforcement by many in the African American community. As you are undoubtedly aware, the Black Lives Matter movement grew from concerns in the African American community about the discriminatory treatment of people of color by law enforcement. Exacerbating the situation, law enforcement authorities have reacted to the Black Lives Matter movement with increased hostility in some communities.

Locally, concerns have been raised by the African American community in Macon-Bibb County about racial profiling and discriminatory conduct by law enforcement in recent years. For example, community members described incidents of racial profiling by Macon and Bibb County law enforcement during a panel discussion entitled, "Our Lives Matter," that was held at the Universal Light Christian Center in Macon on December 14, 2014. <http://www.macon.com/news/local/article30160044.html#storylink=cpy>. An investigation conducted by USA Today in 2014 also found that arrest rates were generally higher for African Americans in central Georgia than for White citizens and, in particular, found that Macon police arrested African Americans at rates 2.3 times higher than Whites. <http://legacy.13wmaz.com/story/news/local/2014/11/18/central-georgia-arrest-rates/19245875/>. Concerns were also raised in 2015 about a Bibb County Deputy Sheriff who was captured on video kicking a handcuffed African American detainee to the ground while uttering profanities at him. <http://www.fox5atlanta.com/news/6425812-story>. These incidents have fostered fears of intimidation and harassment by law enforcement within the minority community that will likely deter African American and other voters of color from going to the Sheriff's office to cast a ballot.

The BOE's decision to relocate this polling place to the Sheriff's office also raises concerns that people who may be eligible to vote, but have outstanding warrants, pending criminal court matters or who have recently had arrests or other unpleasant encounters with members of the Bibb County Sheriff's Office, will also be deterred from going to the Sheriff's office to vote.

The decision to relocate this polling location to the Sheriff's office must also be viewed in context with other recent changes made by the BOE that have raised concerns within the Macon-Bibb County minority community. For example, in 2014, White BOE members voted against adding an extra Sunday to early voting despite the fact that the County Commission had already approved funding for it. The African American community considered that decision to be an effort by the BOE to suppress the African American vote on a day when many churches in minority communities nationwide were organizing "Souls to the Polls" events and provided transportation to the polls for early voting after Sunday church services. *See*, <http://politics.blog.ajc.com/2014/09/26/elections-board-says-no-to-sunday-voting-in-macon/> In addition, in 2015, the BOE closed and consolidated precincts in a way that has negatively impacted, and will continue to negatively impact, African American voters in Macon-Bibb County. *See*, <http://www.examiner.com/article/macon-bibb-citizens-local-leaders-challenge-boe-s-poll-consolidation-plan>.

The BOE's decision to move this polling location to the Sheriff's Office where voters in the African American community will be deterred from casting a ballot, particularly where reasonable alternatives exist, may give rise to claims by the affected voters under Section 2 of the Voting Rights Act.

In *Reynolds v. Sims*, 377 U.S. 533, 555 (1964), the United States Supreme Court recognized the "sacred nature of the right to vote" and that the "franchise is fundamental to our American way of life." The Supreme Court also made it clear in *Perkins v. Matthews*, 400 U.S. 379, 387 (1971), that the location and accessibility of polling places can have a direct impact upon a voter's ability to exercise their fundamental right to vote.

In *Brown v. Dean*, 555 F.Supp. 502, 504-506 (D.R.I. 1982), the court granted a motion for a preliminary injunction enjoining a change in a polling location in case brought as a class action by African American voters under Section 2 of the Voting Rights Act. In that case, the City of Providence, Rhode Island, decided to move a polling place to a location which would have undermined previous efforts in the African American community to increase turnout at the existing polling location and would have made it difficult for African Americans to exercise their right to vote at the new polling location due to lack of access to transportation in an economically deprived area. In granting the plaintiffs' motion for a preliminary injunction, the court cited, *Griffin v. Baronian*, C.A. No. 78-0476 (D.R.I. September 27, 1978). In *Griffin*, African American voters challenged the location of the polling place for their ward, which was a union hall of a union which had historically discriminated against African Americans. Relying on *Perkins v. Matthews*, *supra*, the court in *Griffin* found that the issue was simply "[w]hether or not the location of the polling place is an insult to the black community and may have the effect of inhibiting their voting." *Brown v. Dean*, 555 F.Supp. at 505 (citing, *Griffin v. Baronian*, *supra*, slip op. at 7).

The court in *Brown*, *supra*, enjoined the change in the polling location under Section 2, even though the court did not find that the Providence officials acted with bias or improper motivation since the plaintiffs are not required to prove discriminatory intent to prevail on a Section 2 claim. *Id.* at 506.

For the reasons discussed above, moving the Godfrey 2 (Memorial Gym) polling location to the Sheriff's office will deter African American voters from exercising their fundamental right to vote and will suppress African American turnout in the Godfrey 2 precinct in violation of Section 2 of the Voting Rights Act. Since a Section 2 claim does not require proof of intent, the lack of any evidence of bias or improper motivation by the BOE Board Members or Supervisor of Elections in making this change will not insulate the BOE from liability under Section 2.

It is also our understanding that there was little or no advance notice to the community, including to the voters residing in the Godfrey 2 precinct, that the BOE was planning to relocate this polling place to the Sheriff's office. In particular, it appears that in making this decision without advance published notice, the BOE may have violated O.C.G.A. Section 21-2-265(a). That section provides:

“The superintendent of a county or the governing authority of a municipality shall select and fix the polling place within each precinct and may, either on his, her, or its own motion or on petition of ten electors of a precinct, change the polling place within any precinct. **Except in case of an emergency or unavoidable event occurring within ten days of a primary or election, which emergency or event renders any polling place unavailable for use at such primary or election, the superintendent of a county or the governing authority of a municipality shall not change any polling place until notice of the proposed change shall have been published for once a week for two consecutive weeks in the legal organ for the county or municipality in which the polling place is located.** Additionally, on the first election day following such change, a notice of such change shall be posted on the previous polling place and at three other places in the immediate vicinity thereof. The occupant or owner of the previous polling place, or his or her agent, shall be notified in writing of such change at the time notice is published in the legal organ.” (Emphasis added)

To date, we have been unable to find evidence that the BOE published advanced notice of the proposed polling location change in the legal organ for the County (i.e., the Macon Telegraph) on the Georgia Press Association's public notice website: <http://georgiapublicnotice.com/> If the BOE did publish notice in advance of making its decision to change this polling location in the Macon Telegraph or elsewhere, please provide us with a copy of the same and the publication dates pursuant to the Georgia Open Records Act. If the BOE has not complied with the publication requirement of O.C.G.A. Section 21-2-265(a), this is even more reason for the BOE to reconsider its decision to relocate this polling location to the Sheriff's office.

It is also our understanding that there is at least one church and one school in the immediate vicinity of the Memorial Gym location which have spaces available that could serve as a temporary location for this polling place. Specifically, the Macedonia Church confirmed in a letter dated April 12, 2016, that it is willing to make its Marvin Bivens, Jr. Challenge Center available as a polling location for the May and November 2016 elections. A copy of this correspondence is enclosed for your review. The Challenge Center is located approximately .2 miles away from the Memorial Gym. We also understand that the Elam Alexander Academy is approximately .5 miles away from the Memorial Gym and that this public school has sufficient facilities to serve as a polling location.

Given the BOE's potential liability under Section 2 of the Voting Rights Act, coupled with the apparent lack of advance notice to voters of the BOE's decision to move this polling location in violation of O.C.G.A. Section 21-2-265(a), we sincerely hope that the BOE will reconsider this change and select a more neutral and appropriate location, such as the Macedonia Church facility or the Elam Alexander Academy, for the upcoming 2016 state and federal elections. Therefore, please confirm whether the BOE intends to change the temporary location of the Godfrey 2 polling location to the Macedonia Church, Elam Alexander Academy or other more suitable and neutral location and provide us with a copy of any advance notice of the BOE's decision to move this polling location that was published by the BOE in the Macon Telegraph or elsewhere within the next 72 hours.

Thank you for your attention and anticipated cooperation.

Very truly yours,



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Enclosure: April 12, 2016 Letter from the Macedonia Church

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<sup>1</sup> Admitted to practice law in the District of Columbia, California, New Hampshire, Massachusetts, and Illinois (registered voluntarily inactive in Illinois).