

**FILED**

SEP 29 2003

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COLUMBIA, S.C.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

R. O. LEVY, BETTY A. ETHEREDGE, )  
and SHIRLEY W. BARR, )

Plaintiffs, )

vs. )

Civil Action No.

**3 03 3093 17**

LEXINGTON COUNTY, SOUTH )  
CAROLINA, SCHOOL DISTRICT THREE )  
BOARD OF TRUSTEES; DEBBIE BLACK, )  
RANDY FOX, CHERYL BURGESS, )  
BENJIE RIKARD, JERRY KOON, )  
BILLY BERRY, and RALPH KENNEDY, )  
in their official capacities as )  
members of the Board of Trustees )  
of Lexington County School )  
District Three; and ELTON )  
WILSON, in his official capacity )  
as Chair of the Lexington County )  
Registration and Election )  
Commission, )

Defendants. )

COMPLAINT

I. The Nature of the Case

1. This is an action to enforce Section 2 of the Voting Rights Act of 1965, 42 U.S.C. §1973. Plaintiffs seek declaratory and injunctive relief against continued use of the existing at-large method of electing the members of the Board of Trustees of Lexington County School District Three, South Carolina, on the grounds that it dilutes the voting strength of African-American voters.

II. Jurisdiction

2. Plaintiffs invoke the jurisdiction of this Court under 28 U.S.C. §§1331, 1343(a)(3) and (4), and 2201, this suit

being authorized by 42 U.S.C. §§1973j(f) and 1983. Venue is proper in this district under 28 U.S.C. § 1391(b).

### III. Parties

3. Plaintiffs R. O. Levy, Betty A. Etheredge, and Shirley W. Barr, are African-Americans, registered voters, and reside in Lexington County School District Three.

4. Plaintiffs desire to participate in the electoral and political processes of Lexington County School District Three on an equal basis with other residents.

5. Defendant Board of Trustees of Lexington County School District Three is a political body and corporate of the state of South Carolina, and is the governing body of Lexington County School District Three.

6. Defendants Debbie Black, Randy Fox, Cheryl Burgess, Benjie Rikard, Jerry Koon, Billy Berry, and Ralph Kennedy are residents of Lexington County School District Three and are the elected members of the Board of Trustees of Lexington County School District Three. They are sued in their official capacities as members of the Board of Trustees.

7. Defendant Elton Wilson is the Chair of the Lexington County Registration and Election Commission, and has the responsibility of conducting elections for the Board of Trustees of Lexington County School District Three.

### IV. Facts

8. The total population of Lexington County School District Three is 12,807 persons, of whom 3,659 (28.57%) are

African-Americans. African-Americans are 25.1% of the voting age population (VAP) of the school district.

9. The Board of Trustees of Lexington County School District Three consists of seven members elected at-large. Terms of office are staggered and are for four years. Elections are non-partisan.

10. African-Americans in School District Three are sufficiently numerous and geographically compact that they would constitute a majority in one or more single-member districts for the election of members of the Board of Trustees.

11. African-Americans in School District Three are politically cohesive in that they tend to vote as a bloc.

12. African-Americans in School District Three have organized themselves collectively for political activity.

13. African-Americans in School District Three, Lexington County, and South Carolina have common socio-economic characteristics, and a common and distinct history and heritage.

14. Candidates for the Board of Trustees preferred by African Americans are usually defeated by the white majority voting as a bloc.

15. Historically, African-Americans in School District Three, Lexington County, and South Carolina have been subject to private as well as official discrimination on the basis of race, including discrimination in attempting to exercise their right of franchise and to participate equally with other residents in the political processes.

16. African-Americans in School District Three, Lexington County, and South Carolina bear the effects of discrimination on the basis of race in education, housing, employment, and health services which have resulted in a lower socio-economic status which hinders their ability to participate effectively in the political process.

17. Voting in School District Three is racially polarized.

18. Because of the at-large method of elections and polarized voting, African-Americans have been discouraged from running for the Board of Trustees.

19. African-Americans in School District Three have less opportunity than other residents to participate in the political processes and to elect candidates of their choice.

20. The policy underlying at-large elections for the Board of trustees is tenuous.

21. The existing at-large method of elections for the Board of Trustees denies or abridges the right of plaintiffs and African-Americans to vote on the basis of race or color.

22. The defendants' actions complained of herein are under color of law of the State of South Carolina.

Cause of Action

23. The existing at-large method of electing the Board of Trustees of Lexington County School District Three has the result and effect of denying or abridging the right of African-Americans to vote on account of race or color in violation of

plaintiffs' rights guaranteed by Section 2 of the Voting Rights Act, 42 U.S.C. §1973.

V. Equitable Relief

24. A real and actual controversy exists between the parties. Plaintiffs have no adequate remedy at law other than this action for declaratory and injunctive relief. Plaintiffs are suffering irreparable injury as a result of the violations complained of herein and that injury will continue unless declared unlawful and enjoined by this Court.

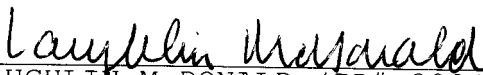
WHEREFORE, plaintiffs respectfully pray that this Court:

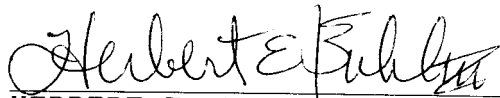
- (1) take jurisdiction of this case;
- (2) enter a declaratory judgment that the existing method of electing the Board of Trustees of Lexington County School District Three violates Section 2 of the Voting Rights Act, and enter a permanent injunction against its further use;
- (3) enjoin defendants from conducting any future elections for the Board of Trustees under the existing at-large system;
- (4) enjoin defendants from failing to conduct elections for the Board of Trustees in a timely fashion pursuant to a redistricting plan that complies with Section 2 of the Voting Rights Act and the Constitution of the United States;
- (5) in the event defendants fail or are unable to conduct elections for the Board of Trustees in a timely fashion pursuant to a redistricting plan that complies with Section 2 of the Voting Rights Act and the Constitution of the United States, implement a court ordered redistricting plan and schedule of elections;

(6) award plaintiffs the cost of this action together with their reasonable attorneys' fees pursuant to 42 U.S.C. §§ 19731(e) and 1988; and,

(7) retain jurisdiction of this action and grant plaintiffs any further relief which may in the discretion of this Court be necessary and proper to ensure that timely and lawful procedures are used in elections for the Board of Trustees.

Respectfully submitted,

  
LAUGHLIN McDONALD (ID# 2804)  
MEREDITH BELL  
NEIL BRADLEY  
BRYAN SELLS  
American Civil Liberties Union  
Foundation, Inc.  
2725 Harris Tower  
233 Peachtree Street  
Atlanta, Georgia 30303  
(404) 523-2721

  
HERBERT E. BUHL, III  
Fed. I.D. #1564  
533 Harden Street  
Columbia SC 29205  
(803) 799-3767

ATTORNEYS FOR PLAINTIFFS