

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

OPERATION KING'S DREAM, KWAME M.
KILPATRICK, LOCALS 207 AND 312 OF THE
AMERICAN FEDERATION OF STATE COUNTY,
AND MUNICIPAL EMPLOYEES (AFSCME),
SAMANTHA CANTY, BELITA H. COWAN,
MARTHA CUNEO, LINDA DEE MCDONALD,
MICHELLE MCFARLIN, PEARLINE MCRAE,
and SARAH SMITH,

Plaintiff-Appellants,

Ct App No. 06-2144

v

WARD CONNERLY, JENNIFER GRATZ,
and the MICHIGAN CIVIL RIGHTS INITIATIVE,
and TERRI LYNN LAND, in her official capacity
as Secretary of State; KATHRYN DEGROW, LYNN
BANKES, and DOYLE O'CONNOR, in their
official capacities as members of the state Board
of Canvassers; and CHRISTOPHER THOMAS,
in his official capacity as State Director of Elections,

Defendant-Appellees.

**PLAINTIFF-APPELLANTS' EMERGENCY MOTION FOR A PRELIMINARY
INJUNCTION RESTRAINING THE DEFENDANTS FROM PLACING A
PROPOSAL TO BAN AFFIRMATIVE ACTION ON MICHIGAN'S NOVEMBER
2006 BALLOT ON THE GROUNDS THAT THE SIGNATURES USED TO
PLACE THAT PROPOSAL ON THE BALLOT WERE GATHERED IN
VIOLATION OF SECTION 2 OF THE VOTING RIGHTS ACT, 42 USC 1973.**

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INTRODUCTION

1. The plaintiffs in this case appeal from a decision by the United States District Court for the Eastern District of Michigan that has denied relief on grounds that violate the fundamental principles of the Voting Rights Act of 1965, 42 USC 1973, by holding that black voters can not get relief because they are a minority and that black voters may not obtain relief if white voters were subjected in a lesser way to the same fraud that victimized black voters. If either of these reasons were allowed to stand, the Voting Rights Act would be profoundly weakened.

2. The plaintiffs in this case include a ballot question committee, black and white voters, and the Mayor of Detroit. In the district court, their claims were supported by amicus briefs filed by the Governor of Michigan, the Michigan Legislative Black Caucus and the Michigan State NAACP.

3. The plaintiffs assert that the defendant State election officials may not lawfully place a proposal to ban affirmative action on the November 2006 election ballot because its proponent, the defendant Michigan Civil Rights Initiative (MCRI), obtained a decisive number of the signatures needed for placing that proposal on the ballot by fraud that was systematically targeted at black voters, in direct violation of Section 2 of the Voting Rights Act of 1965, 42 USC 1973(b).

4. In its decision, the district court correctly found that the MCRI had in fact engaged in “systematic voter fraud” by obtaining signatures on its petition by telling voters that the petition *supported* affirmative action (Ex 1, Dist Ct Op, at 1).

5. In its decision, the district court also found that the defendant State officials had demonstrated “an almost complete institutional indifference” to the valid allegations of voter fraud (Ex 1, Dist Ct Op, at 3).

6. Finally, in its decision, the district court concluded that Section 2 of the Voting Rights Act banned racial discrimination in the collection of signatures on a petition to amend the Constitution (Ex 1, Dist Ct Op, at 22-25, citing 42 USC 1973(b)’s ban on discrimination in the “processes leading to nomination and election in a State...”).

7. But then, inexplicably, the district court denied the plaintiffs’ request for preliminary injunctive relief and dismissed the plaintiffs’ claim on the basis that the plaintiffs had not shown a violation of Section 2 because (a) black citizens constituted a minority of those who signed the petition and because (b) many white voters were defrauded as well (Ex 1, Dist Ct Op, at 29-30).

8. If the fact that black citizens constituted a minority of those who signed or voted was a grounds for denying relief under the Voting Rights Act, the Act could never be enforced because blacks are a minority in most jurisdictions in the country.

9. Similarly, if the fact that whites were also defrauded were grounds for denying relief under the Voting Rights Act, then the poll tax, literacy tests, and the grandfather clauses would *never* have been declared illegal since in most circumstances these affected the black *minority* of the population and since in all circumstances these measures also disqualified substantial numbers of white voters.

10. In denying relief because black and Latino voters were “only” a substantial minority¹ of those who signed the MCRI’s petition and because the MCRI *also* defrauded whites, the district court committed *fundamental* errors of law.

11. As is evidenced by the support of Governor of Michigan and the Mayor of Detroit, there is a very substantial public interest in not allowing the Constitution of the State of Michigan to be amended on the basis of fraud, and, in particular, on the basis of racially-targeted fraud.

12. There is a need for emergency action by this Court because the State Director of Elections has testified that the processes for the final preparation of the ballot must begin on September 8, 2006, if the State is to have the final ballots ready for distribution overseas by September 23, 2006 (Ex 2, Tr Dist Ct, Test of Chris Thomas, at 218-219).²

STATEMENT OF FACTS

A. The MCRI’s deception.

13. In order to obtain a place its proposal to amend the Constitution on the November 2006 ballot, the MCRI had to submit 317,757 valid signatures on a petition calling for an election in support of its proposed amendment (Ex 1, Dist Ct Op, at 4).

14. Recognizing that many voters support affirmative action, the MCRI drafted its petition in a way calculated to deceive voters. Specifically, it did not mention affirmative action, it claimed to ban “racial discrimination” (which is already banned by the Michigan Constitution), and it buried its real purpose in a five word phrase banning

¹ As set forth below, approximately one fourth of those who signed the MCRI’s petition were black or Latino. See *infra* at para 21.

² “Tr Dist Ct” refers to the transcript of the hearings before the district court, sections of which are attached as Exhibit 2.

“preferences,” a word which many black and some white voters did not understand to refer to affirmative action at all (Ex 1, Dist Ct Op, at 5).

15. In order to obtain signatures on that petition, the MCRI hired substantial numbers of black circulators who were directed to circulate the petition in areas and at events where there was a heavy concentration of black and Latino citizens (Ex 1, Dist Ct Op, at 10-15).

16. Those circulators systematically told citizens that the petition supported affirmative action, that it would “keep affirmative action going,” and that it was “pro-civil rights” and “pro-affirmative action” petition (Ex 1, Dist Ct Op, at 10-15).

17. Jennifer Gratz, the Executive Director of the MCRI campaign, denied the allegations and asserted that the MCRI’s circulators did not use the word affirmative action because, she said, that term was vague (Ex 1, Dist Ct Op, at 17-18).

18. The district court found that Gratz’s testimony was “evasive and misleading” and that it was “difficult to determine where the line between willful ignorance and deliberate deception could be drawn” (Ex 1, Dist Ct Op, at 18-20).

19. The district court concluded that the term affirmative action had a clearly defined meaning and that the MCRI had engaged in massive, systematic fraud by obtaining signatures on its petition by telling voters that the petition actually supported affirmative action (Ex 1, Dist Ct Op, at 4 n 1, 20-21).

B. The State's indifference to the MCRI's fraud.

19. On January 6, 2005, the MCRI submitted petitions ostensibly bearing 508,202 signatures to the State Board of Canvassers (Ex 1, Dist Ct Op, at 4).³

20. In accord with its normal procedure, the Board selected a random sample of 500 for the purposes of determining the validity of the signatures that the MCRI submitted (Ex 1, Dist Ct Op, at 4).

21. The statistical sample revealed that approximately one fourth of the signatures came from residents of communities in which the black and Latino population was from 55 to 99 percent, with 15 percent from the City of Detroit which is now 85 percent black and Latino (Ex 1, Dist Ct Op, at 13; Ex 3).⁴

22. The plaintiff Operation King's Dream filed a challenge at the Board of Canvassers supported by numerous declarations from signers and circulators in the 500-voter sample asserting that the MCRI had engaged in systematic, racially-targeted fraud in obtaining the signatures on its petition (Ex 1, Dist Ct Op, at 3-4).

23. Operation King's Dream asked the Board to conduct an investigation. The MCRI opposed that request (Ex 1, Dist Ct Op, at 4-5).

24. At the request of a Representative who was a chief supporter of the MCRI, the Attorney General of Michigan, who is a supporter of the MCRI, issued an informal opinion stating that the Board had no authority to investigate the claim of racially-targeted fraud (Ex 1, Dist Ct Op, at 6).

³ The Board of State Canvassers later found that 10 percent of the signatures were not from registered voters, leaving 450,000 signatures that were from registered voters (Ex 1, Dist Ct Op, at 4).

⁴ All exhibits attached to this brief are part of the record below.

25. As a result of that opinion, the Board of Canvassers split two-to-two on a motion to investigate the allegations of fraud. On a subsequent motion to place the MCRI's proposal on the ballot, one Canvasser vote Yes, one abstained, and two voted No (Ex 1, Dist Ct Op, at 5-6).

26. On October 31, 2005, the Michigan Court of Appeals granted a petition for mandamus filed by the MCRI and held that the Board of Canvassers had no authority to investigate the MCRI's alleged fraud and that it had to place the MCRI's proposal on the ballot no matter how the MCRI had obtained its signatures (Ex 1, Dist Ct Op, at 7, citing *Michigan Civil Rights Initiative v Board of State Canvassers*, 268 Mich App 506 (2005), *lv den* 474 Mich 1099 (2006), *reconsider den* 475 Mich 903 (2006)).

27. Beginning in January 2006, the Michigan Civil Rights Commission conducted four days of hearings on the alleged voter fraud. On June 7, 2006, the Commission filed a report with the Michigan Supreme Court that concluded as follows:

The citizens who testified [before the Civil Rights Commission] presented credible and compelling evidence about deliberate and orchestrated fraud committed by circulators. Although the testimony came from both African-American and White citizens, it became clear to the Michigan Civil Rights Commission that the conduct of the circulators was not limited to a small number of isolated incidents but rather [was] a strategy that targeted African American citizens on a statewide basis. The petition circulators frequently chose locations where it would be expected that a large number of supporters of affirmative action would congregate, such as churches and community gatherings in African American neighborhoods. It was at these venues that African American circulators would ask voters to sign a petition to support affirmative action.

(Report of Civil Rights Commission, Ex 3, at 5-6).

28. On July 13, 2006, the Michigan Supreme Court denied reconsideration with two justices dissenting. *MCRI, supra*, 475 Mich 903 (2006).

29. On June 22, 2006, the plaintiffs filed this action in United States District Court for the Eastern District of Michigan.

30. On August 17 and 18, 2006, the district court held evidentiary hearings on the plaintiff's request for a preliminary injunction and arguments on the defendant's motions to dismiss and for judgment on the pleadings.

THE DISTRICT COURT'S WELL-SUPPORTED CONCLUSIONS

31. On the basis of two days of hearings, the district court correctly found that the MCRI had in fact engaged in "systematic voter fraud" by obtaining signatures on its petition by telling voters that the petition *supported* affirmative action (Ex 1, Dist Ct Op, at 1) and correctly found that the defendant State officials had demonstrated "an almost complete institutional indifference" to the valid allegations of voter fraud (Ex 1, Dist Ct Op, at 3).

32. On the basis of an extensive review of the Voting Rights Act, its legislative history, and the cases decided under the Act and under the Fifteenth Amendment, the district court correctly concluded that Section 2's ban on racial discrimination in the "...political processes leading to nomination or election in a State...", 42 USC 1973(b), meant that the Act banned discrimination in the process of collecting signatures for the placement of a proposal to amend the Constitution of the State of Michigan on a general election ballot (Ex 1, Dist Ct Op, at 22-25, citing, inter alia, 42 USC 1973(a) and (b), *Smith v Allwright*, 321 US 649 (1944)(banning discrimination in party primary used to select candidates for general election ballot); *Terry v Adams*, 345 US 461 (1953)(banning discrimination in private, unofficial primary that affected choices on state ballot); *Morse v Republican Party*, 517 US 186

(1996)(holding fee was an unlawful poll tax when charged to delegates to state convention that chose nominees for ballot); *Allen v State Board of Education*, 393 US 544 (1969)(holding that Voting Rights Act should be construed broadly to ban all discrimination in processes leading to election, including to change in signature requirements for independent candidates), and *Armstrong v Allain*, 893 F Supp 1320 (SD Miss 1994)(holding Voting Rights Act applied to statement of question for referendum required by state law).

33. In so holding, the Court specifically rejected decisions by divided panels in the United States Court of Appeals for the Tenth and Eleventh Circuits holding that the Voting Rights Act did not apply to the collection of signatures for a vote on a ballot proposition (Ex 1, Dist Ct Op, at 22-23, rejecting *Montero v Meyer*, 861 F 2d 603 (CA 10, 1988); *Delgado v Smith*, 861 F 2d 1489 (CA 11, 1988)).⁵

34. The district court also properly concluded that the plaintiffs could maintain an action against the MCRI for racial discrimination in the collection of signatures because it “acted as part of the state’s political machinery for choosing which issues would be placed on the state’s general election ballot” (Ex 1, Dist Ct Op, at 27, citing *Smith, Terry, and Morse, supra*).

35. Finally, the district court also properly concluded that the plaintiffs had established state action for purposes of Section 2 because that section imposed on the

⁵ In an opinion that was withdrawn during the current en banc consideration of that issue, the United States Court of Appeals for the Ninth Circuit held that the Voting Rights Act banned discrimination in the process of collecting signatures for a recall election. *Lever v Padilla*, 429 F 3d 910 (CA 9 2005), *opinion withdrawn and reh en banc granted and pending* 446 F 3d 922 (CA 9 2006).

state election officials an obligation to ensure that their voting practices and procedures do not result in discrimination (Ex 1, Dist Ct Op, at 27).

36. In fact, as the United States Supreme Court has held,

If the state requires a certain electoral procedure, prescribes a general election ballot made up of party nominees so chosen and limits the choice of the electorate in general elections for state offices, practically speaking, to those whose names appear on the ballot, it endorses, adopts and enforces the discrimination against Negroes, practiced by a party entrusted by Texas law with the determination of the qualifications of participants in the primary.

Smith, supra, 321 US at 664.

THE DISTRICT COURT'S ERRORS OF LAW

37. The plaintiffs asserted that the MCRI had targeted its fraud at black and Latino voters.

38. Data retrieved from the statistical sample compiled by the State Board of Elections reveals that the MCRI obtained approximately one fourth of its signatures from residents of cities with black majorities ranging from 55 to 99 percent, including 15 percent from residents of Detroit, which now has a black and Latino population of 85 percent (Ex 4).⁶

39. As black and Latino citizens make up only 12 percent of the population of Michigan (and less of its registered voters), the MCRI thus obtained signatures from blacks and Latinos at more than double the rate that it obtained signatures from white citizens.

40. Moreover, as black and Latino voters support affirmative action by majorities far in excess of those in any other population group, the MCRI's fraudulent

⁶ In Detroit, which includes two-thirds of the signatures from the black-majority cities, there was uncontradicted testimony that many of the signatures came from areas where no white persons have lived for twenty years (Ex 2, Test of Stern, at 135-152).

claim that its petition supported affirmative action had to be targeted at those groups if it was to be effective.

41. The testimony at the hearing demonstrated the racial targeting. Ten of the 13 witnesses who testified described the fraud that the MCRI perpetrated were black citizens or circulators, many of whom testified that the fraud occurred in areas where the persons present were largely black or Latino (Ex 1, Dist Ct Op, at 10-15).

42. Of the three white witnesses called by the plaintiffs, two testified that black circulators attempted to obtain their signatures in, respectively, a market frequented by large numbers of black citizens and a Latino festival where the crowd was overwhelming Latino and black (Ex 2, Tr, Test of O'Connor and Kranz, at 61-75; 153-159).

43. In its report, the Michigan Civil Rights Commission rightly found that although many white citizens were defrauded, the MCRI targeted black citizens by choose locations where blacks and Latinos congregated (Ex 3, at 6).

44. Despite this evidence, the district court found that the plaintiffs had purportedly not established a Section 2 violation based on what it called three findings of fact:

Three findings of fact support the Court's conclusion that Plaintiff's evidence is insufficient to establish a Section 2 violation.

First, State Director of Elections Thomas testified that even if all of the disputed Black votes were stricken from the petition, there would still be an adequate number of votes to require certification of the petition under state law.

Second, there is no evidence in this record to support Plaintiff's theory that but for the support of minority voters, a large number of white voters would not have signed the petition.

Third, and most importantly, the evidence in the record, including the Commission's report and the testimony elicited at the evidentiary hearing, showed that the MCRI sought to deceive and in fact deceived both minority and non-minority voters in order to obtain their signatures.

(Ex 1, Dist Ct Op, at 30).

45. But the first reason advanced by the district court goes to the *magnitude* and *consequences* of the violation of Section 2, not whether a violation has been established.

46. In fact, given that that Voting Rights Act was passed in order to protect the rights of racial *minorities*, it is *not* defense to a claim under that Act to say that "only" a quarter of the signatures came from black people.

47. Indeed, to hold, as the district court did, that the election may proceed on the basis of the signatures gathered from white voters even though substantial numbers of black and Latino voters were defrauded *would be to perpetuate the very evil that the Act was designed to avoid--that is discrimination against racial minorities.*

48. The plaintiffs assert that once substantial and racially-targeted fraud has been proved, the court may not engage in mathematical calculations to determine whether there are enough white signatures to achieve a place on the ballot.

49. But if one is to engage in that calculation, the district court may not, as it did, find that a substantial number of white voters were defrauded and then decide that the proposal should go on the ballot because deducting the signatures of black voters alone would still leave enough valid signatures. As is apparent from even a rough calculation, if, as the district court found, there were a substantial number of white voters

defrauded, the MCRI has neither a legal nor an equitable claim that it had enough valid signatures for placement on the ballot.⁷

50. As to the district court's second reason for denying relief, the testimony of O'Connor and Kranz makes clear that the MCRI gathered many of its signatures from white voters at events and in locations where the crowd was overwhelmingly black or Latino and that it did so by using black circulators who were themselves deceived as to the purpose of the MCRI's petition.

51. Moreover, given that the MCRI raised money, hired circulators, and built its campaign based in large part on the signatures that it obtained from black and Latino citizens, it is a fundamental error to claim that there is no evidence that the defrauding of black and Latino voters made it possible for the MCRI to obtain some of the signatures from white voters that it used to support its claim for an election.

52. Finally, and most importantly, the district court erred as a matter of law when it held that the plaintiffs had not established racial targeting in violation of Section 2 because there was evidence that some, perhaps many, white voters were defrauded as well.

53. Neither the Voting Rights Act nor the Fifteenth Amendment have *ever* required that fraud, bribery, intimidation or other discriminatory practices, standards or procedures be directed *only* at blacks in order to establish a violation of the Act or the Amendment.

⁷ The State found that ten percent of the signatures on the petition were not registered voters, which means that there are approximately 450,000 signatures from registered voters. Deducting one fourth of those signatures leaves approximately 337,500 signatures, which barely exceeds the 317,000 needed for ballot qualification.

54. *From the beginning*, the poll tax, literacy tests, grandfather clauses and other means for denying the vote to black people *also* disenfranchised many white citizens--and yet were rightly held to be illegal because of their obviously discriminatory impact on black voters.⁸

55. In eliminating the poll tax, literacy tests, grandfather clauses, and similarly discriminatory measures, the Congress knew that many white voters had also been denied the right to vote due to these devices and yet eliminated them in the Voting Rights Act itself because they were clearly targeted at black voters.

56. In holding that black and Latino voters were not protected against racially-targeted fraud because some, perhaps many, white voters were also deceived, the district court committed an egregious and fundamental error of law.

THE NEED FOR INJUNCTIVE RELIEF

57. In addressing a motion for preliminary injunction, the district court must make specific findings on four familiar factors:

(1) the likelihood that the movant will succeed on the merits, (2) whether the movant will suffer irreparable harm without the injunction, (3) the probability that granting the injunction will cause substantial harm to others and (4) whether the public interest will be advanced by issuing the injunction.

Six Clinics Holding Corp v Cafcomp Sys Inc., 119 F 3d 393, 399 (CA 6, 1997).

⁸ For example, one of the Nation's foremost authorities on the history of racial discrimination in the South has stated that the initial educational, property and grandfather clauses in Louisiana disqualified 125,000 black voters *and* 38,650 white voters. Similarly, Mississippi's infamous provisions requiring citizens to read and "understand" provisions of that state's Constitution initially disqualified 16 out of every 17 black voters *and* one out of every three white voters. See C. Vann Woodward, *The Origins of the New South*, LSU Press, 1971, at 342-343,

58. In this case, however, the district court made no findings on the second, third and fourth factors because it found that the plaintiffs had no likelihood of prevailing on the merits (Ex 1, Dist Ct Op, at 33).

59. The few cases that have been decided on the propriety of granting preliminary relief under Section 2 of the Voting Rights Act have uniformly held that the traditional four factors govern requests for injunctive relief under that Section. See, e.g., *Bridgeport Coalition for Fair Representation v City of Bridgeport*, 26 F 3d 271 (CA 2, 1994), *rev'd on other grounds* 512 US 1283 (1994); *Harris v Graddick*, 593 F Supp 128, 135-136 (MD Ala, 1984); *United States v Berks County, Pennsylvania*, 277 F supp 2d 570, 578 (ED Pa, 2003); *Dillard v Crenshaw County*, 640 F Supp 1347, 1363 (MD Ala, 1986); and *Arbor Hill Concerned Citizens Neighborhood Association v County of Albany*, 281 F Supp 2d 436 (ND NY, 2003).

60. In applying the traditional criteria, the courts have been unanimous in holding that because discrimination in the right to vote “strikes at the heart of representative government,” an abridgement of the right to vote--or, in this case, an abridgement in the right to participate in the processes leading to a vote--would “...by its nature be an irreparable injury.” *Harris, supra*, 593 F Supp at 135; *Dillard, supra*, 640 F Supp at 1363 (“Given the fundamental nature of the right to vote, monetary remedies would obviously be inadequate...”); *Berks County*, 277 F Supp 570 (“denial of the right to participate in an election is by its nature an irreparable injury”).

61. As reflected in the position of the Governor, the Mayor and many citizens, there is an obvious public importance in not conducting a vote on this issue until

it has been determined whether the proponents of the petition secured their signatures without resort to racially-targeted fraud in violation of the Voting Rights Act.

62. Conversely, the MCRI has no legitimate interest in opposing an investigation of the fraud that it has been found to have perpetrated. Indeed, its year-long opposition to any investigation has caused the delay in starting the investigation that it claims will clear its name.

63. The courts have held that there is a strong public interest in assuring that elections are conducted within the mandates of the Voting Rights Act. The Middle District of Alabama, for example, has twice held as follows:

....Section 2 and its history reflect a strong national mandate for the immediate removal of all impediments, intended or not, to equal participation in the electoral process. When Section 2 is violated, the public as a whole suffers irreparable injury.

Harris, supra, 593 F Supp at 135. *Accord Dillard, supra*, 640 F Supp at 1363.

64. Likewise, in considering the factors for issuing an injunction to enforce the language requirements of Section 2, the Eastern District of Pennsylvania held as follows:

Ordering defendants to conduct elections in compliance with the Voting Rights Act so that all citizens may participate equally in the electoral process serves the public interest by reinforcing the core principles of our democracy.

Berks County, supra, 277 F Supp 2d at 582.

65. Those considerations apply with overwhelming force in this case. The Civil Rights Act of 1964, the Voting Rights Act of 1965, and the advent of affirmative action were the crowning achievements of the Civil Rights Movement.

66. Of those achievements, affirmative action--which was endorsed by President Johnson in 1964--was *the* means by which the major American universities and corporations were actually desegregated.

67. Under Michigan law, as interpreted by the Court of Appeals, however, the Board of Canvassers was forced to place on the ballot a proposal to ban affirmative action without even the opportunity to conduct an investigation into whether the signatures offered in support of that petition were gathered in violation of the Voting Rights Act.

68. The State of Michigan and especially the City of Detroit recall with just pride its daughters and sons who risked their lives to win the right for black people to vote in Mississippi.

69. To certify this question onto the Michigan ballot on the basis of the fraud that has been so amply documented by the Civil Rights Commission and the district court is not only shameful, but a betrayal of the letter, spirit and purpose of one of the most important statutes passed in the Twentieth Century and of those residents of Michigan who gave so much to secure passage of that law.

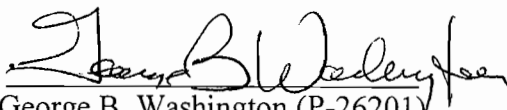
70. Such a violation of a Act that has been so fundamental to our Nation's history on a proposition that is so central to the political debate in the Nation would discredit the election, the Voting Rights Act and our basic institutions.

CONCLUSION

For the reasons stated, the plaintiffs ask this Court to reverse the decision of the United States District Court and to issue a preliminary injunction restraining the defendant state officials from placing the proposal to ban affirmative action on a general

election ballot until it has been determined whether the MCRI obtained the signatures in support of that petition by means of racially-targeted fraud in violation of Section 2 of the Voting Rights Act of 1965.

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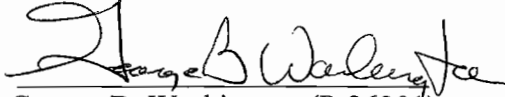
CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2006, I served a copy of the foregoing
Emergency Motion for a Preliminary Injunction by FAX, e-mail and United States mail
on the following persons, who were counsel of record for the defendants in the United
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