UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
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ANNE POPE, et al.,   :

              Plaintiffs,   :

        -against-   :   No. 11-cv-0736 (LEK) (DRH)

COUNTY OF ALBANY, et al.,   :

              Defendants.   :

                                           :
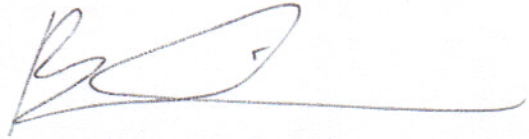---x

DECLARATION OF DR. BAODONG (PAUL) LIU

I, BAODONG (PAUL) LIU, hereby declare the following:

1.   My name is Baodong (Paul) Liu.

2.   I have been retained by Plaintiffs in the above-captioned litigation to render an expert opinion regarding the existence of racially polarized voting in Albany County, New York elections involving a choice between or among African American and non-African American candidates.

3.   I prepared a preliminary expert report on July 8, 2011.

4.   I am to be compensated for my participation in this case at a rate of $100 per hour.

5.   My findings and conclusions are contained in the attached report.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: July / 2, 2011

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Baodong Liu

Expert Report

By

Baodong (Paul) Liu, Ph.D.

Case

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
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ANNE POPE, et al.,   :
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                              Plaintiffs,   :
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          -against-   :   No. 11-cv-0736 (LEK) (DRH)
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COUNTY OF ALBANY, et al.,   :
                                                           :
                              Defendants.   :
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I.   Introduction

      I have been retained as an expert by counsel for the Plaintiffs in the above
      captioned litigation. I have prepared this report pursuant to Federal Rule of
      Civil Procedure 26(1)(2)(B).

      I have been asked to express opinions on whether racially polarized voting
      exists in Albany County, New York.

II.   Professional Qualifications

      I am an associate professor of political science in the Department of Political
      Science, and an interim Director of the Ethnic Studies Program at the
      University of Utah. I have done extensive research regarding the relationship
      between election systems and the ability of minority voters to participate fully
      in the political process and to elect representatives of their choice.

      My research has won the Byran Jackson Award for the best study/dissertation
      about racial voting from the Urban Politics Section of the American Political
      Science Association, and the Ted Robinson Award from the Southwest
      Political Science Association. The results of my research have been published

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in Social Science Quarterly, American Politics Research, Sociological Methods and Research, PS: Political Science and Politics, Urban Affairs Review, Political Behavior, Journal of Urban Affairs, Southeastern Political Review, American Review of Politics, and other journals. My most recent scholarly books include The Election of Barack Obama: How He Won, and Race Rules: Electoral Politics in New Orleans, 1965-2006.

My applied research/grants have included analyses of economic development, racial voting patterns, public school science education, school districts' economic impact, and various citizen surveys. I have provided my expertise to NAACP, the US Department of Justice, the Lawyers' Committee for Civil Rights Under Law in Washington D.C., the National Science Foundation, Wisconsin Security Research Consortium, Fond du Lac School District, Johnson Controls, Inc, City of Waupaca (WI), the League of Women Voters, American Democracy Project, Wisconsin Public Service, and many media outlets. A former member of editorial board for Urban Affairs Review, I also serve as the editor of Urban News for the American Political Science Association's Urban Politics Section, and I was elected as a co-chair of the Asian Pacific American Caucus of the American Political Science Association.

Attached as Exhibit 7 to this report is a curriculum vitae setting forth my professional background, which includes a list of all publications authored or co-authored by me, including forthcoming publications.

III.   Opinions

I have reached the following opinions:

Based on the data available at the time of writing this report, voting in Albany County, New York from 2004 to 2010 involving a choice between or among black and white candidates has been "racially polarized," in that African American voters in 11 of the 14 elections analyzed have expressed a clear preference for African American candidates, and this preference was not shared by the non-African American voters.

Furthermore, I provided my expert report for the case Arbor Hill Concerned Citizens Neighborhood Association, et. al. vs. County of Albany, et. al. on May 29, 2003, a case before this Court, in which I showed the same racial polarization pattern in Albany County, New York from 1991 to 2002. My 2003 report is attached hereto as Exhibit 8. Thus, there is strong empirical evidence showing the elections involving a choice between or among black and white candidates in Albany County, New York have been racially polarized in the last three decades.

It is also my opinion that there is insufficient data to engage in an analysis that will produce reliable results as to the extent of polarization characterizing elections in Albany County involving Hispanic candidates.

IV.   Basis and Reasons for Opinions

The data utilized in the analyses of these elections are the votes cast for the various candidates in each precinct in the elections and measures of the racial composition of the electorates in these precincts. The measure of the latter was the percentage of voting age population (VAP) that was non-Hispanic African American derived from the 2010 census data.

My operational definition of "racially polarized voting" is based on the following two-step analysis: 1) I first estimate the African American and non-African American group support for the black candidate in a biracial election (i.e., an election involving both white as well as black candidates); 2) If in this biracial election the majority of African-American voters, based on the estimates of the statistical procedures, cast their vote for the black candidate, and only a minority of non-African American voters cast their vote for the same black candidate, then this election is racially polarized.

I analyzed the biracial elections based on Gary King's Ecological Inference (EI) method.[1] A major reason to use the EI method in the estimation of single-member district elections, rather than the single and double regression methods, is due to the limitation of single and double regression procedures, which sometimes produce impossible estimates (e.g., white support for a black candidate is less than 0%), and EI may be used to offer realistic estimates because of its method of bounds feature.[2]

A) County-wide Elections

Two county-wide elections were analyzed. Exhibit 1 shows the result of EI operation on these two elections: the 2010 county Surrogate Judge Democratic primary, and the general election for the same office. The EI operation shows that in the primary Helena Heath-Roland, the minority candidate, received 80.17% support from black voters and only 24.99% support from non-African voters. In the general election, Helena Heath-

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[1]*See* GARY KING, A SOLUTION TO THE ECOLOGICAL INFERENCE PROBLEM: RECONSTRUCTING INDIVIDUAL BEHAVIOR FROM AGGREGATE DATA (Princeton Univ. Press, 1997). King's EI is useful for estimating racial voting patterns in a single-member electoral system, which applies to 12 of 14 elections analyzed in this report. With respect to multimember-district elections, King's EI cannot be used at all. The Board of Education elections in Albany have been multimember-district elections, for which homogeneous precinct analyses are used in this report. For example, white homogeneous precincts are those precincts with at least 90 percent of the voting age population as non-Hispanic White.

[2] *See* Baodong Liu, *EI Extended Model and the Fear of Ecological Fallacy*, 36 SOC. METHODS & RES. 3 (2007).

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Roland received 59.0% support from black voters and only 7.76% votes from non-African American voters. Clearly, the elections were racially polarized as defined above.

B) City-wide Elections

Exhibit 2 shows results for several city-wide elections. In the Mayoral elections of the City of Albany, racial polarization continued. In the 2005 Democratic primary, Archie Goodbee Jr., the minority candidate, received 73.92% of black votes, and only 21.29% of non-African American votes. In the 2009 Democratic primary, Corey Ellis, the black candidate, received 74.96% of black votes and only 37.76% of non-African American votes. It should be noted, however, in the 2005 Mayoral general election, Alice Green, a black candidate, as a Green Party candidate, received only about one percent of black votes and seven percent of non-African American votes. Not surprisingly, a black candidate from a minor party, such as the Green Party, usually does not generate significant support from either African-American or non-African American voters.

Other biracial city-wide elections involved the offices of Common Council President and City Treasurer. Exhibit 3 shows results for two such elections. In the 2005 Council President Democratic primary, Sarah Curry Cobb, a minority candidate, received 77.7% of black votes and only 11.23% of non-African American votes. In the 2009 City Treasurer Democratic primary election, 76.48% of African American voters supported Betty Barnette, while the non-African American support was only at 28.09%. Again, these two city-wide elections showed a racially polarized voting pattern.

C) County Legislature Elections

The Albany County-Legislature elections analyzed in this report include the 2004 District One Democratic primary, the 2004 District Four Democratic Primary, the 2005 District Seven Republican primary, the 2005 District Eight Republican Primary, and the 2007 District Four Democratic Primary.

Exhibit 4 shows results for the Democratic primaries. In the three Democratic primaries, African American voters preferred the African candidates with 53.36%, 94.95%, and 82.44% of their votes in the 2004 District One, the 2004 District Four, and the 2007 District Four Democratic primaries, respectively. The non-African American support for these black candidates was only 20.50%, 34.75%, and 16.51%, respectively.

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Exhibit 5 shows results for the Republican primaries. In the two Republican primaries, African American voters did not show a preference for the black candidates. In the 2005 District Seven Republican primary, Ford McLain, the black candidate, only received 40.3% of black votes, and in the 2005 District Eight Republican primary, Annette Delavallade, the minority candidate, only received 46.22% of the black votes. It should be noted, however, that County Legislature Districts Seven and Eight are white dominant districts, in which African Americans only represented 19.67% and 6.64% of the voting age populations in the precincts, respectively. Thus, the Republican primaries in these districts did not reveal the normal pattern of minority preferences.

D) Board of Education Elections

Due to the fact that the Board of Education elections were multi-member-district races, in which voters cast their votes for more than one candidate, the Ecological Inference (EI) procedure developed by Professor Gary King cannot be used. The conclusion of this preliminary report is based on homogeneous precinct analyses. In Albany County, there are seven non-Hispanic white homogeneous precincts, where Whites represent at least 90% of the voting age population. On the contrary, there is only one African American homogeneous precinct where African American voters form 90% or more of the voting age population.

Exhibit 6 provides the percentage of votes received by each candidate in homogeneous precincts, which showed the voting preferences of African-American and non-Hispanic white voters. Homogeneous precinct analysis clearly revealed that African American voters in these elections have expressed a preference for African American candidates, and this preference was not shared by the non-African American voters (see the African-American ranking column compared to the column for non-Hispanic white ranking).

In sum, while caution should be exercised due to the limitations of the dataset available at this time, the analyses based on the various statistical procedures suggest that voting in the biracial elections in the County of Albany, New York from 2004 through 2010 has shown the characteristics of "racial polarization," defined by the Supreme Court in Thornburg v. Gingles, 478 U.S. 30, at 53 n.21 (1986).

V.   Exhibits

Exhibit 1 contains the results of estimated racial support for black Candidates in county-wide elections in Albany County, New York.

Exhibit 2 contains the results of statistical procedures for racial divisions in candidate preferences in Mayoral elections in Albany, New York.

Exhibit 3 contains the results of statistical procedures for racial divisions in candidate preferences in Common-Council and City Treasurer elections in Albany, New York.

Exhibit 4 contains the estimated racial divisions in candidate preferences for County Legislature Democratic primary elections.

Exhibit 5 contains the estimated racial divisions in candidate preferences for County Legislature Republican primary elections.

Exhibit 6 contains the results of homogeneous precinct analysis for the two Board of Education elections.

Exhibit 7 is my curriculum vitae.

Exhibit 8 is my declaration and report submitted to this Court in May of 2003 in connection with Arbor Hill Concerned Citizens Neighborhood Association, et. al. vs. County of Albany, et. al. showing a pattern of racial polarization in elections in Albany County, New York from 1991 to 2002.