

TAB A

June 18, 2010

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Rebecca Abrahams

Freelance Film and Television Producer

Posted: June 17, 2010 11:36 PM

South Carolina Democratic Party Denies Rawl's Protest

Despite expert testimony presented from multiple computer science and security experts arguing against the legitimacy of last Tuesday's Democratic primary election results for U.S. Senate, the South Carolina Democratic Party, by a vote of 38.5 to 7.5, resoundingly defeated former state legislator and Circuit Court Judge Vic Rawl's protest filing.

When asked after the hearing if he intended to appeal the decision, Rawl stated flatly, "No."

Rawl addressed reporters after the decision was announced:

"We cannot seize, legally, machines, we do not have the ability nor the power to go back through and look at everything as people would request us to do. If this were a general election, perhaps we'd have done that. We were allowed 10 days and 10 days only... This is not about the Democratic Party, this is about the opportunity to do something that was necessary in my opinion and to look at as an issue that has been around for a while, that the politics, the Statehouse is not going to address, considering the makeup of who was there and because of the rights and the power that they have. This is the only opportunity that I had to bring it before a group of people who have the best interest of the Democratic Party and the State of South Carolina in their hearts and mind. I appreciate the opportunity to present. I did present to the best of my ability and the best of my staff. I thank them profusely from the bottom of my heart. They have done absolutely magnificent things with little time and little money."

Rawl Campaign Manager Walter Ludwig expressed his regret with the outcome. "We're certainly disappointed, but the unique circumstances of this election gave us an opportunity

to put the specter of voting machines in front of the national public in the strongest way since Bush v. Gore."

Unemployed Army veteran Alvin Greene purportedly defeated Rawl 59 to 41 percent in the June 8 election, without campaigning or fundraising. Rawl attorney Trueet Nettles laid out a case during the five hour hearing which alleged faulty voting machines incorrectly awarded Greene the primary. Nettles presented the case before the state Democratic Party, calling for a motion to invalidate the election and order a new primary for U.S. Senate.

During remarks, Nettles urged the panel to adhere to standards based on the legal evidence presented, arguing that witness testimony and evidence produced proved the election results were incorrect.

As Alvin Greene did not attend the hearing, no evidence was proffered to show the election results were accurate. The voting machines used on Election Day in South Carolina, the ES&S iVotronic touch-screen system, offer no hard evidence to back up the results either. When he filed his protest earlier this week, Rawl noted the systems "well-documented unreliability and unverifiability." Ludwig has gone further, noting "These machines are incredibly frail and subject to manipulation. They don't work very well." In short, Ludwig said, "They're crap."

The ES&S system, has a startling history of failure across the country, in a number of states, in a number of recent elections.

Greene's failure to show meant that only evidence that the results were *not* correct was presented. No evidence was offered to the contrary, and no state officials were on hand to argue that the results were accurate.

Witnesses presented by Nettles included University of South Carolina Computer Scientist Duncan Buell who said there were a number of "practical threats to the ES&S iVotronic machines" currently used across South Carolina and in dozens of other states across the country. Buell, referring to a Florida State University report detailing the disappearance of 18,000 votes in a 2006 U.S. House Special Election and a 2007 Ohio report, warned of systemic security problems with ES&S touchscreen voting machines, including easily accessed passwords embedded into the software itself.

"There are passwords stored in the firmware. This is absolutely something you do not do. You don't store passwords in the source code. There is no password encryption. You don't store passwords in the clear, and yet this is what has been done," Buell testified.

Referencing the Ohio state study, Buell concluded "If this is what the company was willing to sell it in Ohio, I wouldn't trust it to be sold anywhere."

Buell noted, among other security problems, that the transfer of votes via the Internet from county precincts to state headquarters leaves the system open to hackers.

"You have to make sure county wide aggregating machines are not connected to the Internet so they're not corrupted. Standard Microsoft operating systems are constantly corrupted... The system could in fact be tampered with so an error could be propagated from one machine to another." He testified that it would be possible to corrupt a machine and

tamper with the vote on a county wide basis. Or, even worse, if a mistake or malicious code was entered by ES&S itself, which programs the ballots for some 42 of South Carolina's counties, that bug could have affected all 42 counties' results.

The computer science expert said while all of the voting machines go through certification by federal independent testing authorities, (ITAs), "to my knowledge, none of those testing authorities test software or the process of counting votes. They test a shake and bake process. It is about the only testing they go through. I don't think anyone has ever tested the critical software through the ITAs."

Since the voting software hasn't been fully tested, Buell said, there's no way to verify the results of an election on an ES&S iVotronic voting machine because South Carolina doesn't use a voter-verifiable paper trail.

"Only software counts the votes. We only have the software votes. We don't collect, print or analyze the actual votes. Those are lost and those will be lost by next Tuesday, " Buell warned. A run-off election is scheduled for next week, and the sensitive memory cards used to store ballot programming and track results are likely to be wiped clean. Any evidence of tampering or malfunction is likely to be scrubbed with it.

"I believe that these (machines) should be used with an enormous amount of skepticism and if we get a surprising vote then something has not worked perfectly... We should treat these machines with an enormous amount of skepticism because none of the expert reviews have found them acceptable."

Statewide reports, testified to by a number of witnesses, of broken machines, lost votes or the failure of Rawl's name to appear on the ballot at all, wasn't enough to convince State lawmakers to overturn election results.

Teacher Melinda Dickerson testified she tried to cast a vote for Rawl in her precinct and he wasn't even on the ballot on the ES&S iVotronic machine she used.

Joan Wiedel, said she had to hit Rawl's name "3 or 4 times really hard and then a check mark finally went by his name." When she complained to the State Election Commission, the explanation was that she was touching the screen too close to the lines or the machine likely "needed to be recalibrated."

One voter testified that the screen came up with a vote for Alvin Greene after she voted for Governor, not Senator. "I then voted for Vic Rawl. I have no guarantee that my vote was cast for Judge Rawl but I have my doubts."

Another voter said that she had no problem voting for Rawl, but when she arrived at the summary screen before casting her vote, she noticed that the checkmark next to Greene had been selected instead.

Rawl Campaign Manager Walter Ludwig said he doesn't know if the election was hacked. But it's clear: "Something wrong happened on election day. We looked at the results and they're not right. The fact of the matter is, we don't know what happened on Tuesday. We don't know. Those results we have are very, very unlikely to be correct. We're not offering a theory of what happened. We don't know. The machines are unreliable. We're not trying to

prove that someone maliciously hacked the machines. We don't know. We just know the results aren't correct."

Statistical analysis was offered which disabused a number of the theories being floated to explain the results. Ludwig said that all of them -- the possibility of racial preferences, cross-over voting from the Republican Party, etc. -- had been rejected by those expert analyses.

In his closing argument, Attorney Nettles said it's likely the anomaly only occurred in the US Senate primary.

"This is a mistake, a defect of the machine and not a true result of the primary in this election. And we're saying that if there's a defect in machine that flips the vote, and all the votes for Rawl flipped to Greene then we're saying the results of the election are off."

In his closing remarks, he urged the panel to consider the gravity of the election's outcome.

"What does the Democratic Party want to do? Do you want Mr. Greene to be running against Senator DeMint under this really weird result in this election? Or do you want to have an election to make sure this doesn't happen again? And that's what we're asking you to do. Expert opinion shows this is an anomaly, this is not right - this doesn't work. This is not a realistic return."

Though many of the Executive Board members acknowledged the flaws in the system, they decided to uphold the Election Day results nonetheless. They voted overwhelmingly, in a voice vote, reject Rawl's protest.

Alvin Greene will be the Democratic nominee to face Republican Sen. Jim DeMint in November.



Alvin Greene Primary Win Over Vic Rawl Upheld by Democratic Committee

Tony Santaella

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Updated: 6/18/2010 12:03:48 AM



Vic Rawl during a hearing by the South Carolina Democratic Party Executive Committee on June 17, 2010.

Columbia, SC (WLTX) - The South Carolina Democratic Party's Executive Committee Thursday rejected a protest of the June 8 primary for U.S. Senate, in which Alvin defeated Vic Rawl.

The decision came down about 8:20 p.m. The final vote was 38 1/2 to reject the protest, 7 1/2 in favor of it.

The committee felt there was not sufficient evidence to overturn the results, a move which, had it been approved, would have required a new primary.

Rawl had filed a challenge with the committee earlier in the week to get his case heard before the board. Rawl's supporters believed that something was wrong with the results from Greene's win, where

he captured 60 percent of the vote.

Thursday, the committee heard testimony and asked questions for almost three hours about the race. Rawl himself did not speak, but his representatives brought forward experts in voting machines and voters who said they saw irregularities.

Greene did not attend the hearing.

Greene's victory triggered two major criticisms, mainly from within the Democratic Party: how Greene, an unemployed veteran, was able to come up with a \$10,400 filing fee, and whether the vote itself could have been tainted. *Previous:*Clyburn Says 'Elephant Dung' All Over Primaries

During the hearing, a USC professor, Walter Ludwig, said his analysis noticed discrepancies with vote totals.

"There is one county, Lancaster County, where the disparity between absentee ballots, optical scan ballots, and the election day ballots was 43 percent," Ludwig said. "This is not a small county. This is a fairly big sample size."

One voter testified that when she tried to vote for governor, a gray screen came up which said that she had voted for Greene for Senate. Another said that when she hit the button to vote for Rawl, it wouldn't light up on multiple machines.

Greene has maintained that his win was not a fluke,

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and that he is the best candidate in the race. He also says that he alone came up with the filing fee from money he had put aside from the Army.


Greene has also had to deal with controversy because he is facing a felony obscenity charge for an incident on the campus of the University of South Carolina in November 2009. Greene filed papers of indigency, saying he did not have adequate income to afford an attorney. He was then appointed a public defender. **Previous:**New Details in Greenes' Arrest

Greene is set to face incumbent Republican Jim DeMint in November in the general election. **Previous:**Poll Shows Demint 58 %, Greene 21%

State Democratic Party Chair Carol Fowler, who had called on Greene to withdraw after the charge came to light, said she would prefer that Greene not remain on the ballot.

Thursday's decision does not end the controversy, however. Rawl still has a pending complaint with the Federal Election Commission, and the State Law Enforcement Division has been asked to take a look into how he got the money for the filing fee.

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NO, I have some rules!

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TAB B



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Printed on page A1

RECOUNT

Dist. 13 voting analysis shows broad problem

By BOB MAHLBURG and MAURICE TAMMAN

Published: Thursday, November 9, 2006 at 4:05 a.m.

SARASOTA COUNTY -- A review of Sarasota County voting results shows that in almost every precinct a high percentage of voters didn't cast ballots in the hotly contested 13th Congressional District, a trend that likely affected the outcome of the race.

Democrat Christine Jennings lost to Republican Vern Buchanan by 368 votes, making it the second closest congressional race in the country.

More than 18,000 voters who showed up at the polls voted in other races but not the Buchanan-Jennings race.

That means nearly 13 percent of voters did not vote for either candidate -- a massive undercount compared with other counties, including Manatee, which reported a 2 percent undervote.

If the missing votes had broken for Jennings by the same percentage as the counted votes in Sarasota County, the Democrat would have won the race by about 600 votes instead of losing by 368, according to a Herald-Tribune review. Even if the undervote had been 8 percent -- more than three times what it was in Manatee -- Jennings would have won by one vote.

While some have speculated that people simply chose not to vote in the District 13 race, many voters say the unusual undervote was caused by badly designed touch-screen ballots, which they say hid the race or made it hard to verify if they had cast their vote.

More than 120 Sarasota County voters contacted the Herald-Tribune to report such problems, almost all regarding the Jennings-Buchanan race.

At a press conference Wednesday, Supervisor of Elections Kathy Dent said she did not know specifically what caused the undervote.

"I do not know what to attribute it completely to. It's not a mechanical issue; it would be voters overlooking the race. We did not have any equipment failure," Dent said. "I'm not a mind reader. I can only give you conjecture."

But prior to the election, Dent had sent notices to her poll workers to warn voters that the District 13 race was easy to miss as they scrolled through their touch-screens to vote.

Dent declined repeated requests for Wednesday for interviews.

A review of precinct-by-precinct voting results in Sarasota County shows that voting problems were widespread and cut across party lines. Virtually every precinct had relatively high undervotes. Among the worst was La Casa Mobile Home Park, a retirement park for seniors where 30 percent of people who showed up at the polls



did not have a vote recorded in the Buchanan-Jennings race.

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Meanwhile, the estimated undervote in DeSoto County was 1 percent based on the number of people who voted in the governor's race versus the District 13 race. In Hardee County, the undervote was roughly 5 percent.

The review of Sarasota County results showed high numbers of undervotes occurred in precincts regardless of whether Jennings or Buchanan was the preferred candidate.

Although some blame the undervote on anger at the mudslinging in the race and general dislike of Buchanan by some other Republicans, that seems unlikely given that the undervote was not repeated in other counties and was not heavier in strong Republican precincts. In fact, in precincts that went for newly-elected Gov. Charlie Crist, the number of undervotes was slightly less than in precincts that went for his Democratic challenger.

In addition, absentee voters, who didn't have to use the voting machines, had only an estimated 1.8 percent undervote.

Aubrey Jewett, a University of Central Florida political scientist who specializes in Florida and congressional politics, said he finds it hard to believe so many voters would intentionally refuse to vote in the high-profile race but then cast ballots for little known races such as hospital board. The hospital board race in Sarasota had more votes than the District 13 race.

"It's possible people just declined to vote, but it doesn't seem likely to me," Jewett said. "It's certainly a very unusual situation."

The big gap in voting for the Buchanan-Jennings race could also stem from defective voting equipment or problems with the way the ballot was displayed, Jewett said.

State officials downplayed the possibility of problems with the ballot, machines or other issues.

"I'm not sure there's even a problem," said Jenny Nash, a spokeswoman for the Florida Secretary of State, who oversees elections. She said the office had not received a single complaint or contact about the race.

Nash repeated Dent's suggestion that voters may have intentionally decided not to vote in the congressional race.

"It could be a protest vote. There's a lot of different reasons people undervote," she said. "Certainly undervoting is the voter's prerogative."

Nash said no state investigation is planned.

State Rep. Nancy Detert, R-Venice, who was a candidate in the Republican primary for the congressional seat, said she thought many voters may have decided "to send a message" about negative campaign ads by not voting in the race.

"I talked to a lot of people who, because of the negative campaigning, said they wouldn't vote for either candidate," Detert said.

Former Sarasota Republican Party Chairman Tramm Hudson, who also was a candidate in the race until he was knocked out in the primary, said he heard from a number of voters who told him "they were going to have to hold their nose on whether to vote for the Republican or Democrat."

But Hudson was skeptical that so many voters in Sarasota County would go to the polls and then not vote for the congressional race.

"It's a pretty dramatic number," Hudson said. "I believe you have to compare it to Manatee, Charlotte and DeSoto counties. They're in the same (congressional) district. They saw the same ads and got the same mail."

This story appeared in print on page A1

TAB C

B. *If your answer to A is Yes, describe the lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.*

1. *Parties to this previous lawsuit:*

Plaintiff: _____

Defendant(s): _____

2. *Court:* _____
(If federal court, name the district; if state court, name the county)

3. *Docket Number:* _____

4. *Name(s) of Judge(s) to whom case was assigned:* _____

5. *Status of Case:* _____
(For example, was the case dismissed? Settled? Appealed? Still Pending?)

6. *Date lawsuit was filed:* _____

7. *Date of disposition (if concluded):* _____

C. *Do you have any other lawsuits pending in the federal court in South Carolina?*

Yes No

II. PARTIES

In Item A below, place your name and address in the space provided. Do the same for additional plaintiffs, if any.

A. *Name of Plaintiff:* Brett Allen Bursey

Address: 375 Silver Wood Lane, Lexington SC 29072

In Item B below, place the full name of the defendant; and his, her, or its address, in the space provided. Use Item C for additional defendants, if any.

B. *Name of Defendant:* Marci Andino, Executive Director SC Election Commission

Address: 2221 Devine Street, Suite 105 Columbia SC 29205

- C. *Additional Defendants (provide the same information for each defendant as listed in Item B above):*

III. STATEMENT OF CLAIM

State here, as briefly as possible, the facts of your case. Describe how each defendant is involved. Include also the name(s) of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheets if necessary.

The records from the June 8 statewide South Carolina primary are in the process of being erased to reprogram the voting machines for the June 22 runoff election.

The summary data that will be preserved after erasing the flash cards in each machine is not adequate to support a reliable audit of the votes cast in the June 8 Primary, according to nationally recognized voting machine expert, Dr. Douglas Jones. Dr. Jones serves on the Federal Election Assistance Commission's Technical Guidelines Development Committee. Jones advised the plaintiff that, "There is no way the machines you have in South Carolina can be audited without all the information on the computer flash card in each machine." Jones has taught at the University of Iowa Department of Computer Science since 1980, served on the Iowa Board of Examiners for Voting Machines and Electronic Voting Systems from 1994 to 2004, and chaired the board for three terms. (See attached: Dr. Douglas Jones affidavit).

Federal law requires that all records "requisite to voting" in a federal election be preserved for twenty two months.

The records in danger of being erased include data on each ballot cast in US Senate and Congressional District primary elections June 8. One US Senate candidate is challenging the results of the election and has called for an investigation into the machines.

The level of controversy and distrust over any possible role the machines could have had in affecting the outcome of the elections begs for a thorough audit of the machine records to assure voters the machines were accurate. (See attached media report: Doubt Grows in SC Election Results)

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IV. RELIEF.

State briefly and exactly what you want this court to do for you.

The plaintiff requests an emergency hearing on the preservation of voting records from the June 8 primary elections.

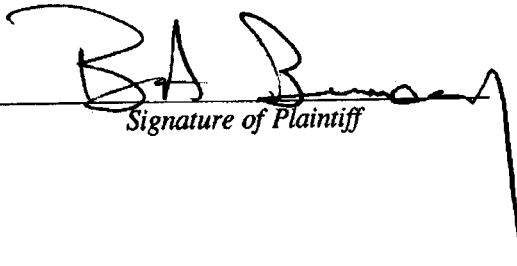
As the county election offices plan to begin erasing and reprogramming the voting machines as early as June 15, 2010 the relief sought is urgent.

The plaintiff, as well as other citizens who voted in the June 8 primary will suffer irreparable harm should the voting records be erased prior to being preserved for a full audit.

The relief sought is an immediate Temporary Restraining Order directing Marci Andino, Executive Director of the State Election Commission, to immediately advise the directors of the forty six county election offices that the flash card memories of all iVotronic voting machines used in the June 8 primary not be erased prior to preserving the records they contain.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 15th _____ day of June, 2010.


Signature of Plaintiff

AFFIDAVIT OF DOUGLAS W. JONES

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1. My name is Douglas W. Jones. I am Associate Professor at the University of Iowa Department of Computer Science, where I have taught since 1980.
2. I served on the Iowa Board of Examiners for Voting Machines and Electronic Voting Systems from 1994 to 2004, and chaired the board for 3 terms. I was invited to testify before the United States Commission on Civil Rights on evaluating voting technology for their January 11, 2001 hearings in Tallahassee Florida. I was invited to testify before the House Science Committee on problems with voting systems and the applicable standards for their May 22, 2001 hearings. I was invited to testify before the Federal Election Commission on voting system standards for their April 17, 2002 hearings. I wrote Chapter 1 of Secure Electronic Voting, edited by Dimitris Gritzalis and published by Kluwer Academic Publishers in 2002. In the summer of 2004, I consulted with Miami-Dade County to assess problems with their electronic voting system and to assess their pre-election testing of their voting systems. My paper, Auditing Elections, was published in the Communications of the Association for Computing Machinery in October 2004. In 2005 and again in 2007, I was invited to Kazakhstan by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe to assess the Kazakh electronic voting system. In 2006, I testified in Conroy v. Dennis before the District Court of the City and County of Denver, Colorado concerning the certification process for voting machines used in that state. In 2007, I testified before the US

District Court for Eastern Pennsylvania concerning the possibility of failure of machines certified in that state.

The Problem

3. I have been asked about the need to retain information from the compact flash cards used with an ES&S iVotronic voting machine.
4. I served on the Iowa Board of Examiners for Voting Machines and Electronic Voting Systems in the 1990s when we examined the Votronic, ancestor of the iVotronic, for use in Iowa. I consulted with Miami-Dade County, Florida, about the use of the iVotronic voting system in 2004.
5. I understand that the iVotronic voting machines being used in South Carolina are being prepared for use in a new election, and there is a need to re-use certain materials from the recent primary election.

The iVotronic System

6. Prior to an election, each iVotronic is prepared for that election. At minimum, this involves loading the ballot definition into the machine by means of a PEB prepared for the polling place in which the machine will be used. Usually, the graphics used to present the ballot and the audio files used for handicapped access are loaded into the machine using a compact flash card.
7. During the election, the iVotronic stores election results in three internal flash memory chips. The votes on each voter's ballot are stored redundantly, in all three chips, and a redundant event log recording significant events in the election is maintained in all three chips.

8. At the close of the polls, the entire contents of one of these redundant memories is copied to the compact flash card. This copy includes an electronic copy of each ballot cast on the machine as well as the event log.
9. At the close of the polls, a summary of the results from the machine is transferred to the PEB. The same PEB is generally used to close the polls on each iVotronic at any given polling place. This procedure consolidates the results from all the machines to produce grand totals for the polling place.
10. The data from the PEB is usually printed at the polling place, and it may be transmitted by modem from the polling place. Regardless of whether the data is printed or transmitted by modem, the PEB is usually transported to the election headquarters where it is read by the election management system in order to incorporate it into the canvass the election.
11. The data in the PEB at the close of the polls includes a summary of the ballots cast and a summary of the event log data for all machines in the polling place, while the data in the compact flash card includes the entire record of the votes cast and the entire event log for just one machine.
12. The compact flash cards can be inserted in a compact flash reader at the election headquarters for reading into the Unity election management system. Unity can compute a report of canvass from the compact flash cards, and it can be used to create an archive of the election information.
13. If the compact flash cards are inserted in a compact-flash adapter connected to any personal computer, the data on the card can be saved and archived for later analysis using Unity. These compact flash cards are electronically and

mechanically compatible with the compact flash cards used in digital cameras, and the data on them is stored in a file format that any common computer can read and accurately copy. However, most of this data is stored in a proprietary format, so only a computer running Unity can make sense of it.

14. The PEB used by the iVotronic contains a very small CPU, RAM and ROM, as well as a battery. These are not commodity devices, and they are intended to be used only with iVotronic voting machines and the computer running the Unity election management system at the election headquarters.
15. The event log of each iVotronic records: The time the iVotronic was cleared and tested the time it was opened for voting. The time each report from that iVotronic is printed (assuming that a printer has been attached), the time each ballot was cast, the time the polls were closed, and several less common events. Since a PEB must be inserted to enable most actions, the event log also records the serial number of the PEB that was used for each action.
16. An audit of the event logs obtained from a polling place can show the number of ballots that were cast at that polling place, the number of times pollworkers intervened during the election day to cancel ballots or take other unusual actions, the times at which the first and last ballots of the day were cast, and other information useful to an assessment of the operation of a polling place.

Recommendation

17. I recommend that the Federal requirement for retention of election materials for 22 months after an election be interpreted as requiring:

18. Retention of copies of all configuration data used to prepare the iVotronics for the election. This information is created using Unity prior to the election and loaded into PEBs and compact flash cards in order to configure the iVotronics for the election. It can be archived before the polls open,
19. Retention of copies all data uploaded to Unity from PEBs following the close of the polls. This is the data normally used in the official canvass.
20. Retention of copies of all data found on compact flash cards at the close of the polls. This data includes records of the ballots cast and event logs from each machine, as well as the configuration files that were pre-loaded on the compact flash cards before the election.
21. Copies of all event logs maintained by Unity. These event logs record the times of each significant event.
22. I recommend making archival copies to recordable CD media (CD-R) or some other relatively inexpensive medium which, once written, cannot easily be altered.

I declare that the foregoing is true and correct to the best of my knowledge, information and belief.

This 15th day of June, 2010.

A handwritten signature in black ink, appearing to read 'Douglas W. Jones', with a long horizontal line extending to the right.

Douglas W. Jones

Statement by the Vic Rawl for US Senate Campaign | Vic Rawl for Senate

“South Carolinians would rather be 100% right than 90% uncertain.”

As we stated yesterday, our campaign began examining election data on early Wednesday morning. Over the course of the next 24 hours, our staff found several results that seemed unusual to us. We stress that, then and now, we very much hope that Tuesday’s primary was conducted fairly and that nothing untoward happened.

Expert Data Analysis

No one on our staff is a statistics expert or mathematician. As the unusual information began to accumulate, several unconnected people and teams who are far more expert in election forensics than our staff contacted the campaign and volunteered to look at results from Tuesday’s primary.

One of the teams was Dr. Walter Mebane of the University of Michigan and Dr. Michael Miller of Cornell University. Dr. Mebane is a professor of political science and statistics and a recognized expert in detecting election fraud. As of August 2010, Dr. Miller will be professor of political science at the University of Illinois, Springfield, and specializes in the analysis of election data. Neither is affiliated with the Rawl campaign.

Dr. Mebane performed second-digit Benford’s law tests on the precinct returns from the Senate race. The test compares the second digit of actual precinct vote totals to a known numeric distribution of data that results from election returns collected under normal conditions. If votes are added or subtracted from a candidate’s total, possibly due to error or fraud, Mebane’s test will detect a deviation from this distribution. Results from Mebane’s test showed that Rawl’s Election Day vote totals depart from the expected distribution at 90% confidence. In other words, the observed vote pattern for Rawl could be expected to occur only about 10% of the time by chance. “The results may reflect corrupted vote counts, but they may also reflect the way turnout in the election covaried with the geographic distribution of the candidates’ support,” Mebane said.

Dr. Miller performed additional tests to determine whether there was a significant difference in the percentage of absentee and Election Day votes that each candidate received. The result in the Senate election is highly statistically significant: Rawl performs 11 percentage points better among absentee voters than he does among Election Day voters. “This difference is a clear contrast to the other races. Statistically speaking, the only other Democratic candidate who performed differently among the two voter groups was Robert Ford, who did better on Election Day than among absentees in the gubernatorial primary,” Miller said.

These findings concern the campaign, and should concern all of South Carolina. We do not know that anything was done by anyone to tamper with Tuesday’s election, or whether there may have been innocuous machine malfunctions, and we are promoting no theories about either possibility.

However, we do feel that further investigation is warranted.

Voting Machine Examination

With that in mind, another expert volunteer traveled today to the SC State Board of Elections in Columbia to conduct an examination of selected voting machines that were employed in Tuesday’s election. When we have the results, if any, of that examination, we will release them immediately.

Gathering of Anecdotal Accounts

While we believe, and urge others to note that “the plural of anecdote is not data,” our campaign is receiving calls and e-mails from people – voters and poll workers – who experienced significant problems with voting for whom they intended. We are looking into these reports and will release any information we find.

Judge Rawl and the campaign stress again that no one knows exactly what happened on Election Day. South Carolinians would rather be 100% right than 90% uncertain.



Doubt grows in South Carolina election results

June 15, 1:43 AM · Rob Groce - Charleston County Elections 2010

Some Republican voters found Democratic races included on their ballots.

Some voters elected their favored candidates only to see other candidate names appear on their final voting screens.

Some precincts reported more votes for one single candidate than the total number of votes cast.

And some obvious favorites lost in South Carolina's recent Democratic primary elections, leaving virtually unknown candidates, even a person charged with crimes of obscenity, as the winners in some races.

For many voters, this circumstance has raised the question, did those odd incidents play any part in the odd results?

Theories of a bungled election abound across the state, and include: deliberate election tampering, faulty voting machines, a dramatic surge in voter participation, votes by racial preference, lack of voter awareness in candidates and even a possible combination of these factors.

South Carolina's District 6 representative Jim Clyburn has directly stated suspicions of foul play.

Clyburn doesn't accept the senate primary victory of U.S. Senate candidate Alvin Greene, who he called "somebody's plant" in a recent [interview](#).

"I think some shenanigans are going on in South Carolina," said the congressman, who also challenged the validity of results for Congressional District 1 and his own District 6.

Clyburn requested these elections be formally reviewed and investigated.

Greene was an unknown rival to Vic Rawl, who had already been elected to state legislature and county council, and who also served as judge in many well-known cases.

Some claim Greene was picked because his name appeared first on the ballot alphabetically, and because of voter unawareness of either candidate. However, Rawl is already well-known throughout the state, and Greene remained virtually unknown until election results were reported.

In addition, Rawl's campaign offers records of his traveling 17,000 miles in 43 counties to 80 different events in less than 90 days, and of over 200,000 phone calls made to established Democratic voters in the state. Meanwhile, Greene cannot provide record of any campaigning or recollection of any events he attended.

Also, other candidates whose names appeared first on their ballots still lost, and some by sizable margins.

Others claim high voter participation from non-white voters, who elected the black Greene on the basis of his common African-American surname. However, some other black candidates, including well-known gubernatorial hopeful Robert Ford, did not fare well on election day. In addition, examination of [county and precinct results](#) show that Greene did better in dominantly white areas, and that race played no part in candidate selection.

Voter turnout dramatically increased, too. Statewide, participation in the Democratic primary grew 28.6 percent in comparison

the 2008 primary election. In Dorchester County alone, the number of votes cast in the Democratic primary surged 220 percent.

These increases have many suspect high crossover by Republican voters. South Carolina does not register voters by party affiliation. As a result, members of one party can vote in the primary of another, if only to purposefully see to the nomination of a non-electable candidate.

Congressional District 1 was taken by Ben Frasier, who ran for office 19 times before finally being elected by a 56-44 ratio over favored candidate Robert Burton. While Burton followed the high vote count that the 2008 Democratic candidate Linda Ketner received, Frasier's tally more than doubled. The total number of votes in this race shot up 35.7 percent in this two-year period.

Burton's campaign advisor Ann Beder compared election returns from 2008 and '10, and was surprised to practically find a reversal in results in Horry County. Precincts that Ketner won '08 were taken this year by Frasier; precincts that Frasier won in '08 were taken by Burton, Beder says.

This not only sparks suspicion, but adds to questions about the reliability of the voting machines used, which is already in doubt due to a multitude of problems reported on election day.

Elizabeth Halbertstadt worked June 8th as a "rover" – a technician who responds to calls about voting machine problems – in the West Ashley area of Charleston.

The number of times she was called to precincts for repairs was very high on election day, even more than the number from the general election of 2008, Halberstadt said, and even though turnout for that '08 election was more than three times higher than the number of votes in that area's recent 2010 primary.

The problems Halberstadt most frequently encountered, she said, were touch-screen calibration errors, in which a vote for one candidate would appear on the final review screen as a vote for another.

One Democratic primary voter tried to report calibration error while voting, but claims no correction was offered, leaving her with no choice but to vote for the candidate she didn't support.

This individual stated she cast her vote for Vic Rawl in the senate primary, but her final ballot confirmation listed opponent Alvin Greene. A poll manager examined the voting machine, but could not correct the problem, this voter stated. The poll manager then suggested the voter just complete the process with the listed selections, stating it was only one vote in the contest, this voter claims.

Some participants in the Republican Party primary election claimed that Democratic races appeared on their ballots along with the GOP slates.

Halberstadt also mentioned frequent incidents in which voting machines simply stopped working.

Dorchester County had the same interruption in service with multiple machines, sometimes in rapid succession at one precinct, according to poll managers present.

Clemson University's Eleanor Hare expresses extreme doubt in the reliability of the particular iVotronic voting machines used in South Carolina. Hare is Associate Professor Emerita of Computer Science at Clemson, and is also on the Board of Directors of the state's League of Women Voters.

Hare specifies frequently occurring touch screen calibration problems in her list of doubting factors, along with the fact that no paper ballots are kept to compare to the voting results.

The iVotronics machines also have ample record of bizarre malfunctioning, Hare says, citing a 2008 incident when votes for one candidate were mistakenly recorded for another candidate, and in a race that wasn't even supposed to be on the ballots.

With all these factors of doubt, at least one candidate decided not to accept the election results. On June 14, Rawl filed a protest of election regarding his Senate primary, citing voting machine irregularities as the basis of complaint.

The South Carolina Democratic Party will hold a formal hearing on Thursday, June 17.

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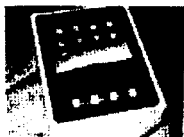
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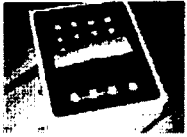
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Rob Groce is an Examiner from Charleston SC. You can see Rob's articles at: ["http://www.Examiner.com/x-44755-Charleston-County-Elections-2010"](http://www.Examiner.com/x-44755-Charleston-County-Elections-2010)

South Carolina 2010 Democratic United States Senate Primary Election

Abstract

For Election Day voting, South Carolina uses an electronic ballot system with no auditable, voter-verified record of votes.¹ However, South Carolina's absentee votes are cast with voter-marked paper ballots that can be manually counted after the election to check the accuracy of the optical scanner's tallies. Without the ability to conduct risk-based post-election manual audits of Election Day tallies, the only available way to investigate for electronic vote count error in South Carolina is an indirect method -- compare the tallies for absentee and Election Day tallies to look for suspicious-looking tallies consistent with a pattern produced by outcome-altering vote miscount. Such a suspicious pattern exists in the 2010 South Carolina Democratic US Senate primary contest.

Comparing South Carolina's Three 2010 Democratic Primary Elections

Of the three Democratic primary elections, the greatest difference between the winning margins in the two different types of voting (absentee paper ballots and Election Day electronic ballots) occurs in the US Senate contest between candidates Greene and Rawl. Table 1 below provides the winning margins for the three Democratic primary contests for absentee and Election Day ballots. The margin for Election Day tallies is almost twelve times greater than for absentee tallies in the US Senate contest, the largest difference of any of the three contests. In fact, if the county-level absentee ballot margins are the more accurate reflection of voter intent, then the winner of the US Senate primary election could be Rawl rather than Greene.

¹ Electronic ballots are unverifiable because voters can never know that votes cast anonymously are recorded internally inside a voting computer, and the public cannot verify that electronic votes are transferred to the central tabulator and tallied accurately.

	US Senate	SC Governor	SC Sup. of Education
Absentee Ballot Overall Winning Margin Share	1.6%	37.5%	4.2%
Election Day Overall Winning Margin Share	19.4%	35.8%	12.9%
Ratio of Margins (Election Day)/ (Absentee)	11.81	0.96	3.06
Overall Winning Margin	17.9%	36%	12.3%
The Overall Margin if Election Day County-level Margins were the Same as the County Absentee Margins	-0.7% The Winner Changes!	36.5%	9%

Table 1. Comparison of 2010 South Carolina Democratic Primaries

Even though the overall margin of absentee ballot tallies is 1.6%, favoring candidate Greene, this overall margin does not indicate who would be the winner if the county-level absentee ballot margins held for all votes because the relative number of votes cast by each method (absentee versus electronic ballot) in each county and the total number of votes cast in each county vary widely. Hence to determine the above result, simply multiply the reported absentee ballot margin in each county times the number of Election Day votes in each county to determine the margin (in number of votes) in each county for the case that the absentee ballot tally margins truly represented how voters cast their ballots. Then add this margin to the reported absentee ballot margin (in votes) to determine the margin that would have occurred if the absentee ballots reflect true voter preferences.

In other words, as shown in Table 2 below, if the inauditable county-level Election Day voting margins were in truth equal to the margins in the county absentee-ballot tallies, then Rawl rather than Greene would be the declared winner of the primary election for the Democratic candidate for the United States Senate.

Democratic Primary Contests	Apparent Winner would Lose	The apparent Runner-up would Win
US Senate	Yes	Yes
SC Governor	No	No
SC Sup. Of Education	No	No

Table 2: If the County-level Absentee Ballot Margins are Correct

Conclusion

While it is physically impossible to verify who won any election in South Carolina due to its use of electronic-ballot voting, analysis of the available data shows that the reported Democratic US Senate primary election results are consistent with sufficient vote miscount to cause an incorrect election outcome. The outcome of the South Carolina Democratic primary election for the United States Senate candidate is in doubt.

A more definitive analysis could be performed if South Carolina election officials made vote tallies by precinct and by ballot type (absentee and Election Day) publicly available.² A less costly voter-marked paper ballot system would improve South Carolina's capacity to check the accuracy of its election outcomes.

² New Mexico is the only state today publicly reporting detailed precinct-level vote tallies during the canvass period on its state election web site, and conducting semi-independent post-election manual audits of its computer tallies. This facilitates detection of (and also deters) vote miscount.

**U.S. District Court
District of South Carolina (Columbia)
CIVIL DOCKET FOR CASE #: 3:10-cv-01545-CMC**

Burse v. South Carolina State Election Commission et al
Assigned to: Honorable Cameron McGowan Currie
Cause: 28:2201 Injunction

Date Filed: 06/16/2010
Jury Demand: None
Nature of Suit: 441 Civil Rights: Voting
Jurisdiction: Federal Question

Plaintiff**Brett Allen Bursey**

represented by **Brett Allen Bursey**
375 Silver Wood Lane
Lexington, SC 29072
803-608-1480
PRO SE

V.

Defendant**South Carolina State Election
Commission****Defendant****Marci Andino**
Executive Director

Date Filed	#	Docket Text
06/16/2010	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 350 receipt number SCX300034584.), filed by Brett Allen Bursey. (Attachments: # <u>1</u> Affidavit of Douglas Jones, # <u>2</u> Exhibit Article 1, # <u>3</u> Exhibit Article 2, # <u>4</u> Exhibit Abstract)(jpet,) (Entered: 06/16/2010)
06/16/2010	<u>2</u>	MOTION for Emergency Hearing for Temporary Restraining Order by Brett Allen Bursey. Response to Motion due by 7/6/2010 Motions referred to Paige J Gossett.(jpet,) (Entered: 06/16/2010)
06/16/2010	<u>3</u>	Local Rule 26.01 Answers to Interrogatories by Brett Allen Bursey.(jpet,) (Entered: 06/16/2010)
06/16/2010	<u>6</u>	Summons Issued as to South Carolina State Election Commission. (cbru,) (Entered: 06/16/2010)
06/16/2010	<u>7</u>	Summons Issued as to Marci Andino. (cbru,) (Entered: 06/16/2010)
06/16/2010	<u>8</u>	NOTICE of Hearing on Motion <u>2</u> MOTION for Temporary Restraining Order : Motion Hearing set for 6/17/2010 02:00 PM in Columbia # 2, Matthew J. Perry Court House, 901 Richland St, Columbia before Honorable Cameron McGowan Currie. (cbru,) (Entered: 06/16/2010)
06/16/2010	<u>9</u>	***DOCUMENT NOT MAILED 8 Notice of Hearing on Motion, <u>6</u> Summons Issued, <u>7</u> Summons Issued placed in U.S. Mail to Brett Allen Bursey. *Plaintiff picked up documents at courthouse* (cbru,) (Entered: 06/16/2010)
06/17/2010	<u>11</u>	MOTION to Withdraw <u>2</u> MOTION for Hearing by Brett Allen Bursey. Response to Motion due by 7/6/2010 No proposed order(cbru,) (Entered: 06/17/2010)
06/17/2010	<u>12</u>	MOTION to Continue by Brett Allen Bursey. Response to Motion due by 7/6/2010 No proposed order(cbru,) (Entered: 06/17/2010)
06/17/2010	<u>13</u>	TEXT ORDER granting <u>11</u> Motion to Withdraw <u>2</u> MOTION for Hearing. Signed by Honorable Cameron McGowan Currie on 6/17/2010.(cbru,) (Entered: 06/17/2010)

		06/17/2010)
06/17/2010	14	NOTICE of Cancellation of Hearing: Motion Hearing set for 6/17/2010 02:00 PM (cbru,) (Entered: 06/17/2010)
06/17/2010	15	***DOCUMENT MAILED 14 Notice of Cancellation of Hearing, 13 Order on Motion to Withdraw placed in U.S. Mail to Brett Allen Bursey (cbru,) (Entered: 06/17/2010)
06/17/2010	17	TEXT ORDER granting <u>12</u> MOTION to Continue filed by Brett Allen Bursey: This matter is before the court on Plaintiff's "Motion for Continuance." Dkt. # 12 (filed June 17, 2010). Plaintiff seeks a "continuance" of this matter as "the [p]arties have agreed to work together to determine the manner and degree of compliance" of state election officials with the statute in question. Mot. at 1. Plaintiff indicates in his motion that "[b]oth parties concur with the Motion for Continuance in this case." Id. The court has not determined whether Plaintiff has standing and/or jurisdiction in this matter, whether there is a private right of action to enforce 42 U.S.C. Sec. 1974, or whether such statute applies to the records of voting to which Plaintiff refers in the Complaint. The court grants Plaintiff's motion for continuance and stays all deadlines in this matter, whether it be for service and/or answer or other appearance, for a period of thirty (30) days. Plaintiff shall, within thirty (30) days of the filing date of this order, file a motion to dismiss or status report with this court. (Motion to Dismiss or Status Report due by 7/19/2010) Signed by Honorable Cameron McGowan Currie on 6/17/2010.(cbru,) (Entered: 06/17/2010)
06/17/2010	18	***DOCUMENT MAILED 17 Order, Set Deadlines, Terminate Motions placed in U.S. Mail to Brett Allen Bursey (cbru,) (Entered: 06/17/2010)