

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

INDIA LYNCH, by her parent, SHAWN KING **
LYNCH, et al., individually and on behalf of *
others similarly situated, *

Plaintiffs, *

v. *

Civil Action No.
CV-08-S-0450-NE

THE STATE OF ALABAMA; BOB RILEY, in his *
official capacity as Governor of Alabama; and *
TIM RUSSELL, in his official capacity as *
Commissioner of Revenue, *

Defendants. *

AFFIDAVIT OF BOBBY SINGLETON

I, Bobby Singleton, declare under penalty of perjury, pursuant to 28 U.S.C.
§1746, as follows:

I am an African-American citizen of Alabama and the United States over the
age of nineteen years. I represent District 24 in the Alabama Senate, which
includes all of Sumter County and all or parts of other counties in the western
Black Belt, namely, Bibb, Choctaw, Greene, Hale, Marengo, Perry, and
Tuscaloosa. In the Senate I am Chair of the Tourism and Marketing Committee,
Deputy Chair of the Finance and Taxation - General Fund Committee, Vice Chair

of the Banking and Insurance Committee, and Chairman of the Alabama Legislative Black Caucus. I also serve as Economic Development Chairman of the West Alabama Rural Action Commission (WARAC) for Region 2.

African Americans constitute approximately one-fourth of the members of both houses of the Alabama Legislature. In the House 27 of 105 representatives are African Americans, and 8 of 35 senators are African Americans. All African-American members of the House and Senate participate in the Legislative Black Caucus, which undertakes to formulate and to advance a legislative agenda of particular interest to the black community. In practical political terms, the Legislative Black Caucus usually is able to block any proposed legislation to which it is strongly opposed, and it is able to exercise substantial influence with respect to proposed legislation it favors. All members of the Legislative Black Caucus are also members of the Legislative Democratic Caucus, which has majorities and chooses the leadership in both the House and Senate.

The Legislative Black Caucus has advocated for many years incremental reforms in Alabama's famously regressive and unfair taxation laws. However, because of restrictions on property taxes in the Alabama Constitution, the Lid Bill amendments in particular, it is impossible legislatively to reform the property tax system. This means our efforts to reduce the unfair burden of taxation our less

wealthy constituents must bear necessarily are limited to trying to reduce the sales and income taxes they must pay, which cannot be done without finding alternative revenue sources to replace the resulting losses to the Education Trust Fund.

I have served in the Alabama Senate since 2005, when I was elected to fill the unexpired term of Senator Charles Steele, an African-American citizen who resided in Tuscaloosa County. I was re-elected for a full term in 2006.

I have investigated records at the Sumter County Courthouse which show as follows: There are approximately 5,870 black registered voters and 2,200 white registered voters in Sumter County. In 1988 the voters approved an 11 mill ad valorem tax increase, and in 1990 the voters approved the renewal of a 3 mill school tax. In 1998, another millage increase (amount not shown on the election return) was approved by the voters.

The first effort to increase property taxes in Sumter County that I was involved in personally occurred in 2006. I was asked by the Chair of the Sumter County Board of Education and the Sumter County Superintendent of Education to procure legislative authorization of a referendum election to approve a further increase of 15 mills, which would be used primarily to build one centrally located high school to replace the county's two high schools in Livingston and York and to renovate existing facilities at the middle and elementary schools. Representative

Lucius Black, who is an African American, and I comprised the local legislative delegation for Sumter County. Because of the informal local courtesy rule that has long been observed in the Alabama Legislature, pursuant to which local laws that have the unanimous support of a county's local delegation are not opposed, I was able to introduce and to obtain passage of Act 2006-513, which submitted the proposed 15 mill increase to the voters of Sumter County as an amendment to the Alabama Constitution.

The Sumter County public school system has a virtually all-black student population. White Sumter students are sent to the private Sumter Academy or to the schools and private academies in neighboring Marengo and Greene Counties. Consequently, it is difficult to get white homeowners and land owners to support taxes to support the Sumter public schools, which are seriously under-funded and in desperate need of new facilities as well as adequate operating funds.

I campaigned actively for passage of the millage increase before the November 2006 referendum election. The Superintendent, School Board members and I met with school patrons, local communities, local elected officials, bankers, business people, and the administration of the University of West Alabama in Livingston to present plans for use of the additional school funds and to seek their support. However, ALFA and big landowners in Sumter County, many of whom

are corporations, like Gulf States Paper Company, and almost all of whom are white, like a local attorney who owns over 10,000 acres, aggressively opposed the millage increase, even though they would have experienced minimal increases in taxes on their farm and timber lands, which are assessed at current use values that are small fractions of their fair market values. I personally urged them to support the school tax, but to no avail.

Business owners, most but not all of whom are white, also opposed the millage increase, which is more understandable in light of the fact that the millage rate is applied to 20% of the fair market value of business property, a greater burden than that borne by homeowners, whose assessment ratio is 10% of fair market value, and by farm and timber owners, at 10% of only current use value. They joined with ALFA and other opponents to raise substantial funds to pay for a campaign against the millage increase. Their campaign ads and informal communications threatened black voters, many of whom do not own their homes, with increases in their rents and even loss of their jobs. A large, white-owned trucking company that is one of the largest employers in Sumter County threatened to move out of the county altogether if the referendum passed. During the referendum campaign Wal Mart did move out of Sumter County altogether and opened a super center in Marengo County. And the opposition campaign exploited

the proposed end of rivalry between the two high schools to urge African Americans to vote no.

Officials at the University of West Alabama, who were interested in buying the property that would have been vacated by Livingston High School, at first appeared receptive to my calls for support. But UWA's support disappeared when the business owners came out actively opposed to the millage increase. At this point both the majority-white Livingston City Council and the majority-black Sumter County Commission came out against us.

The referendum eventually failed by a vote of 3,037 to 2,126. This was a major setback to the Sumter County School System, because there is no other way it can raise local revenues. The sales tax is already at 9% in Sumter County, and there is almost no sales tax base, because most Sumter County residents do their major shopping in neighboring counties. The suggestion that Sumter County increase its millage levy to 50 or 100 mills simply is politically impossible under these circumstances.

It is clear to me and to all informed citizens of Alabama that we will never be able to address true reform of our inadequate and unfair state and local tax system so long as the restrictions on ad valorem taxes embedded in the state constitution remain. The relief requested by the plaintiffs in this lawsuit is

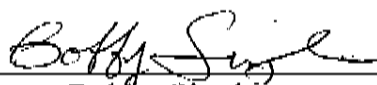
desperately needed if we ever hope to achieve racial and economic fairness.

It is my understanding that, if granted, the injunction requested by the plaintiffs would restore the uniformity requirement of section 211 of the Alabama Constitution and the last enforceable state statute dealing with assessment ratios, Ala.Acts 1935, No. 194, § 6, at 263, which, without further legislative action, would require current state and local millage rates to be applied against 60% of the fair market value of all property of whatever kind. If the 1935 statute is no longer enforceable, millage rates would have to be applied against 100% of the fair market value of all property. I am of the firm opinion that the Governor and Legislature would not allow ad valorem taxes on residential, farm and timber lands to increase by 600% or 1,000%. I am confident that the Legislative Black Caucus would successfully block any attempt to restore the state constitutional status quo ante. But I am also confident that we would work with the Governor and other members of the Legislature to reach a reasonable and politically realistic compromise.

There would be many steps that could be taken immediately through ordinary legislation without having to amend the Alabama Constitution, including adjustment of the statutory uniform assessment ratio, increasing the homestead exemption and other ad valorem exemptions, changes in sales taxes, and changes

in income taxes. I am sure the Legislative Black Caucus would urge reforms that avoid sudden and unreasonable burdens on taxpayers, particularly low and middle income citizens and homeowners. Nor would we support measures that undermine our ongoing efforts to attract new industries to Alabama and to promote economic development throughout the state. I believe the Governor and other members of the Legislature would share these goals and that, under the pressure of the requested injunction, we would find common ground. In short, in my opinion, if the Court granted the relief requested by the plaintiffs the government and people of Alabama at last would begin considering real tax reform. I would expect progress to be gradual, manageable, fair and realistic.

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


Bobby Singleton

Executed this 5 day of June, 2008.