

**An Assessment of Racially Polarized Voting
in Milwaukee, Wisconsin**

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RACIALLY-POLARIZED VOTING IN MILWAUKEE

The scope of racially polarized voting is not confined to the Section 5 states or to the South, but indeed occurs in places such as Wisconsin. During the 2002 federal trial to establish new state Assembly boundaries for the Badger State, the well-regarded University of Wisconsin political scientist David Canon entered testimony on behalf of plaintiffs arguing for the existence of racially polarized voting and significant differences in African-American versus Anglo participation in Milwaukee. The following data and analysis are drawn from Canon's reports and affidavits.

Canon's analysis focused on sixteen biracial elections within Milwaukee County. In fourteen of these contests, white turnout exceeded black turnout, often by double the rate of voter participation.

In his analysis, Canon found nine instances of "legally significant" racially polarized voting in black-versus-white contests: the 1992 Milwaukee County Executive primary, the 1992 House district 5 primary, the 1995 at-large school board primary, the 1996 Supreme Court primary, the 1996 Milwaukee Mayor's race (General election), the 1998 gubernatorial primary, the 1999 at-large school board election, and the 2000 Supreme Court general election. Eight of these contests were primaries or non-partisan contests, and in those eight contests, the white turnout rate was on average double that of the black turnout rate.

The average black vote for the black candidate (86.2%) in the eight polarized, primary or nonpartisan contests was comparable to the average white vote for the white candidate (85.2%). These levels of polarization are comparable to levels observed in the most polarized southern elections, and exceed the degree of polarization in recent Georgia elections. Overall, in the nine instances of legally significant polarization identified by Canon, black voters cast at least 89% of votes for the black candidate on six occasions while white voters cast at least 89% for the white candidates on three occasions.

Dr. Canon exhibits an explicit concern that Republicans in Wisconsin would use districting to locate black voters in such a fashion that a Voting Rights Act violation might occur. In his criticism of State Assembly redistricting plans advanced by the Assembly and Senate Republicans in 2002, Canon observed that:

"the black majorities are too small in the Republican plans, black voters will not be able to elect their candidates of choice in as many as four of the six black-majority districts. The highly -polarized nature of voting in Milwaukee County and the relatively low turnout of African-American voters means that the combined minority voting age population should be at least 65% and the African-American voting age population should be at least 60% in order to ensure that minority voters have an opportunity to elect candidates of their choice . . .

. given the relative lack of responsiveness of the Republican Party to the particular needs of minority voters, see “Electing ‘Candidates of Choice’ and Effective Minority Representation in the 2002 Wisconsin State Legislative Districts,” pp 27-30, the link between the creation of majority black districts and this partisan goal, and the dilution of black voting power by making it more difficult to elect minority candidates of choice, I believe that the State of Wisconsin would be subjected to legal liability under a “totality of circumstances” test under Section 2 of the Voting Rights Act.” (page 48-49)

Taken a step further, we should note that the Federal panel hearing this case sidestepped the issue by crafting a “best principles” map based on compactness and minimum population deviation. This map continued the five existing minority districts at relatively high percentages, and rejected an argument of “packing” of districts under the Democrat’s proposed maps in Milwaukee. While the argument is sidestepped, and a generally Republican map resulted from the court’s effort, they also implicitly accepted the logic of the Democrats by basically preserving the black districts of Milwaukee in a fashion consistent with the Democrat’s expert recommendation.

Here, we see motive and opportunity, and we have expert analysis that demonstrates polarization akin to the South, and prescribing a remedy much more intensive than that used in many southern jurisdictions – Dr. Canon says that the 65% district is still necessary in Milwaukee, while the need for the district has passed in many southern jurisdictions covered by Section 5, as demonstrated by Professor Epstein.

Please also note that while Epstein’s analysis was not accepted by the district court in Ashcroft, it was accepted by Justice O’Connor in her decision.

Reference: REBUTTAL/RESPONSE AFFIDAVIT OF DAVID T. CANON, Baumgart et al, v. Jensen & Panzer, (Sensenbrenner, et al, plaintiff intervenors), Eastern Federal District of Wisconsin, 01-C-121 (2002).