

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.

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.

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

**AFFIDAVIT OF DEWAYNE KEY**

I, DeWayne Key, declare under penalty of perjury, pursuant to 28

U.S.C. §1746, as follows:

I am a white citizen of Alabama and the United States over the age of nineteen years. I reside in Moulton, Lawrence County, Alabama. I served as Superintendent of the Lawrence County public school system from 1985 to 1993. I was an active participant in the so-called Equity Funding Cases in state court that ended in 2002.

According to the 2000 federal census, Lawrence County had a total population of 34,803 persons, of whom 4,648 or 13.4% were black or African American. There are no separate municipal school systems in Lawrence County. In the 2006-07 school year there were approximately 5,500 students enrolled in Lawrence County public schools, of whom 16% were black. See <ftp://ftp.alsde.edu/documents/ReportCards/2006-2007/040/040.pdf> and <http://www.schoolmatters.com/schools.aspx/q/page=dp/did=14047>. Less than 8% of school-age children attend private schools. See [http://www.city-data.com/county/Lawrence\\_County-AL.html](http://www.city-data.com/county/Lawrence_County-AL.html).

As the defendants' figures show, local tax revenues account for only \$2.7 million out of the total \$54 million school budget in Lawrence County. Our school system is seriously underfunded, and our school facilities are badly in need of repair.

In 1990 a referendum to increase ad valorem taxes by 3 mills for fire departments failed narrowly, 2,889 voting yes and 2,998 voting no. See Exhibit A. In 1992 a referendum to increase ad valorem taxes 11 mills for the public schools also failed, with approximately 60% voting no. See Exhibit B. There were only five precincts which voted in favor of the millage increase, and they were all majority-black precincts in County Commission District 1. On Exhibit B they are the first five precincts listed. The only other majority-black precinct, at Freeman Tabernacle Baptist Church, voted no 55 to 38. There has been no other referendum election for a millage increase since 1992.

As Superintendent I campaigned actively for the unsuccessful school tax increase in 1992. This millage increase failed, even though it was designed merely to replace a sales tax the county commission had levied to meet the minimum program contribution Lawrence County must make to its own school budget. Lawrence County levies a 3% sales tax on top of the 4% state sales tax. Of the 3% sales tax collected by the county, 2.5% goes to the schools, and the other .5% goes to the county commission. Additionally, in the town of Moulton, the county seat, a 2% sales tax is collected for the operation of the municipality. The other municipalities collect a 1% city tax.

To begin with, it is difficult even getting a property tax proposal on the ballot, because the school board must ask the county commission to request the local legislative delegation to pass a local act or proposed constitutional amendment. So there are at least three levels of politics to negotiate before any proposed millage increase gets to the voters. This explains to some extent why there have been so few property tax referendums in Lawrence County.

The 1992 school tax increase was opposed by ALFA Insurance Company, the Farm Bureau and other farm interests, even though a relatively small percentage of the population is engaged in commercial farming. Most residents of Lawrence County have jobs in neighboring counties. It has been my experience that the voters are easily confused by opponents' claims that their taxes will rise substantially. People did not understand that the 11 mill increase we sought in 1992 actually amounts to just a 1.1 mill increase, because the millage rate is applied to only 10% of the fair market value of residential property. Further, they do not understand that the 10% assessment ratio is applied to the current use value of farm and timber lands, which is much lower than their fair market value.

In my opinion, the biggest barriers to our ability to raise local revenues for our public schools are the assessment ratios in the Lid Bill

amendments that drastically reduce the base against which millage rates can be applied and that unfairly burden small business and residential property owners in relation to owners of farm and timber land. In addition, the layers of local and state government millage increases must pass through and the requirement of voter approval restrict the ability of local government effectively to manage local revenues.

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

A handwritten signature in black ink, appearing to read 'DeWayne Key', is written over a horizontal line. The signature is stylized and cursive.

DeWayne Key

Executed this 2<sup>nd</sup> day of June, 2008.