

POLITICS

# North Carolina Had No Choice

A House election tainted by fraud gets its inevitable do-over.

By David A. Graham



The former Republican congressional candidate Mark Harris (Chuck Burton / AP)

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The decision came after a dramatic day, during a dramatic hearing, in a dramatic race. North Carolina election officials on Thursday ordered a new election in the state's

fraud-tainted Ninth Congressional District, the only 2018 U.S. House race that still doesn't have a winner.

The contest between the Republican Mark Harris and the Democrat Dan McCready appeared to have been decided, albeit by a small margin, in Harris's favor on Election Night. Now voters will remain without congressional representation until a new election is held, following shocking revelations of a brazen scheme to break the law and swing the election using absentee ballots.

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The hearing, originally scheduled to last one day, was well into its fourth when Harris abruptly called for a new election. "Through the testimony I've listened to over the past three days, I believe a new election should be called," he said. "It has become clear to me that the public's confidence in the Ninth District-seat general election has been undermined to an extent that a new election is warranted."

A short time later, the State Board of Elections unanimously signaled its agreement, voting to order the new race.

By the time the board convened on Monday to consider the case, there was little doubt about the large-scale fraud in the race. Though Harris won by 905 votes in uncertified totals, an operative named McCrae Dowless had, according to numerous affidavits and accounts by people in Bladen County, run a huge scheme to stuff the ballot box for Harris using absentee votes. The major questions for the board this week were whether the election should be thrown out or certified and whether Harris was aware of the illegal activity.

Harris effectively resolved the first question on Thursday. After disastrous testimony during the morning, Harris returned to the witness stand in the afternoon and abruptly announced his support for a do-over, citing a recent illness, including two strokes he had suffered in January.

“Though I thought I was ready to undergo the rigors of this hearing and getting stronger, I clearly am not, and I struggled this morning with both recall and confusion,” Harris said, and then left.

As to the second question, of what Harris knew, the hearing did not produce an official ruling. “Neither I nor any of the leadership of my campaign were aware of or condone the improper activities that have been testified to in this hearing,” Harris said. But the hearing poked serious holes in his claims of ignorance of the scheme committed in his name.

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The first public intimation of fraud in the race came on November 27, when the state board unexpectedly refused to certify the contest, unlike the rest of the state's U.S. House races. Within days, evidence of long-running problems with elections in Bladen and Robeson Counties, in the state's southeast, emerged. In particular, it centered around Dowless, a local elected official and longtime political operative. Dowless had been convicted of felony fraud in 1992, before becoming a political operative, and as I reported in December, state election officials had long suspected him of criminal behavior.

Dowless's system was simple but effective. He or his staff would request absentee ballots on behalf of Bladen County voters, which is legal. They would then go to voters' houses when the ballots were sent. They would collect the ballots from the voters and take them away, after which, according to former workers, they would mark the ballots to vote for Dowless's preferred candidates and mail them. Taking possession of a voter's absentee ballot is against the law in North Carolina. Election officials said Dowless requested more than 1,200 ballots—more than Harris's 905-vote margin of victory. Other witnesses testified that, contrary to state law, poll workers had run vote totals before Election Day and informed Dowless of them. The problem is that due to historical absentee-ballot fraud, the state has unusually complete public records about absentee ballots, and statistics showed highly anomalous results in Bladen County.

Though the broad outlines of Dowless's scheme were clear when the hearing began, the four days of testimony still produced a series of shocking new developments.

"Everyone in Bladen County is related," one poll worker said on the stand, and the hearing proved to be a family affair. Some of the most dramatic testimony came from children—Dowless's former stepdaughter Lisa Britt, and Harris's son John, an assistant U.S. attorney in Raleigh.

Dowless himself refused to testify, but Britt—whose mother was previously married to Dowless—described the workings of his operation during Monday's hearing, including her own role in breaking the law.

"I don't want to get him in trouble. I don't want to get anyone in trouble," Britt said. "Mr. Dowless has been a father figure to me for 30 years. There's certain things you would place trust in. He's not going to put you out here to do something illegal."

Britt also testified that Dowless had tried to obstruct the state-board investigation, encouraging her not to tell the truth about his operation both to the press and then at the hearing.

Next up was Andy Yates, a political consultant who worked for Harris and through whose company Dowless was paid. Yates testified that he had been unaware of any wrongdoing by Dowless, but also said that though he had paid Dowless through his company, Harris had decided to employ Dowless before Yates was hired, and that Harris and Dowless had been in frequent, direct contact.

All of this turned out to be a warm-up for even more stunning testimony. On Wednesday, the board heard from John Harris, Mark Harris's son. John Harris testified that he first became concerned about irregularities in Bladen County during the 2016 GOP primary for the same seat, which Harris lost to then-Representative Robert Pittenger. Poring over election results, John Harris noticed a peculiar pattern of absentee ballots in favor of a third candidate, who happened to be employing Dowless.

Ahead of the 2018 election cycle, Mark Harris met with Dowless to talk to him about running. As John Harris recounted, he warned his father that Dowless, whom he called a “shady character,” might be breaking the law, and emailed his father the text of the state law that prohibits ballot harvesting. But Mark Harris decided to hire Dowless anyway. John Harris also testified that all members of the Harris campaign had been paid through Yates’s company in order to create political distance. On the stand, John Harris expressed regret that he hadn’t pushed his father harder, and said he concluded that his father sincerely believed Dowless’s assurances that he wasn’t breaking the law.

“I love my dad and I love my mom. I certainly have no vendetta against them,” John Harris said, as his father, seated in the hearing room, cried. “I think they made mistakes in this process, and they certainly did things differently than I would have done them.”

Yet there were additional reasons to doubt Mark Harris’s frankness. In 2016, according to an email revealed Wednesday, Harris joked about Dowless filing a complaint about alleged Democratic election fraud. “Guess he didn’t like the Dems cutting into his business!” Harris wrote. In a 2017 message to a political ally, he wrote, “You know the political and financial connections better than anyone else I would know, including the guy whose absentee ballot project for [his 2016 primary opponent Todd] Johnson could have put me in the U.S. House this term, had I known, and he had been helping us.”

Harris acknowledged that when he met with Dowless, he was aware that he had worked for Johnson’s campaign. Both Harris and Yates said they had neither looked closely into Dowless’s criminal history nor closely supervised his work. Asked why he had not heeded his son’s warnings, Harris replied, “I just believed he was overreacting ... I’m his dad, and I know he’s a little judgmental, and has a little taste of arrogance.”

Beyond that, several documents from the Harris campaign weren’t handed over to state officials until the week of the hearing. The message about “the guy whose absentee ballot project for Johnson” wasn’t produced until Thursday morning, and Harris’s attorneys seemed unable to explain why. John Harris also testified about

emails that he had handed over to state investigators that the Harris campaign had failed to produce.

Mark Harris testified that he had paid Dowless through a political-action committee, which is likely a violation of election laws, though Harris said he was unaware of that. And during Thursday morning's testimony, he made several statements that he was forced to correct later in the day.

The result was that by Thursday afternoon, a new election seemed like a foregone conclusion, and Harris's laboriously read call for a new election sealed the matter. Harris had argued since November that he ought to be seated, even attempting to sue for his election to be certified. He will not go to the House now, his candidacy in the new election seems highly unlikely, and he faces potential ongoing legal investigations of his campaign.

Dallas Woodhouse, the executive director of the North Carolina GOP, combatively defended Harris throughout the process. On Tuesday, he tweeted, "Today I ask for everyone's prayers for [Mark Harris]. Today is a tremendously difficult day for his family, supporters and the entire NCGOP. We support our candidates decision in this matter. We will do everything we can to help the process and system improve in the future."

McCready, meanwhile, heralded the result. "From the moment the first vote was stolen in North Carolina, from the moment the first voice was silenced by election fraud, the people have deserved justice. Today was a great step forward for democracy in North Carolina," he tweeted.

The Ninth District was one of the most closely watched districts in the country in November, forecast as a potential Democratic pickup. Harris, an evangelical minister and hard-line conservative, was seen as a weaker candidate than Pittenger, the incumbent whom Harris had defeated in the Republican primary, while McCready, a young Marine veteran, seemed like the type of moderate Democrat who could put the district in play.

While the dates of the new election are not yet set, there will be both a primary and a general election under a law passed by the General Assembly in December. Assuming Harris does not run, as seems likely, the election will likely pit McCready, who has continued to raise money for a new election, against the winner of a Republican primary. Pittenger has said he is not interested in running.

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The investigation into the Ninth District race revealed a long-running seam of corruption in elections in Bladen and Robeson Counties, a rural region that even experienced North Carolina political hands effectively regard as the Wild West. (There's evidence of fraud benefiting Democrats in the counties, as well.)

But the investigation also made a mockery of recent political battles over election fraud in the state. Republicans have spent years pushing strict voting laws, including a photo-ID requirement and reduced early voting. Proponents say these changes are essential to preventing in-person voting fraud, but critics note that the laws disproportionately affect Democratic voters, and that there is no evidence for widespread voter fraud. After a federal court struck down a 2013 voting law for targeting black voters “with almost surgical precision,” GOP legislators placed an item on the November ballot creating a constitutional amendment to require photo ID.

Voters approved the amendment in the same election that Dowless's operation was working to hand Harris a majority in the Ninth District. The real fraud had been going on all along, and had nothing to do with photo ID. Dowless's reign as the vote fixer of Bladen County seems over, and legislators have passed changes to the law designed to make absentee-ballot fraud more difficult. But after years of focusing on illusory voting fraud, it's not clear whether the state has a grip on the actual problem of electoral fraud.



