

**IN THE UNITED STATES DISTRICT COURT
 NOTHERN DISTRICT OF ALABAMA
 SOUTHERN DIVISION**

| | | |
|--|---|------------------------------------|
| BOBBY SINGLETON, RODGER |) | |
| SMITHERMAN, EDDIE BILLINGSLEY, |) | |
| LEONETTE W. SLAY, DARRYL |) | |
| ANDREWS, and ANDREW WALKER, |) | |
| |) | Civil NO. 2:21-CV-01291-AMM |
| Plaintiffs, |) | |
| |) | THREE-JUDGE COURT |
| v. |) | |
| |) | |
| JOHN H. MERRILL, in his official |) | |
| capacity as Alabama Secretary of State, |) | |
| |) | |
| Defendant. |) | |

MOTION TO SET EXPEDITED SCHEUDLING CONFERENCE

Plaintiffs hereby move the Court to set a Scheduling Conference as soon as practical, hopefully within a week, to enable the three-judge panel to hear this action and provide relief in time before Alabama’s January 28, 2022, qualifying date for the May 2022 primaries. As grounds for this motion, Plaintiffs state as follows:

1. On November 4, 2021, Plaintiffs filed an Amended Complaint. Doc. 15. The Amended Complaint challenges Alabama’s new Congressional redistricting plan, Act No. 2021-555, signed by Governor Ivey on November 4, 2021.
2. The Amended Complaint moots Defendant’s motion to dismiss, Doc. 11, the only motion pending at this time.

3. Alabama's new Congressional redistricting plan is racially gerrymandered, packing black voters in a single majority-black Congressional district and intentionally diluting their voting strength in other districts. Doc. 15.

4. This action was brought to require the Alabama Legislature to enact a new districting plan with 2020 census data that remedies the existing unconstitutional gerrymander by restoring Alabama's traditional redistricting principle of drawing its Congressional districts with whole counties.

5. To remedy a racial gerrymander, the Legislature must not allow traditional redistricting principles to be subordinated to racial considerations, unless they are necessary to satisfy a narrowly tailored, compelling state interest. *E.g.*, *Alabama Legislative Black Caucus v. Alabama*, 575 U.S. 254, 272 (2015); *Abrams v. Johnson*, 521 U.S. 74, 81, 85-86 (1997).

6. Instead of adopting Plaintiff's Whole County Plan, the legislature in Act No. 2021-555 has developed a redistricting plan that perpetuates the 2011 racial gerrymander. At this late date, only a remedial Congressional redistricting plan ordered by this Court can cure this constitutional violation in time for the May 24, 2022, primary elections.

7. Defendant John Merrill is sued in his official capacity as the Alabama Secretary of State. As Secretary of State, Defendant Merrill certifies, to the judge

of probate of each county, the names of candidates for members of Congress to be placed on the ballot in the primary election, Ala. Code § 17-13-5(b).

8. Under the Administrative Calendar published by the Secretary of State, <https://www.sos.alabama.gov/sites/default/files/Admin%20Calendar%20-2022%20-%2020211012.pdf>, “Candidates seeking nomination by a party primary must file declaration of candidacy with state party chairman (if seeking federal, state, circuit, district, or legislative office) ... no later than this day [January 28, 2022] by 5 PM; 116 days before the election. [§ 17-13-5(a)].”

9. Potential candidates should know the district in which they might run weeks before the current qualifying deadline of January 28, 2022.

10. Therefore, time is of the essence for this action, and a final hearing in November or December 2021, well before the 2022 primary elections, by the three-judge panel is needed or this Court will not be able to provide meaningful relief for the 2022 elections.

WHEREFORE, Plaintiffs request this Court to set a Scheduling Conference as soon as practical, hopefully within a week, to expedite this action.

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CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will give notice of such filing to the following:

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