

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**BOBBY SINGLETON et al.,**

**Plaintiffs,**

**v.**

**Case No.: 2:21-cv-01291-AMM**

**JOHN H. MERRILL, in his official  
capacity as Alabama Secretary of State,  
et al.,**

**Three-Judge Court**

**Defendants.**

**PLAINTIFFS' RENEWED MOTION FOR A PRELIMINARY  
INJUNCTION AND MEMORANDUM OF LAW IN SUPPORT**

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## INTRODUCTION

Pursuant to this Court's order, ECF No. 45, Plaintiffs Bobby Singleton et al. move for a preliminary injunction pursuant to Fed. R. Civ. P. 65(a), and 28 U.S.C. § 2284(b). This motion seeks preliminary relief with respect only to Count I of the Amended Complaint, i.e., racial gerrymandering.

Secretary Merrill has conceded in prior litigation that Alabama's 1992 Congressional districting plan was a racial gerrymander. All Defendants in this case have likewise stipulated that the predominant purpose of the 1992 plan was to draw a majority-Black district, which is the definition of a racial gerrymander. *Miller v. Johnson*, 515 U.S. 900, 916 (1995). Secretary Merrill has also conceded that the 2001 and 2011 plans were drawn the way they were because of race. Randolph Hinaman, who drew the 1992, 2011, and 2021 plans and consulted with the Legislature's Republicans on the 2001 plan, Ex. 1 (Hinaman Tr.) at 26:7–27:3, has testified that the 2011 plan can be traced back to the 1992 plan, that he used the 2011 plan as the starting point for the 2021 plan, and that he made no attempt to correct for the race-based line-drawing that characterized the 2011 plan and its predecessors. *Id.* at 39:12–16, 84:1–87:17. Secretary Merrill's own expert agrees that the approach to drawing the 2021 plan was to effect the "least change" from the 2011 plan. ECF No. 54-1 at 22. In short, the 2011 plan indisputably was a racial gerrymander, and no effort was made to remedy that gerrymander in the 2021 plan.



Recent decisions of the Supreme Court, including *Cooper v. Harris*, 137 S. Ct. 1455 (2017), *North Carolina v. Covington*, 138 S. Ct. 2548 (2018), and *Abbott v. Perez*, 138 S. Ct. 2305 (2018), hold that Section 2 of the Voting Rights Act cannot justify the perpetuation of a racially gerrymandered, majority-Black Congressional district when a legislature had no reason to believe that such a district was necessary to give Black voters the opportunity to elect the candidate of their choice. Here, the Alabama Legislature not only failed to perform any analysis that would have indicated that a single majority-Black district was necessary, but also absolved itself of any substantial involvement in the drawing of the plan, which it left to Mr. Hinaman and Alabama's Congressional delegation. Therefore, the racial gerrymander in the 2021 plan was unconstitutional.

The Legislature did not have to adopt an unconstitutional plan. Plaintiffs Rodger Smitherman and Bobby Singleton submitted to the Legislature three plans that eliminate the racial gerrymander and honor Alabama's traditional districting principle that Congressional districts should respect county boundaries where possible. They abide by the principle of "one person, one vote" as established by the Supreme Court, they connect Jefferson County to the counties with which it shared a district before it was large enough to form its own district, and they preserve the Black Belt as a community of interest better than the enacted plan. While these plans were drawn without gerrymandering, they nevertheless comply with Section 2 of the

Voting Rights Act by providing two effective opportunity districts with Black voting-age populations less than 50%. The Legislature essentially ignored these plans in favor of the unlawful racially gerrymandered plan it adopted.

Most of the evidence this Court will receive at the January 4 hearing will concern what remedy is required by the Constitution and the Voting Rights Act. First, because the racial gerrymander is unconstitutional, this Court should preliminarily enjoin Secretary Merrill from conducting the 2022 election using the enacted plan. Second, if this Court determines that the Legislature is entitled to an opportunity to remedy the racial gerrymander itself before the January 28 deadline for candidates to declare their candidacy, it can and should indicate that all three of the Plaintiffs' plans are constitutional. Third, because there is no guarantee that the Legislature will enact a constitutional plan, the Court should choose one of the Plaintiffs' three plans, and order that it will go into effect if the Legislature has not enacted a constitutional plan by January 28. These remedies will protect the constitutional rights of Alabama's voters.

## **BACKGROUND**

### **I. The Origins of Alabama's Racial Gerrymander**

Alabama's Congressional districts did not divide counties from 1822 (when districts were first drawn) until 1965, when the Alabama Legislature split Jefferson County to comply with the Supreme Court's ruling that Congressional districts must

not have wide disparities in population. Stipulated Facts (ECF No. 47) ¶¶ 4, 9, 10 (citing *Wesberry v. Sanders*, 376 U.S. 1 (1964)). In 1965, splitting Jefferson County was unavoidable because its population exceeded the ideal population of a Congressional district by a significant margin. *Id.* ¶¶ 7, 10. In the 1965 plan and the plan following the 1970 census, Jefferson County was the only county in Alabama whose boundaries were split among multiple districts. *Id.* ¶ 11. In the plan following the 1980 census, only Jefferson and St. Clair Counties were split. *Id.* ¶ 13.

In 1992 a court-ordered plan, designed specifically to allocate voters by race, split several counties in District 7. Following the 1990 census, certain Black citizens of Alabama filed suit against State officials, alleging that the existing Congressional districts violated Section 2 of the Voting Rights Act by denying them “meaningful access to the voting process that would allow them to elect candidates of their choice.” *Wesch v. Hunt*, 785 F. Supp. 1491, 1493 (S.D. Ala. 1992) (three-judge court), *aff’d sub nom. Camp v. Wesch*, 504 U.S. 902 (1992), *Figures v. Hunt*, 507 U.S. 901 (1993). The 1990 census data allegedly showed that “the African–American population in Alabama is sufficiently compact and contiguous to permit the creation of a congressional district in which 65% or more of the residents are African–Americans.” *Id.* The parties to the suit “agree[d] that such a district should be created.” *Id.* at 1493–94. The Alabama Legislature failed to enact a new districting plan in time for preclearance by the Department of Justice before the 1992

election, requiring the court to order a plan itself. *Id.* at 1494–95. The court accepted the stipulation of all parties that the Voting Rights Act justified the creation of that one majority-black Congressional district, without making a judicial finding that the agreed upon plan actually was justified by Section 2 of the Voting Rights Act. *Id.* at 1499. Ultimately, the court adopted a plan that concentrated Black citizens in District 7, where they constituted 67.53% of the population. *Id.* at 1581. To do so, the plan split Jefferson, Tuscaloosa, Montgomery, Clarke, and Pickens Counties, placing a relatively large share of Black citizens in District 7 and a relatively small share in other districts. *Id.* at 1582.<sup>1</sup> Among the ways this split manifests on the map are a “finger” reaching into Jefferson County to encompass the Black population of Birmingham while mostly avoiding the relatively White northern and southern suburbs; a line through the City of Tuscaloosa that places the relatively Black southern portion in District 7 and largely excludes the relatively White northern portion; and the inclusion of the predominantly Black western portion of Montgomery County but not the predominantly White eastern portion. *See id.* The court’s overriding concern was explicitly racial; it honored the parties’ stipulation that District 7 be at least 65% Black, and its opinion included 79 pages of tables that

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<sup>1</sup> The population of Jefferson County in District 7 was 75% Black, compared to 35% in the county overall. Disparities also existed for Tuscaloosa County (40% v. 26%), Montgomery County (80% v. 42%), Clarke County (56% v. 43%), and Pickens County (75% v. 42%). *Wesch*, 785 F. Supp. at 1505–07, 1558, 1569, 1575, 1577, 1581.

described the population of each district by race and no other attribute. *Id.* at 1498–99, 1503–81.

In 2019, Secretary Merrill conceded that the 1992 court-approved plan would violate the prohibition of racial gerrymandering first announced by the Supreme Court a year after *Wesch* was decided. *See Shaw v. Reno*, 509 U.S. 630 (1993). In his pretrial brief in *Chestnut v. Merrill*, he stated,

District 7 appears to be racially gerrymandered, with a finger sticking up from the black belt for the sole purpose of grabbing the black population of Jefferson County. Defendant does not believe that the law would permit Alabama to draw that district today if the finger into Jefferson County was for the predomina[nt] purpose of drawing African American voters into the district. Alabama did so in the early 1990s as part of a consent decree ....

*Chestnut v. Merrill*, No. 2:18-CV-00907-KOB (N.D. Ala. Oct. 28, 2019), ECF No. 101 at 11 (“*Chestnut Br.*”). (Secretary Merrill and the other Defendants have stipulated here that the 1992 plan split Jefferson County and other counties “for the predominant purpose of drawing a one majority-black District.” ECF No. 47 at ¶ 14.) Secretary Merrill also admitted in *Chestnut* that the State carried forward the racial gerrymander in the plans that followed the 2000 and 2010 censuses: “once the district existed, Alabama had to continue to draw the district in order to comply with Section 5’s anti-retrogression requirement.” *Id.* at 11–12; *see also* Am. Compl. (ECF No. 15) at 9, 28 (maps of the 2002 and 2011 plans). Here, Secretary Merrill was referring to Section 5 of the Voting Rights Act, whose purpose “has always been to

insure that no voting-procedure changes would be made that would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.” *Beer v. United States*, 425 U.S. 130, 141 (1976).

Randolph Hinaman, who drew the 1992 plan adopted in *Wesch*, consulted with the Legislature’s Republicans on the 2001 plan, and drew the 2011 and 2021 plans, recently confirmed what Secretary Merrill has admitted: that the 2001, 2011, and 2021 plans perpetuated the basic features of the 1992 plan. Ex. 1 at 39:12–16. Mr. Hinaman’s testimony is unsurprising, given the near-total resemblance of the 1992 and 2011 plans. With just one exception, District 7 in both plans contains the same whole counties and the same split counties, reaching into Jefferson, Tuscaloosa, and Montgomery Counties to draw Black voters into the district.<sup>2</sup>

## **II. The 2021 Plan Perpetuates the Racial Gerrymander.**

Alabama was prohibited from making such changes without preclearance from the Department of Justice until 2013, when the Supreme Court held the coverage formula in Section 4 of the Voting Rights Act unconstitutional in *Shelby County v. Holder*, 570 U.S. 529 (2013). As Secretary Merrill explained in 2019,

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<sup>2</sup> The exception is Pickens County, which was split between Districts 4 and 7 in the 1992 plan but was entirely within District 7 in the 2011 plan. Am. Compl. (ECF No. 15) at 9, 26 (maps of the 1992 and 2011 plans). According to the Census Bureau, the population of Pickens County was 19,746 in 2010, meaning the change affected a small portion of the approximately 683,000 people in the district.

“Today, with Section 5 effectively tabled, Alabama has more liberty to draw its districts differently.” *Chestnut Br.* at 12.

Despite this newfound liberty, Alabama’s 2021 plan draws District 7 strikingly similarly to its prior racially gerrymandered versions. The most noticeable change is that the new district is geographically larger, which was unavoidable because the existing district’s population was 53,143 people below the population of an ideal district. Am. Compl. (ECF No. 15) at 39 ¶ 57; *id.* at 9, 36; *see* Ex. 1 (Hinaman Tr.) at 211:16–22. Nevertheless, it retains key features of the racial gerrymander. The new District 7 “retains all or part of the same fourteen counties contained in District 7 in the 2011 plan, including the majority-Black rural counties, Sumter, Greene, Hale, Perry, Marengo, Dallas, Wilcox, and Lowndes.” ECF No. 47 ¶ 19. It still reaches into Jefferson County to encompass the Black population of Birmingham while mostly avoiding the relatively White northern and southern suburbs. Am. Compl. (ECF No. 15) at 36 (2021 map). It still draws a line through the City of Tuscaloosa that places the relatively Black southern portion in District 7 and largely excludes the relatively White northern portion. *Id.* And it still reaches into the predominantly Black western portion of Montgomery County but not the

predominantly White eastern portion. *Id.*<sup>3</sup> These continuing features of the district were undisputedly created in 1992 as part of a redistricting plan driven by race.

Mr. Hinaman did not attempt to remedy the race-driven design of the 2011 plan when he drafted the 2021 plan. Ex. 1 (Hinaman Tr.) at 94:5–11, 97:20–98:23, 142:13–143:12. Instead, he took the 2011 plan as his starting point, and asked the members of Alabama’s Congressional delegation where they preferred to gain or lose constituents in order to maintain equally populated districts. *Id.* at 68:14–73:19, 84:1–85:18, 102:23–105:7. No member of the Alabama Legislature had any substantive involvement with the creation of the 2021 plan. *Id.* at 87:12–17. With limited exceptions, Mr. Hinaman kept the 2021 plan as close to the 2011 plan as possible.<sup>4</sup> Secretary Merrill’s own expert has described the 2021 plan as a “least change approach,” and pointed out that approximately 90% of the total population and 90% of the Black population of District 7 in 2011 remained there in 2021. Report of Thomas M. Bryan (ECF No. 54-1) at 22. Mr. Hinaman’s testimony and the expert’s report are consistent with the maps themselves, which show only marginal changes in the shapes of all seven districts. *Compare* Am. Compl. (ECF No. 15 at 9

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<sup>3</sup> The new District 7 eliminates the split in Clarke County, but this change affects only about 1% of the district’s population.

<sup>4</sup> Mr. Hinaman said that he allocated certain precincts based on a Representative’s specific request. For example, at Representative Sewell’s request, he unified the Acadome precinct in District 7 and removed the Whitfield precinct. Ex. 1 at 103:9–104:7; *see also id.* 113:25–117:1 (other requests from Representative Sewell). He also removed the northeasternmost precincts in Jefferson County from District 7 and added precincts in Homewood and southwestern Jefferson County to increase the compactness of the district. *Id.* at 132:2–19.



(2011 map) *with id.* at 36 (2021 map). The Black Voting Age Population in District 7 did decrease from about 60% to 54%, but not through any conscious effort on Mr. Hinaman's part. Ex. 1 (Hinaman Tr.) at 74:9–14, 97:20–99:25, 100:8–101:3, 142:13–22. In short, in 2021 no one attempted to remedy the racial gerrymander that began in 1992 and carried through to the 2011 plan. In fact, they did the opposite: they tried to keep the 2011 plan intact.

## ARGUMENT

### **I. Plaintiffs Are Entitled to a Preliminary Injunction Barring Secretary Merrill from Conducting Elections Under an Unconstitutional Plan.**

To prevail on a motion for a preliminary injunction, Plaintiffs must show: (1) a substantial likelihood that they will succeed on the merits; (2) that the preliminary injunction is necessary to prevent irreparable injury; (3) that the threatened injury absent an injunction outweighs the injury an injunction may impose on Defendant; and (4) that the injunction would not be adverse to the public interest. *See Osmose, Inc. v. Viance, LLC*, 612 F.3d 1298, 1307 (11th Cir. 2010); *Energy Four, Inc. v. Dornier Med. Sys., Inc.*, 765 F. Supp. 724, 732 (N.D. Ga. 1991). The decision to grant preliminary injunctive relief is within the broad discretion of the district court. *See United States v. Georgia*, 892 F. Supp. 2d 1367, 1372 (N.D. Ga. 2012) (granting motion for preliminary injunction).

The purpose of a preliminary injunction is “to prevent irreparable injury so as to preserve the court’s ability to render a meaningful decision on the merits.” *United States v. Alabama*, 791 F.2d 1450, 1459 (11th Cir. 1986) (affirming preliminary injunction). An injury is considered to be irreparable “if it cannot be undone through monetary remedies.” *Scott v. Roberts*, 612 F.3d 1279, 1295 (11th Cir. 2010); *Cunningham v. Adams*, 808 F.2d 815, 821 (11th Cir. 1987); *see also Charles H. Wesley Educ. Found., Inc. v. Cox*, 324 F. Supp. 2d 1358, 1368 (N.D. Ga. 2004) (*Cox I*), *aff’d*, 408 F.3d 1349 (11th Cir. 2005) (*Cox II*) (“no monetary award can remedy the fact that [plaintiff] will not be permitted to vote in the precinct of her new residence.”); *see also United States v. Georgia*, 892 F. Supp. 2d 1367, 1377 (N.D. Ga. 2012) (entering a preliminary injunction where “the potential deprivation of the ability to vote, the most basic of American citizens’ rights, outweigh[ed] the cost and inconvenience” that the state might suffer, which were comparatively minor).

As explained below, injunctive relief is warranted because all four elements strongly weigh in Plaintiffs’ favor. Plaintiffs are likely to succeed on the merits. They will suffer irreparable harm if the 2022 elections conducted using constitutionally infirm districts. The balance of hardships weighs in favor of Plaintiffs as well: Alabamians’ fundamental right to vote would be infringed absent an injunction, outweighing any burden that Defendant might experience in

complying with the requested injunction. And the requested injunction would serve the public interest because protecting the right to vote is unquestionably in the public interest.

**A. Plaintiffs Are Likely To Prevail On The Merits Of Their Claim Of An Unconstitutional Racial Gerrymander.**

**1. A Racial Gerrymander Exists Where Race Predominates in the Design of a District.**

A claim of racial gerrymandering requires “a two-step analysis.” *Cooper v. Harris*, 137 S. Ct. 1455, 1463 (2017). “First, the plaintiff must prove that ‘race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.’” *Id.* (quoting *Miller v. Johnson*, 515 U.S. 900, 916 (1995)). “Second, if racial considerations predominated over others, the design of the district must withstand strict scrutiny. The burden thus shifts to the State to prove that its race-based sorting of voters serves a ‘compelling interest’ and is ‘narrowly tailored’ to that end.” *Id.* at 1464 (citations omitted). Here, the new District 7 closely resembles previous districts undisputedly drawn with race as the predominant factor. No compelling interest requires this; a racial gerrymander of District 7 is unnecessary to comply with the Voting Rights Act. Therefore, the 2021 redistricting plan violates the Constitution.

The Equal Protection Clause of the Fourteenth Amendment “prohibits a State, without sufficient justification, from ‘separat[ing] its citizens into different voting

districts on the basis of race.’” *Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788, 792 (2017) (citing *Miller v. Johnson*, 515 U.S. 900, 911 (1995)). “A racial gerrymandering claim ... applies to the boundaries of individual districts.” *Ala. Legislative Black Caucus v. Alabama*, 575 U.S. 254, 263 (2015). The Supreme Court has explained that the harms of a racial gerrymander “are personal. They include being ‘personally ... subjected to [a] racial classification,’ as well as being represented by a legislator who believes his ‘primary obligation is to represent only the members’ of a particular racial group.” *Ala. Legis. Black Caucus*, 575 U.S. 263 (quoting *Bush v. Vera*, 517 U.S. 952, 957 (1996) (O’Connor, J.) and *Shaw v. Reno*, 509 U.S. 630, 648 (1993)).

Importantly, the Supreme Court has explained that, even if the state’s ultimate aim is a partisan one, the use of race as a proxy for partisanship triggers strict scrutiny:

[I]f legislators use race as their predominant districting criterion with the end goal of advancing their partisan interests ... their action still triggers strict scrutiny. In other words, the sorting of voters on the grounds of their race remains suspect even if race is meant to function as a proxy for other (including political) characteristics.

*Cooper v. Harris*, 137 S. Ct. at 1473 n.7 (citations omitted); *id.* at 1464 n.1 (noting that a plaintiff succeeds in showing that race predominated “even if the evidence reveals that a legislature elevated race to the predominant criterion in order to advance other goals, including political ones”); *see also Vera*, 517 U.S. at 968 (“[T]o

the extent that race is used as a proxy for political characteristics, a racial stereotype requiring strict scrutiny is in operation.”).

To prevail on a racial gerrymandering claim, the plaintiff must first show “that race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.” *Bethune-Hill*, 137 S. Ct. at 797 (citing *Miller*, 515 U.S. at 916). If the plaintiff shows that race was the predominant factor, “the burden shifts to the State to ‘demonstrate that its districting legislation is narrowly tailored to achieve a compelling interest.’” *Bethune-Hill*, 137 S. Ct. at 801 (citing *Miller*, 515 U.S. at 920).

To satisfy the “race as predominant factor” requirement, the plaintiff “must prove that the legislature subordinated traditional race-neutral districting principles ... to racial considerations.” *Bethune-Hill*, 137 S. Ct. at 801. Further, the fact that the lines in question could have been drawn with race-neutral criteria does not preclude a finding that race was the predominant factor used to draw the district boundaries. *Id.* at 799 (“The racial predominance inquiry concerns the actual considerations that provided the essential basis for the lines drawn, not post hoc justifications the legislature in theory could have used but in reality did not”); accord, *North Carolina v. Covington*, 138 S.Ct. 2548, 2553 (2018) (“The defendants’ insistence that the 2017 legislature did not look at racial data in drawing remedial districts does little to undermine the District Court’s conclusion—based on evidence

concerning the shape and demographics of those districts—that the districts unconstitutionally sort voters on the basis of race.”) (citation omitted).

To prove that race was the predominant factor in a redistricting decision, the plaintiff may rely on “‘direct evidence’ of legislative intent, ‘circumstantial evidence of a district’s shape and demographics,’ or a mix of both.” *Cooper*, 137 S. Ct. at 1464 (citation omitted); see *Davis v. Chiles*, 139 F.3d 1414, 1424 (11th Cir. 1998) (“A court may base such a finding either on circumstantial evidence regarding a district’s shape and demographics or on direct evidence of a district-drawer’s purpose.”). Redistricting maps that violate traditional redistricting principles, for example, may constitute evidence of an unconstitutional racial gerrymander. See *Bethune-Hill*, 137 S. Ct. at 799 (“in general, legislatures that engage in impermissible race-based redistricting will find it necessary to depart from traditional principles in order to do so.”).

## 2. Race Predominated in the Creation of District 7, Resulting in a Racial Gerrymander.

The Defendants have stipulated that race was the predominant factor when the district court adopted District 7 in 1992. ECF No. 47 ¶ 14. As described above, the court in *Wesch* accepted the parties’ stipulation that the district’s population should be at least 65% Black, and it chose a plan that split an unprecedented number of counties in order to include their relatively Black areas while excluding relatively White ones. Although the court reviewed other aspects of the plans it considered,

such as “the desirability of preserving compactness, cores of all districts, communities of interest, and political subdivisions,” *Wesch*, 785 F. Supp. at 1499, these were secondary to the overriding objective that the district be at least 65% Black.

Secretary Merrill has admitted that race also drove Alabama’s redistricting plans after the 2000 and 2010 censuses as well. These plans, which left District 7 largely intact,<sup>5</sup> were drawn allegedly to avoid retrogression—in other words, to keep the Black population high enough to avoid running afoul of the preclearance requirement of Section 5 of the Voting Rights Act. *See supra* pp. 6–7. Thus, both the 2001 and 2011 plans were racial gerrymanders as well.

### **3. The 2021 Plan Carried Forward and Made No Attempt to Remedy the Racial Gerrymander.**

As Mr. Hinaman testified, the 2021 plan started with the 2011 plan and added or subtracted population from each district to maintain population equality, subject to the political desires of the Congressional delegation. No attempt whatsoever was made to remedy the racial gerrymander inherent in the 2011 plan. Of the residents of the previous District 7, about 90% will remain in the new District 7. The “eye test” also indicates that the districts are largely the same: they still carve up

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<sup>5</sup> The most notable exception was the transfer of Lowndes County and a portion of western Montgomery County to District 2 following the 2000 census. Am. Compl. (ECF No. 15) at 28 (2002 map). Lowndes County and another portion of western Montgomery County returned to District 7 following the 2010 census. *Id.* at 9 (2011 map).

Montgomery, Tuscaloosa, and Jefferson Counties in similar ways that result in a high concentration of Black voters in the district. In fact, 74% of the Black population in District 7 comes from those three counties. ECF No. 47 ¶ 20.<sup>6</sup> These observations are consistent with the evidence that the new redistricting plan was designed largely to preserve existing districts. Strict scrutiny applies to the Legislature’s decision to adopt it. *Cooper v. Harris*, 137 S. Ct. at 1464.

To be sure, the new District 7 is not identical to the previous one. Many precincts have been added because the population needed to be increased by about 53,000. The “finger” that reaches into Jefferson County has been blunted somewhat by moving the Center Point area into District 6 and adding other Jefferson County precincts to District 7, but Mr. Hinaman testified that this change was made to increase to compactness of the district. Ex. 1 (Hinaman Tr.) at 132:29–19. Nevertheless, the new District 7 is mostly the same as the previous one.

The Defendants may argue that these marginal changes to District 7 defeat its status as a racial gerrymander. The best response is from Secretary Merrill himself: “The answer to the question of how much racial gerrymandering is okay is ‘zero.’” *Chestnut Br.* at 11. The vast majority of the district is drawn the way it is because of a racial gerrymander; most of the people in the district are there primarily because

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<sup>6</sup> The portion of Jefferson County in District 7 is 62.8% Black, compared to 27.6% for the rest of the county. ECF No. 47 ¶ 21. There are wide disparities in Tuscaloosa County (37.0% v. 8.3%) and Montgomery County (80.7% v. 50.2%) as well. *Id.* ¶¶ 22–23.



of their race. Adding voters to the district (which was required anyway to maintain population equality) and moving a small fraction of voters out of the district does not change that fact. District 7 will constitute a racial gerrymander until the Legislature or this Court redraws it using traditional districting principles that comply with the Constitution. As Secretary Merrill said, “The DOJ-required discrimination of 1992 cannot excuse new discrimination in 2021.” *Id.* at 12.

**4. The Racially Gerrymandered District 7 Is Not Narrowly Tailored to Further a Compelling State Interest.**

As Secretary Merrill has conceded, whether or not compliance with the Voting Rights Act may have justified packing Black voters into a single Congressional district in 1992, it cannot justify further perpetuating the packed majority-Black District 7.<sup>7</sup> The new District 7 maintains a BVAP of approximately 54%—far higher than might be necessary to comply with the Voting Rights Act.

Here, the Legislature simply ignored the Supreme Court’s decision in *Cooper v. Harris*, which held that a Congressional redistricting plan does not violate the Voting Rights Act just because it does not have a District with a BVAP majority. North Carolina contended that to avoid a Voting Rights Act violation it had to add

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<sup>7</sup> In fact, it is Secretary Merrill’s position—with which Plaintiffs do not agree—that compliance with the Voting Rights Act can *never* be a compelling state interest that justifies a racial gerrymander. *Chestnut Br.* at 8 (“The Fourteenth Amendment trumps a statute, and it is not okay to violate a voter’s Constitutional rights through racial sorting even if Congress purports to require it.”).

Black voters to districts that were 48% and 43% BVAP until they exceeded 50%. The Supreme Court rejected this argument and held that the 50% BVAP Districts were unconstitutional racial gerrymanders, because there was enough white crossover voting in the 48% and 43% BVAP Districts to provide black voters an equal opportunity to elect the candidates of their choice. 137 S. Ct. at 1465–66.<sup>8</sup>

Under *Cooper v. Harris*, to establish a Voting Rights Act violation, all three preconditions in *Thornburg v. Gingles*, 478 U.S. 30 (1986), must be satisfied. First, a “minority group” must be “sufficiently large and geographically compact to constitute a majority” in some reasonably configured legislative district. *Id.* at 50. Second, the minority group must be “politically cohesive.” *Id.* at 51. And third, “a district’s white majority must ‘vote[] sufficiently as a bloc’ to usually ‘defeat the minority’s preferred candidate.’” *Cooper v. Harris*, 137 S. Ct. at 1470 (quoting *Gingles*, 478 U.S. at 51).

Plaintiffs’ proposed Whole County Plan, which was introduced in the Legislature but rejected, shows that the third *Gingles* precondition is not satisfied. That plan contains two districts with Black registered voter percentages of 49.9%

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<sup>8</sup> Attorney Dorman Walker, who represents the Intervenor-Defendants in this case, made this mistake at a recent public hearing at Lurleen B. Wallace Community College, stating, “The Voting Rights Act, section two, requires the drawing of a majority minority district -- and I’ll just say a minority black district is what it’s going to be in Alabama -- if it’s possible to do so.” Ex. 2, Public Hearing Tr. at 24; *see also* Ex. 3 (Counsel’s Talking Points) at RC 045527 (indicating erroneously that the Whole County Plan violates the Voting Rights Act because no district has a BVAP over 50%).

and 42.3% in which Black voters' preferred candidates would have prevailed in previous elections, many by substantial margins. Am. Compl. (ECF No. 15) at 29–31 ¶¶ 42–43. The Defendants have stipulated that the following candidates received more votes in those two districts in elections since the 2010 census. ECF No. 47 ¶ 28.<sup>9</sup>

Year	Office	Candidate
2012	President	Barack Obama
2014	Lieutenant Governor	James Fields
2014	Auditor	Miranda Joseph
2017	U.S. Senate	Doug Jones
2018	Lieutenant Governor	Will Boyd
2018	Auditor	Miranda Joseph
2020	President	Joe Biden
2020	U.S. Senate	Doug Jones

The Defendants have also stipulated that Representative Terri Sewell, who is Black, received 72.4% of the votes in her 2010 election, when the BVAP of her district was 59.75%, and that she received 75.8% of the votes in her 2012 election, when the BVAP of her district was 60.55% (using 2010 census figures). *Id.* ¶¶ 29–30. Therefore, crossover voting allowed Representative Sewell to outperform her district's BVAP by about 12 to 15 percentage points. Given the prevalence of

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<sup>9</sup> The Defendants' expert M.V. Hood, III creates a statistical model in which, given certain assumptions about the demographic makeup of District 7 in the Plaintiffs' Whole County Plan and voter turnout, Joe Biden would have received only 49.13% of the votes in that district in the 2020 Presidential election. ECF No. 54-4 at 11. He never explains why a model is superior to simply looking at actual election returns, in which Biden won 54% of the votes in that district. In any event, Plaintiffs are not required to show that the preferred candidate of Black votes would always prevail—only that White bloc voting does not usually defeat that candidate.

crossover voting, it cannot be said that “a district’s white majority ... [votes] sufficiently as a bloc’ to usually ‘defeat the minority’s preferred candidate.’” *Cooper v. Harris*, 137 S. Ct. at 1470 (quoting *Gingles*, 478 U.S. at 51); accord *North Carolina v. Covington*, 138 S.Ct. 2548, 2550 (2018) (“A group of plaintiff voters, appellees here, alleged that the General Assembly racially gerrymandered their districts when—in an ostensible effort to comply with the requirements of the Voting Rights Act of 1965—it drew 28 State Senate and State House of Representatives districts comprising **majorities** of black voters. The District Court granted judgment to the plaintiffs, and we summarily affirmed that judgment.”) (emphasis added) (citation omitted).

In *Abbott v. Perez*, the Supreme Court cited *Cooper v. Harris* when it held that Texas had not shown good reasons to draw a racially gerrymandered District without showing that doing so was necessary to create an opportunity for minority voters to elect their preferred candidates: “North Carolina argued that its race-based decisions were necessary to comply with § 2, but the State could point to ‘no meaningful legislative inquiry’ into ‘whether a new, enlarged’ district, ‘created without a focus on race, ... could lead to § 2 liability.’” 138 S. Ct. 2305, 2334–35 (quoting *Cooper v. Harris*, 137 S. Ct. at 1471). Mr. Hinaman, who drafted the 2021 plan, testified that he was unaware of the Legislature performing any racial polarization analysis to justify the creation of a majority-minority district. Ex. 1

(Hinaman Tr.) at 167:23–168:1. In fact, based on his testimony, it appears that the Legislature relied entirely on the advice of counsel for the Reapportionment Committee that Section 2 of the Voting Rights Act required a majority-minority district. Ex. 3 (Counsel’s Talking Points) at RC 045527. Under *Abbott v. Perez*, such conclusions, with no basis in analysis, cannot save a racial gerrymander.<sup>10</sup>

**B. Plaintiffs Will Suffer Irreparable Harm Absent An Injunction.**

In the absence of the requested injunction, Plaintiffs will suffer irreparable harm. “An injury is irreparable ‘if it cannot be undone through monetary remedies.’” *Scott*, 612 F.3d at 1295 (quoting *Cunningham v. Adams*, 808 F.2d 815, 821 (11th Cir. 1987)). Recognizing this well-settled principle of law, courts considering motions for preliminary injunctions have repeatedly found that state actions infringing on the right to vote constitute irreparable injury. *See, e.g., Fayette County Ga. State Conf. of the N.A.A.C.P. v. Fayette Cty. Bd. of Com’rs*, 118 F. Supp. 3d 1338, 1347–18 (N.D. Ga. 2015) (Batten, J.) (holding that plaintiffs established irreparable harm if forced to vote using an election system that would dilute their votes); *Cox I*, 324 F. Supp. 2d at 1368 (holding that the defendant’s refusal to accept

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<sup>10</sup> As Secretary Merrill has conceded, Section 5 of the Voting Rights Act also cannot justify racial gerrymandering in order to produce a majority BVAP district. *Chestnut Br.* at 12 (“Today, with Section 5 effectively tabled, Alabama has more liberty to draw its districts differently.”); *id.* (“Racial gerrymandering is therefore never permissible.”); *see Ala. Legislative Black Caucus v. Alabama*, 575 U.S. 254, 279 (2015) (holding that it was erroneous for the Legislature and the district court to focus on the question, “How can we maintain present minority percentages in majority-minority districts?”).

plaintiff's voter registration in her precinct of residence, preventing her from voting in an upcoming election, constituted irreparable injury); *see also Dillard v. City of Greensboro*, 870 F. Supp. 1031, 1035 (M.D. Ala. 1994) (in denying defendant's motion for a stay pending appeal of the district court's injunction remedying a violation of Section 2 of the Voting Rights Act, holding that "monetary remedies would be inadequate compensation for the plaintiffs").

Here, Plaintiffs will suffer irreparable harm if the 2022 election is conducted under the unconstitutional maps for District 7, which would infringe Plaintiffs' "right to full and effective participation in the political processes." *Reynolds v. Sims*, 377 U.S. 533, 561–62 (1965). Because monetary remedies are inadequate to compensate for that injury, irreparable injury to their voting rights will ensue absent an injunction. *E.g., Fayette County*, 118 F. Supp. 3d at 1347–48; *Cox I*, 324 F. Supp. 2d at 1368; *Dillard v. Crenshaw County*, 640 F. Supp. at 1347, 1363 (M.D. Ala. 1986); *Harris v. Graddick*, 593 F. Supp. 128, 135 (M.D. Ala. 1984).

Moreover, the Supreme Court has long recognized that "[t]he right to vote freely for the candidate of one's choice is of the essence of a democratic society and any restrictions on that right strike at the heart of representative government." *Reynolds*, 377 U.S. at 555; *see Williams v. Rhodes*, 393 U.S. 23, 30 (1968) ("[T]he right of qualified voters ... to cast their votes effectively ... rank[s] among our most precious freedoms."); *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886) (the right to

vote is “preservative of all rights”). In recognition of this fundamental principle, courts have repeatedly held that an infringement on the right to vote constitutes irreparable injury. *E.g.*, *Dillard*, 640 F. Supp. at 1363; *Harris v. Graddick*, 593 F. Supp. 128, 135 (M.D. Ala. 1984).

### **C. The Balance of The Equities Weighs In Favor of Plaintiffs.**

The irreparable injury that Plaintiffs will suffer absent an injunction outweighs any harm Defendant will suffer if the requested injunction is granted. Plaintiffs will suffer irreparable injury to their fundamental right to vote absent an injunction. *See Williams v. Rhodes*, 393 U.S. 23, 30 (1968) (“the right of qualified voters ... to cast their votes effectively ... rank[s] among our most precious freedoms.”); *see also Scott*, 612 F.3d at 1295 (citation omitted). By contrast, any potential harm Defendant would face under the requested injunction would be substantially less, particularly in light of the schedule this Court has set to avoid any interference with relevant pre-election deadlines.

“If the currently existing status quo itself is causing one of the parties irreparable injury, it is necessary to alter the situation so as to prevent the injury, either by returning to the last uncontested status quo between the parties, by the issuance of a mandatory injunction, or by allowing the parties to take proposed action that the court finds will minimize the irreparable injury.” *Fayette County*, 118 F. Supp. 3d at 1349 (quoting *Canal Auth. of Fla. v. Callaway*, 489 F.2d 567, 576

(5th Cir. 1974)). Indeed, “once a State’s legislative apportionment scheme has been found to be unconstitutional, it would be the unusual case in which a court would be justified in not taking appropriate action to insure that no further elections are conducted under the invalid plan.” *Reynolds*, 377 U.S. at 585. Although the requested injunction may “require additional efforts” on the part of Defendant, conducting the election using a constitutional plan that complies with the Voting Rights Act—by way of either the State adopting its own constitutional plan or by adopting Plaintiffs’ Whole County Plan (or one of Plaintiffs’ alternative plans)—would not be “impossible or unduly burdensome” before January 28, 2022. *See Fayette County*, 118 F. Supp. 3d at 1348. Additionally, if Defendant argues that the requested injunction would impose costs and burdens on the State, such burdens “cannot begin to compare with the further subjection of the [voters] to denial of their right, to full and equal political participation.” *Dillard*, 640 F. Supp. at 1363.

Under the requested injunction, Defendant would not have to postpone any candidate qualifying dates or other pre-election deadlines. As the Court knows, Alabama law requires candidates seeking nomination in a party primary to declare their candidacies no later than 116 days before the primary election. Ala. Code § 17-13-5(a). In 2022, that deadline is January 28.<sup>11</sup> Moreover, the Alabama Legislature

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<sup>11</sup> The Alabama Secretary of State Administrative Calendar is located at the following link: <https://www.sos.alabama.gov/sites/default/files/Admin%20Calendar%20-2022%20-%2020211012.pdf>.



will be in regular session beginning on January 11, 2022.<sup>12</sup> Following the January 4 hearing on Plaintiffs’ motion for a preliminary injunction, the Court should determine if there is time to give the Legislature the opportunity to adopt new, constitutional districts in time to give potential candidates sufficient notice before the January 28 deadline. The Court should not risk giving the Legislature “a second bite of the apple” if doing so would “further draw out these proceedings and potentially interfere with the 20[22] election cycle.” *North Carolina v. Covington*, 138 S. Ct. 2548, 2554 (2018). Because time is of the essence, the Court should also order that if the Legislature does not timely adopt new, constitutional districts, the Court will adopt one of the Plaintiffs’ race-neutral plans until such time as the Legislature adopts its own plan that complies with the Constitution. This remedy respects both the Legislature’s prerogative to conduct redistricting and the constitutional right of Alabama citizens to vote in Congressional districts untainted by racial gerrymandering.

**D. The Injunction Would Not Be Adverse To The Public Interest.**

Finally, the requested injunction would not be adverse to public interest. Plaintiffs and the citizens of Alabama have a fundamental right to “to cast their votes effectively.” *Williams v. Rhodes*, 393 U.S. 23, 30 (1968) Additionally, “the

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<sup>12</sup> *Id.*

protection of ‘franchise-related rights is without question in the public interest,’” and in such a situation, public interest is “best served by ensuring ... that all citizens ... have an equal opportunity to elect the representatives of their choice.” *Fayette County*, 118 F. Supp. 3d at 1349 (quoting *Cox II*, 408 F.3d at 1355). Plaintiffs’ requested injunction would protect their franchise-related rights by allowing them to participate in elections using constitutionally drawn districts and ensure that citizens of Alabama have an equal opportunity to elect the representatives of their choice; thus, the requested injunction would be in the public interest. On the contrary, allowing the 2022 election cycle to proceed with the racially gerrymandered District 7 map does not further any public interest.

## **II. The Plaintiffs’ Plans Are a Constitutional and Sensible Remedy for the Racial Gerrymander.**

This Court should enjoin the use of the current Congressional plan, and give the Legislature an opportunity to enact a new, constitutional plan. Two questions remain, then. First, how can the Legislature know whether a particular plan is constitutional? Second, if the Legislature fails to enact a constitutional plan (or any plan at all) in time for candidates to meet the January 28 deadline, what plan should govern the 2022 elections? The Plaintiffs’ proposed plans answer both questions. First, while the Court cannot direct the Legislature to adopt any particular plan, it can hold that the Plaintiffs’ three plans are constitutional and in compliance with the Voting Rights Act, which would give the Legislature useful guidance and the

assurance that it has options the Court will accept. Second, the Court should order that one of the Plaintiffs' three plans will govern the 2022 elections if the Legislature does not enact a constitutional plan by January 28.

The Court-ordered plan should:

(1) restore Alabama's traditional districting principle of using whole counties as the building blocks of districts;

(2) remedy the racial gerrymander of District 7 and modify other districts to the extent they are impacted by the changes to District 7; and

(3) ensure that the remedial plan complies with Section 2 of the Voting Rights Act.

The *Singleton* plaintiffs are the only parties who have proposed plans that would satisfy these standards for remedying a racial gerrymander. The *Milligan* plaintiffs contend that two majority-black districts are required by the Voting Rights Act, not by the Supreme Court's racial gerrymandering jurisprudence. The *Singleton* plaintiffs agree that the Voting Rights Act can require violating traditional districting principles, here whole counties, to create one or more majority-black districts where all the *Gingles* requirements are met and there is no other way to provide Black voters an equal opportunity to elect candidates of their choice. But in the particular circumstances of this case, where preserving whole counties can yield crossover districts that demonstrably perform to provide Black voters the opportunity to elect

their preferred candidates, the most recent Supreme Court decisions foreclose the ability of the State to enact, or for this Court to adopt, majority-black districts.

The *Singleton* plaintiffs understand why some Black Alabamians would advocate the creation of majority-black districts that (may or may not) afford them a measure of electoral autonomy. But the members of the Senate Black Caucus who sponsored SB 10 and support the instant action are convinced that the interests of the African-American community will be better advanced by unpacking the concentration of Black voters in one Congressional district and seeking to form cross-racial electoral coalitions. Whatever the merits of these policy choices, this Court is bound by Supreme Court precedents, which squarely favor effective crossover districts that follow traditional districting standards.

The League of Women Voters and the *Singleton* Plaintiffs have done their best since the 2020 census data were released in August to engage the Legislature and the public in identifying and correcting the racial gerrymandering in the 2011 Congressional plan. The Whole County Plan was vetted favorably in most of the public hearings held by the Reapportionment Committee last September. The Legislature was formally put on notice of its constitutional obligation to remedy the 2011 racial gerrymander on September 27, 2021, when the Complaint in this action was filed. The Legislative leadership decided to ignore these warnings. They simply rubber-stamped the “least change” plan the Congressional Delegation handed them.

Mr. Hinaman never attempted to draw new districts with whole counties and was instructed by counsel for the Reapportionment Committee to maintain zero population deviation. Ex. 1 at 198:13–199:4. The Committee Chairs were apparently (mis)informed by counsel that all three Whole County plans introduced by Senators Smitherman and Singleton did not comply with the Voting Rights Act, Ex. 3 (Counsel’s Talking Points) at RC 045527, and they were never considered.

So the Whole County Plan and its narrow deviation and zero deviation modifications are the only remedial plans that have been proposed and discussed by anyone. The reports of the State’s experts, Trey Hood and Tom Bryan, were prepared after the 2021 plan was enacted and were never considered by Mr. Hinaman or the Legislature. Those reports confirm that Districts 6 and 7 in the Whole County Plan perform as opportunity districts. The alternative maps attached to Mr. Bryan’s report demonstrate how the Whole County Plan may be the only way to eliminate the splits in Jefferson, Tuscaloosa, and Montgomery Counties, avoid splitting up the Black Belt, and limit the ripple effect on other districts beyond what is necessary to remedy the racial gerrymander in District 7.

Specifically, if Jefferson County is kept whole, it lacks only 43,033 persons to reach the ideal district size of 717,754. That limits the counties that can be joined with Jefferson to the rural counties to its south. Mr. Bryan demonstrates how joining Jefferson with Blount County, population 59,134, increases the maximum deviation.

Walker County's population of 65,342, would further increase the District 6 deviation if joined with Jefferson County. Keeping Jefferson County whole means Shelby, Chilton, and Coosa Counties must be removed from District 6. The Whole County Plan puts all three of these counties in District 3. The Whole County Plan keeps whole all counties other than Jefferson that were in District 7 in the 2011 plan and adds the Black Belt counties of Macon and Bullock, along with Monroe, Conecuh, Butler, and Crenshaw Counties (which are sometimes included in lists of the Black Belt counties) to reach population equality.

All three of Plaintiffs' proposed plans are constitutional and comport reasonably well with the redistricting principles adopted by the Legislature. Those principles, adopted for the 2020 redistricting cycle, include the following:

- Congressional districts shall have minimal population deviation.
- Plans must comply with the one person, one vote principle of the Equal Protection Clause of the 14th Amendment of the United States Constitution.
- Plans must comply with the Voting Rights Act.
- Districts must be contiguous and reasonably compact.
- Districts must respect communities of interest, which may include counties and municipalities.
- Contests between incumbents will be avoided when possible.

- The Legislature shall try to preserve the cores of existing districts.

Ex. 4. Mr. Hinaman, the drafter of the 2021 plan, testified that minimizing population deviation and complying with the Voting Rights Act were his “paramount” responsibilities, and that the rest of the items on the list should be followed when possible, but they might conflict with each other. Ex. 1 at 149:8–16. The Plaintiffs’ plans adhere to these principles without racial gerrymandering. They adhere to the principle of “one person, one vote,” they respect county and municipal boundaries, they preserve communities of interest, they preserve the cores of the 2011 districts to the extent possible without perpetuating the unconstitutional racial gerrymander, and, unlike some of the alternative plans offered by the Defendants’ expert, they attempt not to destroy the shapes of districts outside District 7.

**A. The Plaintiffs’ Plans Comply with the Supreme Court’s “One Person, One Vote” Jurisprudence.**

Plaintiffs’ Whole County Plan preserves county boundaries (as every plan did from 1822 to 1965) while keeping population deviation low. Am. Compl. (ECF No. 15) at 29–32 ¶¶ 42–45. At 2.47%, Plaintiffs’ proposed Whole County Plan has a smaller maximum population deviation than the 2.59% maximum deviation Alabama adopted in 1981, and a much smaller deviation than the 13.3% maximum deviation approved in 1965 by the three-judge district court in *Moore v. Moore*, 246 F. Supp. 578 (S.D. Ala. 1965). That said, the Supreme Court held in *Tennant v. Jefferson County Commission*, 567 U.S. 758 (2012), a case involving legislatively

drawn Congressional districts, that higher deviations were constitutionally permissible for the sake of preserving whole counties, even without the need to remedy a racial gerrymandering violation. Remedying a racial gerrymander, which the Alabama Legislature was obligated to do here, provides even greater justification for higher population deviations. In *Karcher v. Daggett*, another case that did not involve the more demanding racial gerrymandering standards, the Court suggested that acceptable population deviations for a Congressional redistricting plan can be determined by identifying those alternative plans which produce the lowest population deviations while respecting the state's policy of preserving political subdivisions. 462 U.S. 725, 739–40 (1983). *See also Kirkpatrick v. Preisler*, 394 U.S. 526, 532 (1969) (“the simple device of transferring entire political subdivisions of known population between contiguous districts would have produced districts much closer to numerical equality”). “The showing required to justify population deviations is flexible, depending on the size of the deviations, the importance of the State’s interests, the consistency with which the plan as a whole reflects those interests, and the availability of alternatives that might substantially vindicate those interests yet approximate population equality more closely. By necessity, whether deviations are justified requires case-by-case attention to these factors.” *Id.* at 741. Given Alabama’s long history of preserving county boundaries when possible, and



the need to remedy a racial gerrymander, this Court should hold that the Plaintiffs' Whole County Plan is constitutional.

A court-ordered plan is "held to higher standards of population equality than legislative ones," *Abrams v. Johnson*, 521 U.S. 74, 98 (1997), but the Supreme Court has repeatedly declined to specify exactly what those standards are. This Court could justifiably adopt the Whole County Plan, even though its 2.47% maximum deviation is significantly higher than the 0.35% overall deviation in the court-ordered Congressional plan approved by the Supreme Court in *Abrams*. Georgia's 159 counties were "ample building blocks for acceptable voting districts without chopping any of those blocks in half." 521 U.S. at 99. Alabama's 67 counties are larger than Georgia's counties, so as building blocks they necessarily yield higher deviations. A deviation of 0.79% was found constitutional in West Virginia's legislatively enacted whole county plan. "if a State wishes to maintain whole counties, it will inevitably have population variations between districts reflecting the fact that its districts are composed of unevenly populated counties. Despite technological advances, a variance of 0.79% results in no more (or less) vote dilution today than in 1983, when this Court said that such a minor harm could be justified by legitimate state objectives." *Tennant*, 567 U.S. at 764.

The 0.36% and 0.11% deviations in Districts 6 and 7 of the *Singleton* Plaintiffs' Whole County Plan are clearly close enough to the *Abrams* deviations to

pass muster in a court-ordered plan. The districts at the northern and southern ends of Alabama account for the 2.47% maximum deviation, and it is those counties that would have to be divided to reach a lower overall deviation. That is what the narrow deviation and zero deviation modifications of the Whole County Plan do.

Singleton Congressional Plan 2, Ex. 5, divides Franklin County, placing 7,984 residents in District 4, leaving the other 24,129 Franklin County residents in District 5. Down south, 4,005 residents of Covington County are moved into District 2, leaving behind 33,565 of their neighbors. And only 1,858 persons in Crenshaw County are moved into District 2, leaving behind 11,336 in District 7. *See id.* Singleton Congressional Plan 3 divides six counties to achieve zero deviation. Ex. 6.

**B. The Plaintiffs' Plans Respect Communities of Interest, Including Counties and Municipalities, as Much as Possible.**

From 1822 to 1965, Alabama's Congressional districts always followed county lines. And from 1965 to the beginning of the racial gerrymandering era in 1992, only two counties were ever split, and even then by necessity because Jefferson County's population was larger than that of an ideal district. For the first time in decades, it is possible to return to the traditional principle of creating districts without splitting county boundaries, which is what the Plaintiffs' Whole County plan does. On this score, it vastly outperforms the enacted plan, which split six counties and three of the state's five largest municipalities. Plaintiffs' modified plans make minor splits to equalize population (in three counties in one plan and six in the zero-

deviation plan), but do not divide major municipalities (except where small parts of those municipalities cross county lines).

The Plaintiffs' plans' Seventh District also respect the integrity of the Black Belt, which Mr. Hinaman testified is a community of interest. The Plaintiffs' plans include 13 of the 18 "core" Black Belt counties and 4 of the 5 other Black Belt counties in a single district.<sup>13</sup> The enacted plan splits the Black Belt apart; District 7 contains 10 of the core Black Belt counties and part of another, as well as a single other Black Belt county. Thus, the Plaintiff's plans hold the Black Belt together better than the enacted plan.

The Plaintiffs' plans Sixth District restores the historical association of Bibb, Perry, and Hale Counties with each other, and with Jefferson County. In nearly every plan from the creation of Hale County in 1867 to the racial gerrymander of 1992, Bibb, Perry, and Hale Counties were in the same district. Ex. 7 (Historical Maps). Before Jefferson County became large enough to have its own district, it shared a district with all three counties (in the 1891 plan) and Bibb and Perry County (in the

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<sup>13</sup> The name 'Black Belt' is primarily derived from the dark, rich layer of topsoil that runs across the width of roughly twelve counties in central Alabama, which made the region extremely fertile for cotton farming." Zachary L. Guyse, Note, Alabama's Original Sin: Property Taxes, Racism, and Constitutional Reform in Alabama, 65 Ala. L. Rev. 519, 532 (2013). The Defendants stipulated in *Milligan* that "[t]he Black Belt includes the core counties of Barbour, Bullock, Butler, Choctaw, Crenshaw, Dallas, Greene, Hale, Lowndes, Macon, Marengo, Montgomery, Perry, Pickens, Pike, Russell, Sumter, and Wilcox. Clarke, Conecuh, Escambia, Monroe, and Washington counties are sometimes included within the definition of the Black Belt." No. 21-cv-1530-AMM, ECF No. 53 ¶ 61.

1901 plan). *Id.* Now that Jefferson County’s population once again requires that it be included with other counties, the Plaintiffs’ plans follow the Legislature’s previous plans.

**C. The Plaintiffs’ Plans Are About as Compact as the Enacted 2011 and 2021 Plans.**

The Defendants’ expert Thomas Bryan has calculated four different compactness scores for the enacted 2011 plan, the enacted 2021 plan, and the Plaintiffs’ Whole County Plan. ECF No. 54-1 at 29–30. The Whole County Plan outperforms both enacted plans on two of the scores and underperforms on the other two. *Id.* Therefore, the Whole County Plan serves the goal of compactness about as well as the other plans without being racially gerrymandered.

**D. The Plaintiffs’ Plans Preserve the Cores of Existing Districts to the Extent Possible Without Perpetuating the Racial Gerrymander.**

The Legislature’s redistricting principles state, “The Legislature shall try to preserve the cores of existing districts.” Ex. 4 at 3. The Defendants’ expert Mr. Bryan extols the “least change approach” of the 2021 enacted plan, taking the Plaintiffs to task for insufficiently “preserving the core of existing districts.” ECF No. 54-1 at 21–26, 41. The enacted 2021 plan, Mr. Bryan says, “registers consistently and significantly higher levels of core retention for both total and Black population than the Singleton plan.” *Id.* at 24.

The goal of preserving the cores of districts is sensible—unless those districts have been racially gerrymandered. In that case, “preserving the core of existing districts” is just a euphemism for retaining the racial gerrymander. “[E]fforts to protect incumbents by seeking to preserve the ‘cores’ of unconstitutional districts ... ha[s] the potential to embed, rather than remedy, the effects of an unconstitutional racial gerrymander ....” *Covington v. North Carolina*, 283 F. Supp. 3d 410, 431 (M.D.N.C. 2018), *aff’d in relevant part and reversed in part on other grounds*, 138 S. Ct. 2548 (2018); *see also Personhuballah v. Alcorn*, 155 F. Supp. 3d 552, 561 n. 8 (E.D. Va. 2016) (“In any event, maintaining district cores is the type of political consideration that must give way to the need to remedy a *Shaw* violation.”). Plaintiffs’ plans admittedly do not preserve the cores of existing districts as well as the Legislature’s enacted plan. But, as a remedy for the racially gerrymandered 2011 plan, that is a virtue, not a vice.

**E. The Plaintiffs’ Plans Protect Incumbents to the Extent Possible Without Perpetuating the Racial Gerrymander or Radically Redrawing Districts.**

The Legislature’s guidelines also call for avoiding contests between incumbents where possible, and Mr. Bryan criticizes the Plaintiffs’ plans for putting Representatives Mike Rogers and Gary Palmer in the same district. ECF No. 54-1 at 27. In racially gerrymandered plans, however, protecting incumbents at all costs works the same was as preserving the cores of districts: it perpetuates the

gerrymander. Four Supreme Court Justices have stated that whether “the goal of protecting incumbents is legitimate, even where, as here, individuals are incumbents by virtue of their election in an unconstitutional racially gerrymandered district ... is a questionable proposition.” *Easley v. Cromartie*, 532 U.S. 234, 262 n.3 (2001) (Thomas, J., dissenting) (noting that question was not presented to the Supreme Court or district court and, therefore, that the Court had not addressed it). Lower courts have agreed. *Covington*, 283 F. Supp. 3d at 431 (“[E]fforts to protect incumbents by seeking to preserve the ‘cores’ of unconstitutional districts ... ha[s] the potential to embed, rather than remedy, the effects of an unconstitutional racial gerrymander ....”); *Vera v. Richards*, 861 F. Supp. 1304, 1336 (S.D. Tex. 1994), *aff’d sub nom. Bush v. Vera*, 517 U.S. 952 (1996) (“Incumbent protection is a valid state interest only to the extent that it is not a pretext for unconstitutional racial gerrymandering.”); *Ketchum v. Byrne*, 740 F.2d 1398, 1408 (7th Cir. 1984) (“Since it is frequently impossible to preserve white incumbencies amid a high black-percentage population without gerrymandering to limit black representation, it seems to follow that many devices employed to preserve incumbencies are necessarily racially discriminatory.”); *see Jeffers v. Clinton*, 756 F. Supp. 1195, 1200 (E.D. Ark. 1990) (“The desire to protect incumbents, either from running against each other or from a difficult race against a black challenger, cannot prevail if the

result is to perpetuate violations of the equal-opportunity principle contained in the Voting Rights Act.”).

Plaintiffs would have liked to protect all incumbents, but Mr. Bryan’s own report shows how difficult it is to 1) remedy the racial gerrymander, 2) protect incumbents, and 3) preserve the general shape of the Congressional districts outside the gerrymandered area. Mr. Bryan devised thirteen alternative plans that kept counties whole and had a reasonably low population deviation. ECF No. 54-1 at 32. Of these, only two avoided pairing any incumbents. *Id.* at 27, 32. And both of those plans bear little resemblance to the 2011 plan. *Compare id.* at 27 (Figures 5.5 and 5.6) with Am. Compl. (ECF No. 15) at 9 (2011 plan). The Plaintiffs’ plans do not completely upend the structure of Districts 1, 4, and 5 just to protect an incumbent, as the alternative plans do. *Compare* Am. Compl. (ECF No. 15) at 31 (Whole county Plan) *with id.* at 9.

In short, on all the redistricting criteria laid out by the Legislature, the Plaintiffs’ plans are superior or comparable to the enacted 2021 plan, except when necessary to remedy the racial gerrymander. And the Plaintiffs’ plans have the added benefit of not being unlawful.

## CONCLUSION

Alabama’s District 7 perpetuates an admitted racial gerrymander, without serving any compelling interest. Therefore, it cannot and should not be the basis for

the 2022 election. The Court should adopt Plaintiffs' Whole County Plan (or in the alternative, one of Plaintiffs' other proposals), which would go into effect on January 28, 2022 if the State does not adopt its own constitutional plan in time for candidates to declare before that deadline.

Dated: December 15, 2021

Respectfully submitted,

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*Counsel for Plaintiffs*

RETRIEVED FROM DEMOCRACYDOCKET.COM

# Exhibit 1

RETRIEVED FROM DEMOCRACYDOCKET.COM

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA

EVAN MILLIGAN, et al., )  
 )  
 ) CIVIL CASE NO.  
 Plaintiffs, )  
 ) 2:21-CV-01530-AMM  
 VS. )  
 ) VIDEO DEPOSITION OF:  
 JOHN MERRILL, et al., )  
 ) RANDY HINAMAN  
 )  
 Defendants. )

# S T I P U L A T I O N S

IT IS STIPULATED AND AGREED, by and  
between the parties through their respective  
counsel, that the deposition of:

RANDY HINAMAN,  
may be taken before LeAnn Maroney, Notary Public,  
State at Large, at the law offices of Balch &  
Bingham, 105 Tallapoosa Street, Montgomery,  
Alabama, 36104, on December 9, 2021, commencing at  
9:13 a.m.

Randy Hinaman  
December 09, 2021

1           IT IS FURTHER STIPULATED AND AGREED that  
2 the signature to and reading of the deposition by  
3 the witness is waived, the deposition to have the  
4 same force and effect as if full compliance had  
5 been had with all laws and rules of Court relating  
6 to the taking of depositions.

7  
8           IT IS FURTHER STIPULATED AND AGREED that  
9 it shall not be necessary for any objections to be  
10 made by counsel to any questions, except as to form  
11 or leading questions, and that counsel for the  
12 parties may make objections and assign grounds at  
13 the time of the trial, or at the time said  
14 deposition is offered in evidence, or prior  
15 thereto.

16  
17  
18           \*\*\*  
19  
20  
21  
22  
23  
24  
25

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1 ALSO PRESENT:

2 Paige Ali, Videographer

3 Elizabeth Baggett

6 I N D E X

7 MR. THOMPSON: 11-197

8 MR. BLACKSHER: 197-229

11 E X H I B I T L I S T

12 PAGE

13 Plaintiff's Exhibit 1 - 14

14 (Depo notice)

15 Plaintiff's Exhibit 2 - 14

16 (Subpoena)

17 Plaintiff's Exhibit 3 - 21

18 (CV)

19 Plaintiff's Exhibit 4 - 25

20 (Declaration)

21 Plaintiff's Exhibit 5 - 92

22 (2021 Alabama Congressional Plan, RC 000553)

23 Plaintiff's Exhibit 6 - 93

24 (2011 Congressional Districts)

25 Plaintiff's Exhibit 7 - 135

Randy Hinaman  
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(5-5-21 Reapportionment Committee  
Redistricting Guidelines)  
Plaintiff's Exhibit 8 - 160  
(District 1-7 maps, RC 000556-562)  
Plaintiff's Exhibit 9 - 179  
(List of 2021 congressional plans)  
Plaintiff's Exhibit 10 - 201  
(State of AL v. US Department of Commerce  
Introduction)  
Plaintiff's Exhibit 11 - 203  
(9-1-21 public hearing transcript excerpt)  
Plaintiff's Exhibit 12 - 208  
(Whole County Plan)  
Plaintiff's Exhibit 13 - 213  
(Tuscaloosa and Montgomery Whole)  
Plaintiff's Exhibit 14 - 213  
(Data table)

Randy Hinaman  
December 09, 2021

1 I, LeAnn Maroney, a Court Reporter of  
2 Birmingham, Alabama, and a Notary Public for the  
3 State of Alabama at Large, acting as commissioner,  
4 certify that on this date, pursuant to the Federal  
5 Rules of Civil Procedure and the foregoing  
6 stipulation of counsel, there came before me on  
7 December 9, 2021, RANDY HINAMAN, witness in the  
8 above cause, for oral examination, whereupon the  
9 following proceedings were had:

10 \* \* \* \* \*

11 THE VIDEOGRAPHER: This marks the  
12 beginning of the deposition of Randy Hinaman in the  
13 matter of Evan Milligan, et al, versus John H.  
14 Merrill, et al., Civil Case Number 2:21-CV-01530-AMM  
15 filed in the United States District Court for the  
16 Northern District of Alabama. The date is December  
17 9, 2021. The time is 9:13 a.m

18 All attorneys present, will you please  
19 state your names and whom you represent.

20 MR. HARE: Eli Hare on behalf of the  
21 Singleton plaintiffs.

22 MR. DAVIS: Jim Davis for Secretary  
23 Merrill.

24 MR. WALKER: Dorman Walker for the  
25 Committee Chairs, Senator Jim McClendon and

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1 Representative Chris Pringle.

2 MR. PENN: Myron Penn for the Singleton  
3 plaintiffs.

4 MR. TURRILL: Mike Turrill for the  
5 Milligan plaintiffs.

6 MR. THOMPSON: And Blain Thompson for  
7 the Milligan plaintiffs.

8 MR. BLACKSHER: And Jim Blacksher for  
9 the Singleton plaintiffs. I'll be asking questions  
10 virtually.

11 MS. MADDURI: Lali Madduri for the  
12 Caster plaintiffs.

13 MR. QUILLEN: Henry Quillen for the  
14 Singleton plaintiffs.

15 MR. ROSS: Deuel Ross for the Milligan  
16 plaintiffs.

17 MR. ROSBOROUGH: Davin Rosborough for  
18 the Milligan plaintiffs.

19 MS. EBENSTEIN: Good morning. Julie  
20 Ebenstein for the Milligan plaintiffs.

21 MS. FAULKS: Good morning. Tish Faulks  
22 for the Milligan plaintiffs.

23 MS. BAGGETT: Good morning. It's  
24 Elizabeth Baggett for the Milligan plaintiffs. I'm  
25 a law clerk, not an attorney.

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1 THE VIDEOGRAPHER: Court Reporter, will  
2 you please swear in the witness.

3 RANDY HINAMAN,  
4 having been duly sworn, was examined and testified  
5 as follows:

6 THE REPORTER: Usual stipulations?

7 MR. WALKER: The ones that we've just  
8 discussed.

9 MR. THOMPSON: Yes.

10 Mr. Walker, did you want to say  
11 something before we begin?

12 MR. WALKER: Yes, I'd like to put on  
13 the record that the committee chair, Senator Jim  
14 McClendon, and Representative Chris Pringle have  
15 asserted their legislative privilege and immunity in  
16 this case. Of course, the Court has not yet ruled  
17 on that. Thank you.

18 EXAMINATION BY MR. THOMPSON:

19 Q. Good morning, sir.

20 A. Good morning.

21 Q. Please state your name for the record.

22 A. Randy Hinaman.

23 Q. Mr. Hinaman, you understand that you're  
24 testifying under oath right now?

25 A. I do.

Randy Hinaman  
December 09, 2021

1 Q. Is there anything that might prevent you  
2 from understanding my questions or answering  
3 truthfully today?

4 A. No.

5 Q. Are you being represented by a lawyer  
6 today?

7 A. Dorman Walker with the reapportionment  
8 committee.

9 Q. Are you paying Mr. Walker to be your  
10 lawyer today?

11 A. I am not.

12 Q. Do you assume that plaintiffs or the  
13 State of Alabama is paying Mr. Walker to be your  
14 lawyer today?

15 A. I do.

16 Q. Have you ever been deposed before?

17 A. I have.

18 Q. How many times?

19 A. Once. Once is all I remember, not  
20 counting trial.

21 Q. And was that in the ALBC versus the  
22 State of Alabama lawsuit?

23 A. Yes, sir.

24 Q. All right. So I'll go over a few of the  
25 key rules.

Randy Hinaman  
December 09, 2021

1 I think that last deposition was about  
2 eight years ago. Is that correct?

3 A. Yes, sir.

4 Q. Okay. So I'll be asking questions  
5 today. And then after I'm done, there will be  
6 several other people asking questions, as well.

7 If you don't understand a question, just  
8 let me know. Is that okay?

9 A. Yes, sir.

10 Q. If you answer a question, I will assume  
11 that you understood it. Is that fair?

12 A. Yes.

13 Q. Also, as you can see, we have a court  
14 reporter here who is doing an amazing job typing  
15 everything that we say as we go. But it's very  
16 important, because she's typing it, that we both  
17 speak one at a time. So I'll do my best to wait  
18 until you're done answering questions. And if you  
19 can do the same, that will help her out a lot. Is  
20 that all right?

21 A. Yes.

22 Q. And then we'll take a break about every  
23 hour. If you need a break before then, just let us  
24 know, and we can do that as long as there's not a  
25 question pending. Fair?

Randy Hinaman  
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1 A. Very well.

2

3 (Plaintiff's Exhibits 1&2  
4 were marked for identification.)

5

6 Q. I'm handing you what's been marked as  
7 Exhibit 1 and Exhibit 2.

8 MR. THOMPSON: I've got copies for  
9 everyone else to the extent you would like one.

10 Q. This is a copy of the deposition notice  
11 and subpoena.

12 MR. WALKER: Which one is which?

13 MR. THOMPSON: Exhibit 1 is the notice.

14 MR. WALKER: Okay.

15 MR. THOMPSON: And Exhibit 2 is the  
16 subpoena.

17 MR. WALKER: Thanks.

18 Q. Have you seen a copy of these documents  
19 before today?

20 A. I have.

21 Q. Both of them?

22 A. Yes, sir.

23 Q. Who provided them to you?

24 A. Dorman Walker.

25 Q. And when was that?



Randy Hinaman  
December 09, 2021

1 A. The end of last week. Friday maybe.

2 Q. All right. You can set those aside.

3 Without disclosing the content of any  
4 discussions that you had with your attorneys, what  
5 did you do to prepare for your deposition today?

6 A. I met with Dorman Walker and Jim Davis  
7 and others and did some -- just reviewed numbers and  
8 talked about the process we followed.

9 Q. When did you meet with them?

10 A. Monday and Tuesday, Monday morning and  
11 -- Monday afternoon really and Tuesday morning of  
12 this week.

13 Q. About how long would you say you met  
14 with them?

15 A. I guess about four -- four or five hours  
16 on Monday. We also had lunch in there. And three  
17 hours on Tuesday.

18 Q. Did you meet with anyone who was not an  
19 attorney?

20 A. No, I don't believe so.

21 Q. Did you review any documents in  
22 preparation for today?

23 A. I just reviewed some of the census  
24 numbers and the guidelines, the committee  
25 guidelines. That would be about it.

Randy Hinaman  
December 09, 2021

1 Q. Did you review any of the complaints in  
2 this lawsuit?

3 A. No, I didn't.

4 Q. Did you review any maps?

5 A. Yeah. I looked -- I looked at the  
6 current -- the map that was passed. And I also  
7 looked briefly at some of the other maps that were  
8 offered to the legislature.

9 Q. Which other maps did you look at?

10 A. The Singleton --

11 MR. BLACKSHER: Randy needs to speak up  
12 a little bit, please.

13 THE WITNESS: Sure.

14 A. The Singleton maps, the Coleman map, and  
15 the Hatcher map, I believe.

16 Q. Had you reviewed those maps, any of  
17 those maps, before preparing for your deposition?

18 MR. WALKER: Objection to form.

19 Q. You mentioned that you reviewed several  
20 of those maps in preparation for your deposition,  
21 correct?

22 A. Correct.

23 Q. Before then, had you reviewed any of  
24 those maps?

25 A. I looked at them when they were offered

1 on the floor of either -- whatever body they were  
2 offered in.

3 Q. Other than in preparation for your  
4 deposition last Monday and Tuesday, have you  
5 discussed this lawsuit with anyone?

6 A. No.

7 Q. Did you do anything else to prepare for  
8 your deposition today?

9 A. I did not.

10 Q. Are you being compensated by anyone for  
11 being here today?

12 A. I assume I am. I haven't -- I haven't  
13 billed anybody yet. But I'm planning to.

14 Q. And who do you plan to bill for today?

15 A. The attorney general's office.

16 Q. How much do you plan to bill the  
17 attorney general's office for your time today?

18 A. \$400 an hour.

19 Q. Is that pursuant to some agreement that  
20 you have with the attorney general's office?

21 A. Well, we really haven't even discussed  
22 it, honestly. I guess I'll send them the bill, and  
23 we'll see if they pay it.

24 Q. Fair enough.

25 Similarly, do you expect to be

Randy Hinaman  
December 09, 2021

1 compensated in any way to testify at trial?

2 A. I would assume the same arrangement.

3 Q. By the attorney general's office, as  
4 well?

5 A. Yes.

6 Q. All right. Taking a step back and just  
7 talking about your background a little bit, can you  
8 please state your date of birth?

9 A. 5-5-57.

10 Q. What's your address?

11 A. 33267 River Road, Orange Beach, Alabama,  
12 36561.

13 Q. Is that your full-time address now here  
14 in Alabama?

15 A. Yes, sir.

16 Q. You previously lived in Virginia; is  
17 that correct?

18 A. That's correct.

19 Q. When did you make that move?

20 A. I bought this property about five years  
21 ago. But I really technically moved probably about  
22 three years ago.

23 Q. Do you have a telephone number?

24 A. Just my cell phone.

25 Q. What's that number?

Randy Hinaman  
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1 A. (703) 598-8383.

2 Q. Do you have an email account?

3 A. I do.

4 Q. What is that?

5 A. Sharhl@comcast.net.

6 Q. Do you have any other email addresses?

7 A. I do not.

8 Q. Have you ever been involved in any other  
9 lawsuits?

10 A. No. I mean, not as a witness or -- no.

11 Q. What's the highest level of education  
12 you've completed?

13 A. I attended Cornell University.

14 Q. Was that for undergraduate?

15 A. Yes.

16 Q. Did you graduate?

17 A. I did not.

18 Q. What did you study at Cornell?

19 A. Political science. Really they called  
20 it government.

21 MR. WALKER: Called it what?

22 THE WITNESS: Government. Anywhere else  
23 on earth, it would be political science.

24 Q. And if you don't mind me asking, you  
25 said you did not graduate. Is there a reason why?

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1 A. Yeah. In the middle of that, I was  
2 offered a position with the Reagan campaign, which  
3 was sort of my dream job to work for his  
4 presidential race. So I left to take on that  
5 responsibility for the national field director for  
6 the Reagan Youth Campaign.

7 Q. How far along had you gotten in your  
8 studies when you left?

9 A. Two years.

10 Q. Do you have any other -- excuse me. Do  
11 you have any educational certificates or anything  
12 like that?

13 A. No.

14 Q. Do you have any certain specializations  
15 in anything?

16 A. No.

17 Q. Mr. Hinaman, what do you do for a  
18 living?

19 A. I do political consulting and lobbying.

20 Q. Where do you work?

21 A. I work for my own company out of my  
22 residence in Orange Beach.

23 Q. What's the name of that company?

24 A. R. Hinaman, LLC.

25 Q. And what is your -- do you have a formal

Randy Hinaman  
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1 title within R. Hinaman, LLC?

2 A. I guess I would be the president of R.  
3 Hinaman, LLC.

4 Q. Are there other employees of that  
5 company?

6 A. There are not.

7 Q. If you can, explain to me briefly what  
8 you do as a political consultant and lobbyist.

9 A. Sure. On the political consulting  
10 front, I usually do -- I consult political  
11 campaigns, usually on the federal level, mostly  
12 congress, put together the campaign team for various  
13 candidates to get elected to those offices.

14 On the lobbying side, which I'm doing  
15 less and less and less of, I did lobbying on the  
16 federal level for various companies and  
17 organizations.

18  
19 (Plaintiff's Exhibit 3 was  
20 marked for identification.)

21

22 Q. I think I can short-circuit our  
23 discussion about your background a little bit here.  
24 This is Exhibit 3.

25 MR. THOMPSON: I can get you a copy, as

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1 well, Mr. Walker.

2 Q. And I'll state for the record that this  
3 is a copy of your resume that was shown to you in a  
4 prior deposition that you gave on June 25, 2013. I  
5 believe this was PX3 in that deposition.

6 Do you recognize this document?

7 A. I do.

8 Q. Does this appear to be a true and  
9 correct copy of your resume as of June 25, 2013?

10 A. It does.

11 Q. Is this resume up to date?

12 A. It is not.

13 Q. What has changed?

14 A. Well, technically, the name of my  
15 company changed because I moved from Virginia to  
16 Alabama. Obviously, my address has changed, again  
17 because of moving. Obviously, I've had some  
18 additional clients since 2013.

19 Q. Who have your additional clients been?

20 A. I was afraid you would ask me that.

21 Congressman Ben Cline, I did his  
22 campaign to replace Bob Goodlatte who retired in  
23 2018. Let's see. The American Dental Association  
24 is on there.

25 That's the major one. I can't say there



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1 wasn't another campaign in there.

2 Q. On here, it says that your company name  
3 is Hinaman & Company, Inc. Did that change at some  
4 point?

5 A. Yeah, when I moved. That was an LLC in  
6 Virginia. And when I moved to Alabama, I formed a  
7 new LLC.

8 Q. And when was that?

9 A. Again, approximately about three years  
10 ago.

11 Q. Does a more current version of your  
12 resume exist anywhere?

13 A. Yeah, I'm sure it does.

14 Q. Is that something that you could produce  
15 in this case if you were asked to?

16 A. Yes.

17 Q. What experience do you have working with  
18 redistricting?

19 A. Obviously, I drew three of the four maps  
20 for Alabama ten years ago, 2011, 2012. I drew the  
21 congressional maps and the two legislative maps. I  
22 also worked for the republican congressmen in  
23 Virginia to draw their map in 2012.

24 And before that, I worked with  
25 Congressman Callahan, who was my -- I was his chief

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1 of staff at one point and then his consultant in  
2 Alabama, and helped draw a map in 1992 which was  
3 then put into practice by a federal court.

4 Q. Anything beyond that?

5 A. No. I mean, I assisted the majority  
6 leader of the Virginia senate in some of his efforts  
7 on redistricting ten years ago. Actually, it was  
8 more like 20 years ago. But I wasn't really the  
9 lead on it. I was just assisting his office.

10 Q. Outside of Alabama and Virginia, have  
11 you ever worked in redistricting for any other  
12 states?

13 A. I have not.

14 Q. How did you get involved in drawing maps  
15 originally?

16 A. Well, my first effort, I guess, was way  
17 back in 1992 when the legislature failed to draw a  
18 map for congress in Alabama. I was working for  
19 Congressman Callahan. And with him and some of the  
20 other members of the delegation, we decided that we  
21 needed to file a lawsuit to remedy that situation.  
22 And so I helped produce a map that was filed with  
23 that lawsuit. That was my first endeavor.

24 Q. Had you ever drawn a map before then?

25 A. I had not.

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1 Q. So how did they come about saying,  
2 "Randy, we want you to draw this map"?

3 A. I guess we drew straws and I lost.

4 Q. Fair enough.

5

6 (Plaintiff's Exhibit 4 was  
7 marked for identification.)

8

9 Q. I'm going to hand you another exhibit  
10 here. This is being marked as Plaintiff's Exhibit  
11 4. This is also from the ALBC versus Alabama  
12 lawsuit. This is a declaration that was signed by  
13 you.

14 And you can see at the top there,  
15 there's a date that says this was filed on June 17,  
16 2013, in the Alabama Legislative Black Caucus for  
17 the State of Alabama lawsuit. Do you see that?

18 A. I do.

19 Q. Do you recognize this document?

20 A. Not particularly.

21 Q. If you can, flip to Page 7. Do you see  
22 there's a signature?

23 A. Yes.

24 Q. And your name?

25 A. Yes.

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1 Q. Does that appear to be your signature?

2 A. Yes, sir.

3 Q. Does this appear to be a true and  
4 correct copy of your declaration?

5 A. Again, it doesn't ring a bell. But I  
6 have no reason to believe it isn't.

7 Q. Take a look at paragraph two. It  
8 states, "I have substantial experience in drafting  
9 redistricting plans in Alabama, including drawing  
10 the congressional plan adopted by the three-judge  
11 federal district court in Mobile in 1992 and work on  
12 the 2011 congressional plan." Excuse me. "And work  
13 on the 2001 congressional plan. In 2011, I  
14 developed the redistricting plan for the Alabama  
15 congressional delegation. In that work, I worked  
16 within the guidelines for redistricting adopted by  
17 the reapportionment committee."

18 Do you see that?

19 A. I do.

20 Q. Is that an accurate description of your  
21 experience in drafting redistricting plans in  
22 Alabama?

23 A. It is. I mean, I don't know what that  
24 -- the sentence on 2001, I did not draft the 2001  
25 plans. But I did work with the leaders in the

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1 legislature who did draft those plans. I didn't  
2 want it to imply that I drew those maps. I don't  
3 know that it does imply that.

4 Q. Okay. Well, let's go to the first part  
5 there where you said that you -- your experience did  
6 include drawing the congressional plan adopted in  
7 1992. Does that mean that you did draw that map?

8 A. I did, yes.

9 Q. Is that the map that was used for the  
10 Alabama congressional elections in the '90s?

11 A. Yes, sir.

12 Q. Did that map serve as the starting  
13 point, then, for the congressional map that was  
14 drafted for 2001?

15 A. I didn't draw that map.

16 Q. You said you worked on drawing that map.  
17 What does that mean?

18 A. The legislature at that time was  
19 controlled by the democrats, and I was representing  
20 some republican Congressman in just interacting with  
21 them. But they -- they drew the map. I was just  
22 trying to give our point of view to it.

23 Q. Are you familiar at all with how that  
24 map was drawn in 2001?

25 A. Vaguely, but not -- not the specifics of

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1 it.

2 Q. What's your understanding?

3 A. Well, it was essentially a continuation  
4 of the 1992 map, just updated for the most part for  
5 population shift.

6 Q. And you said you were working with the  
7 republican legislators?

8 A. I was working with Congressman Callahan  
9 at that point.

10 Q. Did you have any role whatsoever in  
11 drawing that map in 2001?

12 A. I had no official role other than I was  
13 working with the leaders -- the democratic leaders  
14 who were working on that map. I would occasionally,  
15 you know, talk to them about the changes that were  
16 made, and for especially Congressman Callahan's  
17 district. But I didn't -- I didn't have control of  
18 the process, if that makes any sense.

19 Q. Do you know who did draw the map?

20 A. Senator Enfinger, I believe.

21 Q. Did he --

22 A. Well, that's who the -- he was the -- I  
23 don't know who he hired. That's who I interfaced  
24 with. Let's put it that way.

25 Q. Understood. That was going to be my

1 next question.

2           You said you spoke to several members of  
3 the legislature. Do you remember who you spoke to?

4 A.           In 2001?

5 Q.           Yes.

6 A.           My primary -- my primary interface on  
7 that map was Senator Enfinger.

8 Q.           When you spoke with Senator Enfinger,  
9 did you provide any sort of input or recommendations  
10 about how the map should be drawn?

11 A.           Only as to how -- he had a draft, I  
12 believe, and was talking about the changes he wanted  
13 to make in various districts. And my primary focus  
14 was the first district because I was working for  
15 Congressman Callahan.

16           So he had come with some suggestions,  
17 and we just talked about those. They were not -- I  
18 don't think I had any tremendously substantive  
19 changes to recommend. So I think it was pretty much  
20 what he had drawn, we were comfortable with.

21 Q.           Did you provide any other sort of  
22 feedback in drawing the 2001 congressional map  
23 beyond what you just mentioned with District 1?

24 A.           I did not.

25 Q.           Do you know if it was a goal in the 2001

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1 congressional map to make sure that District 7  
2 remained a majority black district?

3 A. I do not.

4 Q. Do you know if it was considered in 2001  
5 to draw two majority black districts?

6 A. I do not, no.

7 Q. Let's go back to the 1992 congressional  
8 map. Because you said you did draw that one,  
9 correct?

10 A. Yes, sir.

11 Q. The 1992 congressional map created the  
12 first majority black congressional district in  
13 Alabama history; is that correct?

14 A. I believe so, yes.

15 Q. And you said you drafted that map?

16 A. I did.

17 Q. So you drafted District 7 as it stood in  
18 1992?

19 A. Yes, sir.

20 Q. Who asked you to draw that map?

21 A. I was working for Congressman Callahan  
22 and some of the other members of the Alabama  
23 delegation.

24 Q. Did you work with Senator Larry Dixon in  
25 drafting the map?



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1 A. Probably, yes.

2 I will point out that this was 30 years  
3 ago. So if you ask me a specific question, it's  
4 probably going to be hard for me to answer.

5 Q. Understood.

6 Do you remember any other legislators  
7 that you worked with directly in drafting the 1992  
8 map?

9 A. I do not. As you know, the legislature  
10 did not ultimately pass a map. So we went -- it was  
11 a court action that imposed this map.

12 Q. Were you asked to create a majority  
13 black district in drawing the 1992 map?

14 A. I guess -- I guess I was, yeah.

15 Q. Who asked you to do that?

16 A. I think the -- well, Congressman  
17 Callahan and the delegation probably in concert with  
18 the NRCC.

19 Q. Do you know why you were asked to do  
20 that?

21 A. At the time, I believe they thought that  
22 was the proper thing to do under the Voting Rights  
23 Act.

24 Q. Did you receive any instructions from  
25 the court?

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1 A. No, sir.

2 Q. Did you draw District 7 with the intent  
3 to make it a majority black district?

4 A. I did.

5 Q. How did you make sure that District 7  
6 would have a majority black voting age population?

7 A. I just included areas of high  
8 concentration of African American voters.

9 Q. How did you do that?

10 A. By assigning counties and precincts that  
11 fit that definition.

12 Q. Did you have a particular percentage of  
13 black voters that you were shooting for?

14 A. I did not

15 Q. How did you go about choosing District 7  
16 to be the district that has the majority black  
17 voting age population?

18 A. I don't -- I mean, I think it was a  
19 function of geography, I mean, where areas with  
20 concentration of black voters were.

21 Q. And how did you gather that information?

22 A. Census data.

23 Q. What specifically?

24 A. Just the census data from the -- related  
25 to population and race.

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1 Q. So when you were drawing it, you were  
2 able to pull up and see black voters, white voters  
3 in different areas?

4 A. Yes.

5 MR. WALKER: Objection to form.

6 Q. How did you see that information when  
7 you were drawing the map in 1992?

8 A. I'm not sure I understand your question.

9 Q. Did you use a software to draw the map  
10 in 1992?

11 A. As I remember -- again, it was 30 years  
12 ago -- I believe I used the computers at the Alabama  
13 reapportionment office to draw the map. So I don't  
14 know what their software was, to be honest with you.

15 Q. What specific racial data did you have  
16 in front of you when you were drawing that map?

17 A. I would have total pop, total African --  
18 total black, and voting age data.

19 Q. Was that broken down by county,  
20 precinct, neighborhood, block?

21 A. County, precinct, block, yes. Yes, sir.

22 Q. And I realize it was 30 years ago. How  
23 did you go about drawing District 7 in 1992?

24 A. Again, it was 30 years ago. I don't  
25 remember the machinations that went into drawing the

1 map.

2 Q. Did you have in your mind a certain  
3 black voting age population that you were shooting  
4 for?

5 A. No.

6 Q. So you just drew general lines and you  
7 found that it came to a certain percentage of black  
8 voting age population, and you thought that was  
9 good?

10 A. Obviously, I was -- I had in my mind  
11 that we wanted it to be majority black district.  
12 But in terms of above 50 percent, I didn't have a  
13 specific number in mind.

14 Q. Did you take into account any other  
15 characteristics of the black voting age population  
16 that you were looking at when you drew that map in  
17 1992?

18 A. Such as?

19 Q. For instance, did you look at any  
20 socioeconomic factors?

21 A. I did not.

22 Q. Did you look at attitudes?

23 A. I did not.

24 Q. Interests?

25 A. (Witness shakes head).

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1 Q. Type of employment?

2 A. I did not.

3 Q. Income?

4 A. I did not.

5 Q. Educational level?

6 A. No.

7 Q. Voter turnout?

8 A. No.

9 Q. Election results to assess party  
10 affiliation amongst the black voting age population?

11 A. No, I don't believe so.

12 Q. When you drew District 7 in 1992, did  
13 you determine that to be a community of interest?

14 A. Yeah. Well, I think it included most of  
15 the black belt. I would say they had a community of  
16 interest along - yeah. So yes.

17 Q. And what was the basis for that  
18 determination?

19 A. Well, geography and like demographics.

20 Q. And race?

21 A. And race.

22 Q. Was race the main factor you considered  
23 in drawing District 7?

24 A. It was a major factor.

25 Q. Was there a more predominant factor than

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1 race?

2 A. Other than geography and deviation.

3 Those would be the top -- obviously, things had to  
4 be contiguous.

5 Q. If District 7 did not have a majority  
6 black population, would it have passed?

7 A. Passed what?

8 Q. Would it have been approved?

9 A. You're asking me to question what three  
10 federal judges would approve?

11 Q. You were asked to draw a map that had a  
12 majority black district, correct?

13 A. Yes.

14 Q. If you had turned in a map that did not  
15 have a majority black district, would you have done  
16 what you were asked to do?

17 A. You mean turned into Congressman  
18 Callahan?

19 Q. Correct.

20 A. No. I think our goal was to draw a  
21 majority black district.

22 Q. Why did you draw only one majority black  
23 district?

24 A. That was our -- that was our goal, to  
25 draw a district.

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1 Q. Your goal was to draw only one district?

2 A. Well, I'm not sure at that -- I don't  
3 remember the numbers exactly. I'm not sure -- I'm  
4 not sure whether it would have been possible to draw  
5 two or not. I don't know that it would have.

6 Q. Did you consider drawing two majority  
7 black districts?

8 A. I did not.

9 Q. Did anyone suggest to you to draw that?

10 A. They did not.

11 Q. Did you review or comment on any other  
12 maps that contained two majority black districts at  
13 the time?

14 A. I don't --  
15 MR. WALKER: Objection to form.

16 A. I don't remember seeing any majority two  
17 district maps.

18 Q. Did you consider race in drawing any of  
19 the other districts in 1992?

20 A. I did not. I mean, other than -- I did  
21 not, no.

22 Q. Skipping ahead to the 2011 congressional  
23 map. You also drew that map, correct?

24 A. Yes. But may I go back just one?

25 Q. Sure.

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1 A. Obviously, we drew this map -- I drew  
2 this map, and it was submitted in a lawsuit. I had  
3 no idea what would happen to it from there. So it's  
4 not like I -- you know, I didn't know whether the  
5 judges would change it or what would happen.

6 Q. That's a good point. Did the judges  
7 change it after you submitted it?

8 A. I don't -- no, I don't believe they did.  
9 Sorry. Go ahead.

10 Q. So you stated that you also drew the  
11 2011 congressional map, correct?

12 A. Yes, sir.

13 Q. That one is a little bit more recent,  
14 ten years ago. Do you recall the general method  
15 that you used in drawing that map?

16 A. Yeah. I mean, essentially it was  
17 updating the 2001 map based on demographic changes  
18 that had happened over the last ten years and  
19 working with the -- all of the -- I was hired by all  
20 of the members to update the map and submit a --  
21 submit a map to the legislature for approval.

22 Q. So correct me if I'm wrong. But  
23 generally when you're drawing these maps, it's more  
24 of a redrawing than a drawing from scratch. Is that  
25 fair to say?



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1 A. That is fair to say.

2 Q. So the general process is that you will  
3 use the existing map from the prior census data and  
4 update it with the new census data, correct?

5 A. That's correct. And obviously, whether  
6 it's a congressional map or any other maps, you have  
7 officeholders who have an interest in, for the most  
8 part, keeping the voters that they've had for the  
9 last ten years. So, most of them would not go into  
10 a redistricting process looking for wholesale  
11 change.

12 Q. So the 2021 map, for instance, can be  
13 traced back to the 2011 map, the 2001 map, and the  
14 1992 map in that order, correct?

15 A. Yeah. Preserving cores of existing  
16 districts was a guideline for the 2021 map.

17 Q. For instance, the 2001 map used the 1992  
18 map as a starting point, true?

19 A. I didn't draw that map.

20 Q. Do you have any other understanding of  
21 how that map was drawn?

22 A. I mean, if you look at it, it looks like  
23 it was continuing that map, yes. But I didn't --  
24 the democratic legislature drew that map.

25 Q. Is it a fair assumption to say that they

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1 probably used the 1992 map in drawing the 2001 map?

2 A. That's an -- a fair assumption, I guess.

3 Q. And the 2011 map then that you drew used  
4 the 2001 map as its starting point?

5 A. Yes, sir.

6 Q. And then the 2021 map that you drew used  
7 the 2011 map as its starting point?

8 A. Yes, sir.

9 Q. In drawing the 2011 congressional map,  
10 did you speak to members of congress?

11 A. I spoke to all of them, yes, sir.

12 Q. All seven of the incumbents?

13 A. Yes.

14 Q. And what did you speak to them about?

15 A. We're talking about 2011?

16 Q. Correct.

17 A. I spoke to them about the over and under  
18 nature of their districts, whether they needed to  
19 gain population or lose population. And based on  
20 that, where they would like to gain or where they  
21 would like to -- where they would be -- you know,  
22 like to lose.

23 And I tried to work with adjacent  
24 districts to make sure that if person X wanted to  
25 give up this county, that the other person would be

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1 amenable to taking it. So I tried to negotiate a  
2 map that everybody was happy with.

3 Q. Did you consult the state's  
4 redistricting criteria in drawing that map?

5 A. I did.

6 Q. Did you review election returns in  
7 drawing that map?

8 A. They were part of it, yes.

9 Q. What data did you have on that?

10 A. I don't remember if all their races were  
11 in there. But I had the latest last three or four  
12 state-wide races that were available.

13 Q. And how did you use that information?

14 A. I didn't use it all that much. It was a  
15 common -- you know, a common question from a member  
16 might be, you know, what did the governor get in my  
17 district? And if we make this change -- or what did  
18 whomever ran for president in the race before that,  
19 whoever that was.

20 But I didn't use it so much in drawing  
21 the map. It was more of confirming to them that  
22 their district was going to perform similarly to how  
23 the previous district had performed electorally.

24 Q. Did that data give you information on  
25 party affiliation?

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1 A. I don't believe so. I think it was just  
2 election returns.

3 Q. Was that aggregate election returns? Or  
4 was that by individual counties or precincts? Does  
5 that make sense?

6 A. Yeah. It was precinct-based. But then  
7 it was aggregate for counties and then for the  
8 districts.

9 Q. You can look at all of that?

10 A. Yes.

11 Q. Understood.

12 Did you look at any racial polarization  
13 data in drawing the 2011 map?

14 A. I did not

15 Q. Did you look at any other voter behavior  
16 data?

17 A. I did not.

18 Q. Was it a goal in drafting the 2011  
19 congressional map to make sure that District 7  
20 remained a majority black district?

21 (Zoom interruption.)

22 A. What is that?

23 Q. It sounds like we might have a singer.

24 MR. TURRILL: Someone is off on mute on  
25 the line there.

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1 Q. I think we're good now.

2 A. Can you ask -- I'm sorry. Can you ask  
3 that again?

4 Q. No problem.

5 Was it a goal in drafting the 2011  
6 congressional map to make sure that District 7  
7 remained a majority black district?

8 A. Yeah. Obviously, Congresswoman Sewell  
9 was one of my -- one of my clients for that map.  
10 And she wanted to maintain her majority black  
11 district, yes.

12 Q. When you say that she was one of your  
13 clients, what do you mean?

14 A. She was one of the members of congress  
15 who paid me to draw the map.

16 Q. Did you have a contract with those  
17 members of congress?

18 A. Verbally.

19 Q. You didn't have a written contract?

20 A. No.

21 Q. What was the verbal contract?

22 A. That they would all put in \$10,000 to  
23 draw -- each to draw -- pay me to draw this map.

24 Q. That each individual congressman or  
25 woman would put in \$10,000?

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1 A. Their campaigns, yes.

2 Q. Was that the extent of the verbal  
3 agreement?

4 A. It was.

5 Q. Was it a goal in drafting that 2011  
6 congressional map to make sure that District 7 kept  
7 a 60 percent black voting age population?

8 A. No.

9 Q. Was there any sort of specific black  
10 voting age population percentage that you were  
11 shooting for?

12 A. No.

13 Q. Were you successful in making sure that  
14 District 7 remained a majority black district?

15 A. We were.

16 Q. How did you make sure of that?

17 A. By whatever -- you know, whatever -- and  
18 I don't even remember the various counties ten years  
19 ago. If you handed me a map, I could probably tell  
20 you.

21 But by what we added county and  
22 precinct-wise to make sure it did not dramatically  
23 alter the makeup of the district.

24 Q. Explain that to me a little bit further.  
25 So what changes were you making in 2011?

1 A. Again, I don't even know how much -- I'm  
2 going to hazard a guess that District 7 was  
3 underpopulated in 2011. I don't remember the exact  
4 numbers. It was ten years ago.

5 But I'm going to guess that it was  
6 underpopulated. And so then the discussion with  
7 Congresswoman Sewell would be, you know, where --  
8 what areas would we add to your district to get your  
9 district to ideal population.

10 And, obviously, in looking at those  
11 areas, we, you know, wanted to make sure that we  
12 preserved the majority black district.

13 Q. I know some of this was discussed in  
14 your deposition eight years ago. So I'll try not to  
15 tread the same water too much.

16 But explain to me just a little bit  
17 about the process when you were drawing the 2011  
18 congressional map. So did you start with District  
19 7?

20 A. I probably did start with District 7. I  
21 don't really remember, to be honest with you. I  
22 mean, I -- you know, I was meeting -- I met with the  
23 entire delegation to start. And then we went from  
24 there.

25 But preserving Congresswoman Sewell's

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1 majority black district was a priority for the  
2 delegation.

3 Q. And that was the priority for you, as  
4 well?

5 A. Yes.

6 Q. Do you remember generally what sort of  
7 changes you made to District 7 in 2011?

8 A. I really don't. I mean, I apologize.  
9 But I did so many maps and plans in the last ten  
10 years that I don't.

11 Q. What other maps and plans have you done  
12 in the last ten years?

13 A. Well, we just did four in the last  
14 couple of months.

15 Q. Anything else?

16 A. Those are the ones that are mostly stuck  
17 in my brain.

18 Q. Are there any others?

19 A. No.

20 MR. WALKER: What was the question  
21 again?

22 MR. THOMPSON: He said there were so  
23 many maps that he had drawn in the last ten years.  
24 And I asked him which ones, and he said just the  
25 four that he just did.



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1 A. Well, "drawn" is -- we could find the  
2 exact number. But I think in this last legislative  
3 session, there were something like 41 various maps  
4 and plans that were submitted to the legislature.  
5 So while I certainly didn't draw most of those, I  
6 did look at them.

7 So to ask me to go back ten years, it's  
8 hard to -- when you have some 41 pieces of 41 maps  
9 in your head, it's hard to expand back ten years.

10 Q. So you reviewed all 41 maps that were  
11 submitted?

12 A. I didn't review them all, but I looked  
13 at most of them.

14 Q. What's the difference between looking at  
15 them and reviewing them?

16 A. Well, reviewing them would take more  
17 time. Looking at them would be, okay, this is a --  
18 this is a house map or a senate map or whatever. I  
19 just looked at the cover sheet and maybe the overall  
20 numbers, but didn't review -- didn't -- some of them  
21 were never offered, obviously. So if they weren't  
22 offered, I didn't look at them more seriously than  
23 that.

24 Q. Did you review all of the maps that were  
25 offered?

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1 A. I looked at --

2 MR. WALKER: And you're talking about --

3 Q. We're talking about 2021 now. Did you  
4 review all the maps that were offered in the  
5 legislature in 2021?

6 A. Yes, I tried to. Some of -- some of  
7 that may have been a very short review because some  
8 of those maps were literally submitted 24 hours  
9 before they were offered either on the floor or at  
10 committee. So it's not like it was a long review.

11 Q. One more question going back to the 2011  
12 congressional map. Did you consider race -- excuse  
13 me. A couple more questions, to be fair.

14 Did you consider race in drawing any of  
15 the other districts other than District 7 in 2011?

16 MR. WALKER: Congressional.

17 Q. The congressional map in 2011.

18 A. Not specifically. I mean, I'm not sure  
19 I know what "consider" means. But, obviously, all  
20 that information was available on each district.

21 But --

22 Q. Did you review the racial data for each  
23 district when you were drawing the 2011  
24 congressional map?

25 A. As a matter of course, yeah. I mean,

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1 it's all there.

2 Q. Explain that.

3 A. Well, when you finish -- when you draw a  
4 map, obviously, you've got seven districts. And  
5 you're going to have -- if you look at the, you  
6 know, top data for each district, it's going to have  
7 race and voting age, black, so forth and so on for  
8 each district. It's not like it just only comes up  
9 on the majority black district. It would come up on  
10 all of them, obviously.

11 Q. Did you review that data for each  
12 district?

13 A. I looked at it.

14 Q. What did that data tell you?

15 A. Nothing specifically.

16 Q. Did you do anything with that data?

17 A. I did not.

18 Q. Did you consider drawing two majority  
19 black districts when you drew the 2011 congressional  
20 map?

21 A. I really did not.

22 Q. Why not?

23 A. Well, primarily because the people who  
24 were paying me to draw these maps preferred the  
25 districts similar to how they were.

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1 Q. Did the people that were paying you to  
2 draw the map prefer not to have a second majority  
3 black district?

4 A. I don't know about that. But they  
5 preferred to have their districts as close to what  
6 they had under that map going forward.

7 Q. Did you discuss with anyone the  
8 possibility of creating a second majority black  
9 district?

10 A. I don't believe so.

11 Q. Were you aware of requests in the  
12 legislature in 2011 to create a second majority  
13 black district?

14 A. Again, I don't have a -- I don't have a  
15 complete recollection of ten years ago what maps  
16 were offered or not offered on the -- I don't want  
17 to guess on what was offered and what wasn't  
18 offered.

19 Q. Do you know if it would have been  
20 possible to create a second majority black district  
21 in 2011?

22 MR. DAVIS: Object to the form.

23 MR. WALKER: Objection. Go ahead.

24 A. I did not do it. So I -- I don't have  
25 an opinion on whether it was possible.

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1 Q. To be clear for the timeline, I'm moving  
2 ahead now to 2021 for the most recent maps that were  
3 drawn.

4 A. Yes, sir.

5 Q. And I'm going to refer now to the 2021  
6 congressional map. When I refer to that, I mean the  
7 one that was enacted. It was also referred to, I  
8 believe, as HB-1 and then ultimately Act 2021-555.  
9 Is that fair?

10 A. Yes, sir.

11 Q. And I'll refer to that either as the  
12 2021 map or the 2021 congressional map. Is that  
13 okay?

14 A. Yes, sir.

15 Q. When were you first approached about  
16 drawing the 2021 congressional map?

17 A. That probably would have been the end --  
18 sometime in September or October of 2020.

19 Q. Of 2020 or 2021?

20 A. 2020. About a year out, I would say.

21 Q. Who approached you?

22 A. Senator McClendon and Representative  
23 Pringle on behalf of the republican leadership.

24 Q. What were you asked to do?

25 A. They asked me if I would be interested

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1 in drawing all four maps that they -- the  
2 congressional, as well as the other maps that needed  
3 to be drawn in this session.

4 Q. And those four would be the  
5 congressional, the house and senate for the state  
6 legislature, and the board of education?

7 A. Yes, sir.

8 Q. Did you agree to draw all four?

9 A. I did.

10 Q. When were you officially retained?

11 A. Around that time, I would think. Like  
12 maybe October of 2020.

13 Q. And who officially retained you?

14 A. Well, I was working for the two chairs  
15 of the -- the house chair, Representative Pringle,  
16 and the senate chair, Senator McClendon.

17 Q. Did you sign a contract?

18 A. I did.

19 Q. When did you sign that contract?

20 A. Again, I don't have that in front of me.  
21 But September or October of 2020, I would imagine.

22 Q. Is the contract with you individually,  
23 or is it with your company?

24 A. It was with R. Hinaman, yes.

25 Q. And who is the other party that you

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1 contracted with?

2 A. Citizens for Fair -- Citizens for Fair  
3 Representation. Or maybe Alabamians for Fair  
4 Representation.

5 Q. Do you recall which one it is?

6 A. Not off the top of my head.

7 Q. Who is Citizens for Fair Representation  
8 or Alabamians or Fair Representation? Whichever the  
9 name is, who is that group?

10 A. It's a 501(c)(4) which also paid me to  
11 do the map drawing that I did in 2011.

12 Q. And what's your understanding of why you  
13 were contracted by this particular group?

14 A. Meaning?

15 Q. As opposed to the State of Alabama, the  
16 legislature, anyone else. Why this 501(c)(4)  
17 organization?

18 A. The leadership had set up that (c)(4)  
19 for the purpose of drawing districts in 2020 -- 2011  
20 and then continued it for 2021.

21 Q. So this 501(c)(4) organization was  
22 created for the purpose of drawing the redistricting  
23 in the state of Alabama?

24 A. In 2011, that's my understanding, yes.

25 Q. Do you know if that organization does

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1 anything else?

2 A. I do not.

3 Q. The contract that you signed around  
4 September, October of 2020, did you draft that  
5 contract?

6 A. I did.

7 Q. What does the contract call for you to  
8 do?

9 A. It calls for me to work with the two  
10 chairs and the leadership of the house and the  
11 senate to draw four maps, congressional, state  
12 senate, state house, and state board of education.  
13 And to the extent practical and possible, meet with  
14 the officeholders for those four maps to get their  
15 interest in changes and so forth.

16 Q. In that last part, you said "to meet  
17 with the officeholders"?

18 A. Yes.

19 Q. Is that basically the incumbents for  
20 each of the various districts on each of those maps?

21 A. Correct.

22 Q. Do you have a copy of that contract?

23 A. Not with me. But yes, I do.

24 Q. Is that something that you could produce  
25 if you were requested in this case?



1 A. Yes.

2 Q. What were the terms of your compensation  
3 in that contract?

4 A. Four payments spaced out over various  
5 months, four payments of \$50,000 spaced out over the  
6 length of the contract.

7 I believe when we actually signed the  
8 contract back in September or October, we were  
9 hoping or planning to do a special session in July.  
10 So we didn't at that time know that COVID was going  
11 to delay the census numbers and so forth and so on.

12 So when I started the process at the end  
13 of 2020, the theory was we would, you know, probably  
14 have a special session in June or July sometime to  
15 pass these maps.

16 Q. You said you started the process around  
17 the end of 2020. What do you --

18 A. Well, when I signed the contract.

19 Q. You also said that there was -- the  
20 contract called for four payments of \$50,000. Is  
21 that four separate payments of 50,000 each, for a  
22 total of --

23 A. Yes, sir.

24 Q. -- 200,000?

25 A. Yes, sir.

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1 Q. Have you been fully paid at this point?

2 A. I have.

3 Q. Was any part of your compensation  
4 contingent on anything?

5 A. No. However, the -- just to be clear on  
6 the payment, because the time frame of the project  
7 changed -- I mean, when we initially signed the  
8 contract, the theory was, again, we would have the  
9 census data in March and we would pass a plan in  
10 July. Obviously, that didn't happen.

11 So my timeline for when I was supposed  
12 to get those four payments I modified so that they  
13 didn't have to pay me before I had actually even had  
14 census data. So we changed the timeline. But yes.

15 Q. Were you able to do any work on the maps  
16 before you got the census data?

17 A. Yeah. We -- especially the state-wide  
18 ones such as congress and state board of education.  
19 We had to -- we had the estimates, county estimates,  
20 from the census bureau. I guess it would have been  
21 the 2019 numbers.

22 So it was possible to look at them and  
23 say, okay, this district is likely to be under, this  
24 district is likely to be over, which on the  
25 congressional level allowed me to start meeting with

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1 members before we had the official census data which  
2 we didn't get until the end of August.

3 Q. So you didn't get the official census  
4 data until the end of August. But you had  
5 unofficial estimates from the census before then?

6 A. Correct.

7 Q. And when did you receive those  
8 unofficial results?

9 A. I don't -- I don't know when the 2019  
10 numbers were updated. But I'm going to say around  
11 the end of -- somewhere around the end of 2020. But  
12 I don't know that exactly.

13 Q. Did you begin working on the  
14 congressional map before you received the official  
15 census data?

16 A. Yes, sir.

17 Q. When did you begin working on that map?

18 A. In earnest probably in May of 2021.

19 Q. What do you mean "in earnest"?

20 A. Well, meeting with members and talking  
21 substantively about potential changes.

22 Q. Before we get into the specifics of  
23 that, just on your compensation real quick, were you  
24 paid or retained by anyone else?

25 A. No. I mean, I assume you mean relative

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1 to redistricting.

2 Q. Certainly. You've received other  
3 payments --

4 A. Yes.

5 Q. -- for other --

6 A. Consulting.

7 Q. Correct.

8 So you stated that you began drawing the  
9 2021 map in earnest in May of 2021. Did you do  
10 anything else in preparation for drawing the maps  
11 before that date?

12 A. No. I mean, I had conversations with  
13 members of the congressional delegation. And as you  
14 may -- may know, there was considerable  
15 concerns/discussion about whether Alabama would have  
16 seven members of congress or six.

17 And until we really knew the answer to  
18 that -- which I think we were told by the census  
19 bureau in April, sometime in April what the answer  
20 to that question was -- there really wasn't much --  
21 I didn't -- my position with the congressmen was it  
22 would not make sense to work on a map until we knew  
23 how many districts we were going to have.

24 Because, obviously, working on a  
25 six-person map where somebody would be paired with

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1 somebody was not going to be a lot of fun. And  
2 there was no need to do that if we didn't ever have  
3 to.

4 Q. Certainly. So the census bureau  
5 informed --

6 A. All the states, I think, in April of how  
7 many -- how many members of congress they would  
8 have. And then that allowed me to set up meetings  
9 and work off of the estimates of 2019 to talk about  
10 whether your district was over or under and so  
11 forth.

12 Q. And you began those meetings around May  
13 of --

14 A. I went to DC with the goal to meet with  
15 everybody in May, yes, sir.

16 Q. So you said you went to DC. So I assume  
17 that you're referring to meetings with the  
18 congressional members.

19 A. Yes.

20 Q. Did you meet with any other -- for  
21 instance, did you meet with anybody in the Alabama  
22 state legislature in the spring of 2021?

23 A. Well, I met with the two co-chairs to  
24 talk about my plan to how to -- you know, how to  
25 move forward on the congressional, that we would

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1 wait until we knew how many districts the state  
2 would have. And then I would go to Washington and  
3 meet with the members and start formulating a plan  
4 from there to hopefully reach some consensus on a  
5 map.

6 Q. Before you received word from the census  
7 bureau that there were going to be seven districts  
8 in Alabama again, did you do anything else in  
9 furtherance of drawing the 2021 congressional map?

10 A. I did not.

11 Q. When did you actually begin redrawing  
12 the 2021 congressional map?

13 A. After my May round of meetings in  
14 Washington.

15 Q. You say after then. Would that have  
16 been in May? Or June, July?

17 A. I think the end of May, beginning --  
18 again, this was all based on estimates. We did not  
19 have the real census data. So I just -- I probably  
20 roughed out a map sometime in May or June based off  
21 of the estimates, knowing full well they were not  
22 going to be completely accurate.

23 Q. From the time that you started drawing  
24 the 2021 congressional map until it was completed,  
25 about how much time did you spend in terms of hours

1 on drawing that map?

2 A. I have no idea. I guess I would make a  
3 bad lawyer.

4 Q. Well, I don't want you to guess.

5 When was the map completed for the 2021  
6 congressional?

7 A. Complete. When was I done with what I  
8 was doing with it?

9 Q. Correct.

10 A. Probably the Friday before the week we  
11 went into session. So whatever that -- October 23rd  
12 or -- I'm making up that date. Whatever the Friday  
13 before we went into session was.

14 Q. And you're referring to the special  
15 session that was called in the fall of 2021?

16 A. Correct.

17 Q. Going back to how much time it took you  
18 in terms of hours. Would you say that you spent  
19 more than 100 hours drawing the congressional map in  
20 2021?

21 A. Well, if you're including meetings and  
22 discussions about it, yeah, probably.

23 Q. Would you say you spent more than 150  
24 hours?

25 A. I don't know. I just -- I don't really

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1 have a -- I didn't think of it in terms of hours.  
2 My contract didn't -- my contract was just you were  
3 going to draw these four maps. And whether it took  
4 123 hours or 217 was irrelevant to what I was doing.

5 Q. Right. I'm just trying to get an idea  
6 about how long it took you. I know there were  
7 months involved.

8 But how much time you were actually  
9 spending on this in that time frame, would you say  
10 it took you more than 200 hours?

11 A. I have no way of even guessing that. I  
12 really -- I apologize, but I don't.

13 Q. Were you doing other things work-wise  
14 between May 2021 and -- when was the special  
15 session? Was it in October?

16 A. October of 2021, yes.

17 Q. Between May 2021 and October 2021, were  
18 you doing anything else work-wise other than drawing  
19 these four maps?

20 A. Not very much because it was an  
21 off-year, obviously. I had clients that I did  
22 things for, obviously, in 2020, working up to the  
23 November 2020 election. But -- and I still had an  
24 ongoing relationship with some of -- a couple of my  
25 clients. But there wasn't a lot of work that needed



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1 to be done in the off-year.

2 Q. Were you working full 40-hour weeks  
3 during that entire time?

4 A. By and large, yes.

5 Q. Did you take any trips or personal  
6 vacation time during that time period?

7 A. Well, it was during COVID. So I didn't  
8 travel a whole lot. But it was a crazy time, as you  
9 all remember.

10 Q. Did you take any time off?

11 A. Sure.

12 Q. About how long did you take off?

13 A. I don't know. A couple of weeks.

14 Q. And in that -- you had mentioned that  
15 you weren't able to begin redrawing the  
16 congressional map before you received the census  
17 estimates in April of 2021. Does that apply to all  
18 --

19 A. Before I received how many districts we  
20 had in April of 2021.

21 Q. Correct. Does that --

22 A. I think we had the census estimates  
23 before that. I'm saying we just didn't know how  
24 many districts there were.

25 Q. Fair enough. Thank you for the

1 clarification.

2 Does that apply to all four of the maps  
3 that you were drawing?

4 A. No. That's obviously the -- the only  
5 one that the census determined how many members  
6 there would be would be -- was congress.

7 Q. Because you said you had unofficial  
8 census data on, I guess, population prior to that?

9 A. By county, yes.

10 Q. And did you use that unofficial data for  
11 the other maps?

12 A. I used it -- I used it to start working  
13 with the state school board members.

14 It was less effective at the senate and  
15 house levels, virtually useless at the house level  
16 because it was mostly county data at the beginning.  
17 And so most house districts are not made up of full  
18 counties, obviously. So it was less valuable in  
19 those maps and more valuable in the statewide maps.

20 Q. When did you begin drawing the state  
21 house and senate maps in 2021?

22 A. I did not start on a house map until we  
23 actually had all of our census data at the end of  
24 August. I had roughed out a few of the rural senate  
25 districts based on some of the estimates. But it

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1 wasn't particularly effective.

2 So I would -- I would really say I  
3 didn't seriously start drawing those maps until  
4 August of 2021.

5 Q. And what about the board of education  
6 map?

7 A. The board of education I was doing  
8 simultaneously to congress because that was  
9 obviously a statewide map. And the county numbers  
10 were more usable in that type of map than they were  
11 in a 105-member state house map.

12 Q. So you began drawing the board of  
13 education map around --

14 A. The same times as congress.

15 Q. Which was around May of 2021?

16 A. Correct. I think I started meeting with  
17 those members in May, as well.

18 Q. We've been going about an hour. Do you  
19 want to take a break?

20 A. Sure.

21 THE VIDEOGRAPHER: We're off the record.  
22 The time is 10:17 a.m.

23 (Recess was taken.)

24 THE VIDEOGRAPHER: We are back on the  
25 record. The time is now 10:35 a.m.

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1 Q. Mr. Hinaman, when we left off, we were  
2 talking about the preparation that you did starting  
3 to get into the beginnings of drawing the 2021 map.

4 Prior to May 2021, did you anything in  
5 furtherance of drawing the 2021 congressional map?

6 A. Other than reviewing the 2019 census  
7 estimates by county, no.

8 Q. And what did you do when you were  
9 reviewing the --

10 A. I was trying to get a feel for what  
11 districts would be underpopulated and what districts  
12 would be overpopulated based on those estimates.

13 And while the estimates in the end  
14 didn't turn out to be obviously particularly close  
15 to the actual numbers, in order -- they were -- they  
16 were close in that they did predict the three  
17 districts that would be under and the four districts  
18 that would be over.

19 So it was helpful to pay attention to  
20 that when I started to do my round of meetings with  
21 the members of congress.

22 Q. Did you do anything else prior to May  
23 2021 in furtherance of drawing the 2021  
24 congressional map?

25 A. No. I mean, obviously, I -- at some

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1 point in that time frame, the reapportionment  
2 committee met and passed their guidelines.  
3 Obviously, I reviewed those and how they would  
4 impact the drawing of the maps. But that was --  
5 that was about the May time frame, as well. It may  
6 have been early May rather than later May.

7 Q. You met with members of congress in DC  
8 in May of 2021, correct?

9 A. Yes.

10 Q. Was that the first thing that you did  
11 after the census data came out in 2021?

12 A. Well, the data --

13 Q. Let me take a step back there.

14 You said that prior to May 2021, the  
15 only thing that you had done was review some of the  
16 unofficial census data to get a feel for  
17 underpopulation, overpopulation?

18 A. Yes.

19 Q. Then the census bureau announced around  
20 April 2021 that there will be seven congressional  
21 districts again in Alabama?

22 A. Correct.

23 Q. Was the next step that you did flying to  
24 DC to meet with the congressional members?

25 A. Yes. And that was, again, after

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1 guidelines had been passed in early May.

2           The only other thing in there, obviously  
3 I had talked -- before we knew seven to six, I had  
4 talked to, obviously, all of the offices, the  
5 congressional offices, about what my -- what our  
6 proposed timeline was going to be based on the fact  
7 that the census data was delayed, and that hopefully  
8 we would be able to set up a round of meetings in  
9 May and then we would get our data in August or  
10 whatever, and then we would fine tune it from there.

11 Q.           So those were more of administrative  
12 coordination discussions?

13 A.           Yes, sir.

14 Q.           You flew to DC, you said, in May of 2021  
15 to meet with the congressional members. Did you  
16 meet with each -- all seven congressional members?

17 A.           I met with five in person, one by Zoom.  
18 And one of the members declined to meet because they  
19 were more interested in running for a different  
20 office, I guess.

21 Q.           Which member was that that declined to  
22 meet?

23 A.           Mo Brooks. I met with his chief of  
24 staff, but I did not meet with Congressman Brooks  
25 directly.

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1 Q. You met with each of the other  
2 congressional members?

3 A. Five in person and one by Zoom.

4 Q. Who was the one you met with by Zoom?

5 A. Congresswoman Sewell. She was back in  
6 Alabama on a personal matter. So I met with her by  
7 Zoom.

8 Q. Did you meet personally with Congressman  
9 Sewell by Zoom?

10 A. Yes.

11 Q. And when was that?

12 A. During the May trip. Is that what  
13 you're asking me?

14 Q. Correct. Because you went to DC to meet  
15 with some of them.

16 A. Yes. And she was not in DC because of a  
17 personal matter. So we did a Zoom call.

18 Q. You were in DC when you had the  
19 Zoom call?

20 A. And she was in Birmingham, I believe.

21 Q. Was it just one call that you had with  
22 Congressman Sewell?

23 A. During that trip, just one call.

24 Q. Have you had other meetings with  
25 Congressman Sewell?

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1 A. I've had other Zoom meetings with her.  
2 Microsoft Teams, technically. But yes, Zoom  
3 meetings.

4 Q. Have you had any in-person meetings with  
5 Congressman Sewell?

6 A. No, I don't think I did this time. I  
7 mean, as -- in-person meetings were rather  
8 difficult. It was actually May when I went to --  
9 the house office buildings were actually closed and  
10 didn't allow visitors. So meeting anybody in person  
11 was a bit challenging during that time.

12 I would have met with her in person on  
13 that trip had she been in town. But she was not.  
14 But the other members that I met with were all  
15 off-campus, so to speak, because we couldn't go to  
16 -- I couldn't go to their offices.

17 Q. As far as Congressman Brooks goes, you  
18 said you met with somebody from his staff?

19 A. I met with his chief of staff, yes.

20 Q. And what did you discuss with these  
21 representatives when you met with them in May of  
22 2021?

23 A. I discussed the over and under nature of  
24 their district. And if their district was  
25 underpopulated based on the estimates, I said, you



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1 know, "Where would you envision picking up  
2 population?" If you were over populated, "What  
3 areas of your district would you envision  
4 potentially losing?"

5 Q. Did you discuss anything other than  
6 population changes with them?

7 A. Population changes and potential  
8 timelines and when we might get the real census  
9 data.

10 Q. Anything else that you discussed with  
11 them?

12 A. That was about it.

13 Q. What did you do next after meeting with  
14 the representatives in May of 2021?

15 A. I took -- took back that information and  
16 looked at it in terms of a map, and then waited for  
17 the real census data to come to see where we really  
18 were.

19 Q. You said you took back that information.  
20 What sort of information did you get from these  
21 meetings?

22 A. When somebody said if I need to lose  
23 10,000, I would like to lose them in county X or  
24 place Y or whatever.

25 Q. And so you said you took that

1 information. And then what did you do with it?

2 A. Tried to rough it out in an estimated  
3 map, but again knowing that it was going to change  
4 because the estimates were not going to be  
5 completely accurate.

6 And, again, I didn't want to -- if there  
7 was a conflict somewhere between some -- two members  
8 wanted county X, I didn't really want to litigate  
9 that until we had real numbers because it may become  
10 irrelevant when it turns out that their district was  
11 10,000 off of what the estimate said.

12 So I tried not to get into any  
13 negotiations at that point.

14 Q. Were there some disputes in the  
15 recommendations and requests that you received?

16 A. Minorly, yeah.

17 Q. Were there specific counties that more  
18 than one representative wanted?

19 A. Yeah. I mean, for example, the 1st  
20 District was going to be over. The 1st District was  
21 going to be overpopulated, and it was going to have  
22 to lose some. And the 1st District congressman  
23 wanted to probably lose some to the 2nd in Monroe,  
24 but the 2nd District congressman wanted to gain some  
25 from the 1st in Escambia, just things like that.

1 They were not major.

2 But, again, it really wasn't worth the  
3 point of negotiating it fully until we knew the real  
4 numbers. Because as it turned out, it only ended up  
5 being 739 people, and it wasn't particularly  
6 important which county it was in the scheme of  
7 717,000 voters or citizens in a district.

8 Q. You said you then took that information  
9 from those meetings with the representatives and  
10 roughed out a map. What does that mean?

11 A. It means I took the -- we had the  
12 estimates on Maptitude at the state reapportionment  
13 office. And I just roughed without -- I mean, I  
14 didn't get anywhere close to zero deviation because  
15 there was no point in it.

16 I just generally roughed out based on  
17 what we had discussed in DC, knowing that it was all  
18 going to change when we got the real numbers. But  
19 just explored some of the potential.

20 Q. And to be clear, for somebody that  
21 doesn't draw maps, what does "roughed out" mean?

22 A. Meaning assigned various counties to  
23 districts just in an effort to get things closer to  
24 the ideal population.

25 Q. Kind of playing with the numbers, just

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1 kind of seeing what works as a preliminary  
2 standpoint, I guess?

3 A. Yes. And just to be clear, that was all  
4 on total population. Because I certainly didn't  
5 have the ability or trust the internals of any of  
6 those -- I mean, I wouldn't have trusted like BVAP  
7 or anything else to the extent it wouldn't have made  
8 any sense to look at it at that point.

9 Q. Did you have any data on the black  
10 voting age population at that --

11 A. I don't know what the estimates had.  
12 But I didn't even look at it because I knew it  
13 wasn't going to be significant to what we were  
14 doing.

15 Q. Did you do anything else before you  
16 received the official census data in August of 2021?

17 A. No.

18 Q. Did you review any other materials in  
19 that time frame before August 2021?

20 A. Obviously, I reviewed the guidelines and  
21 had discussions with the two chairs of how we will  
22 proceed once we get the data in terms of all the  
23 maps.

24 Q. What were those discussions like?

25 A. Just mostly timing and how we would --

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1 how we would go forward. And hopefully we could get  
2 some consensus on the state school board members and  
3 some consensus with the congressional members.

4 And, obviously, the house map I couldn't  
5 do anything with until we got the real numbers. The  
6 senate map I could do next to nothing with. I mean,  
7 I could look at a few of the more rural districts  
8 because they were whole counties. But once you got  
9 into major metropolitan areas, I couldn't come up  
10 with too many suggestions for that then.

11 Q. Other than Pringle and McClendon, did  
12 you meet with any other members of the Alabama  
13 legislature?

14 A. I don't believe so at that time.

15 Q. And "that time" being before August  
16 2021, correct?

17 A. Correct.

18 Q. Did you review any election returns in  
19 that time frame?

20 A. I did not.

21 Q. Did you review any voter registration  
22 info in that time frame?

23 A. I did not.

24 Q. Did you review any voter primary  
25 participation data in that time frame?

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1 A. No, sir.

2 Q. And then in August 2021, you received  
3 the official census data, correct?

4 A. Correct.

5 Q. What did you do once you received that  
6 data?

7 A. Well, the State received it.

8 Q. And then ultimately it was passed on to  
9 you, correct?

10 A. Well, it was -- I used the state  
11 computer. So their -- that data was then given to  
12 Maptitude. This is my understanding. I did not do  
13 any of this.

14 That data was given to Maptitude, and  
15 Maptitude turned it into their workable -- put it  
16 into their program and sent it back to the State.  
17 And the State loaded it into their computers, which  
18 all took another week. And then I was able to  
19 manipulate it on -- use it on a computer at that  
20 point.

21 Q. So walk me through that. So Maptitude  
22 is a software on a computer, correct?

23 A. Yes.

24 Q. A map-drawing software?

25 A. Correct.

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1 Q. Is it the same software that you had  
2 used previously in drawing maps?

3 A. I used it in 2011, yes, sir.

4 Q. Did you ever use it before then?

5 THE WITNESS: I used it in 2011. The  
6 State used ESRI.

7 A. Excuse me?

8 Q. Did you use it before 2011?

9 A. I don't think so.

10 Q. And you were clarifying with Mr. Walker  
11 that you used in 2011 --

12 A. Yeah. In 2011, I had a computer, and I  
13 had Maptitude on it. The State used -- the State of  
14 Alabama used a different software, I think, called  
15 ESRI.

16 THE REPORTER: Called what?

17 A. ESRI.

18 Q. Can you spell that?

19 A. I don't know.

20 MR. WALKER: E-S-R-I, all capital  
21 letters.

22 Q. And what is ESRI?

23 A. It's just a -- it's similar to Maptitude  
24 software for using the census data.

25 Q. So in 2011, you drew the map using your

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1 own computer and your own software?

2 A. Correct.

3 Q. Was that then imported into ESRI for the  
4 State?

5 A. Yes, sir.

6 Q. The file types can be imported from one  
7 to the other?

8 A. Yes, sir.

9 Q. Then in 2021, you did not use your own  
10 computer and software, correct?

11 A. That's correct.

12 Q. You used the State's computers and  
13 software?

14 A. Entirely.

15 Q. Where was that physically?

16 A. In the reapportionment office at the  
17 state house, Room 317.

18 Q. So any time that you wanted to actually  
19 work on redrawing the map, you had to --

20 A. Physically be there.

21 Q. How often --

22 A. Sorry. I didn't mean to finish your  
23 sentences.

24 Q. That's fine. And we're doing a pretty  
25 decent job. But let's try to remember to let each



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1 other finish so that the court reporter can type  
2 everything down.

3 How often -- starting in August 2021,  
4 how often would you go to the -- what did you say it  
5 was? The reapportionment office?

6 A. Reapportionment office.

7 Q. How often would you go to the  
8 reapportionment office after August 2021?

9 A. Once the -- once the material was loaded  
10 into the computer, which was probably the last week  
11 of August maybe, I was there once or twice a week  
12 for the next week or so. And then after that, I was  
13 there four or five days a week until we were through  
14 the special session. I basically lived in  
15 Montgomery. For all intents and purposes, I lived  
16 in Montgomery for a couple of months.

17 Q. From, say, the beginning of September  
18 through the end of October?

19 A. Yeah. Certainly Labor Day until the end  
20 of October.

21 Q. Would you work on weekends, as well?

22 A. Rarely. I mean, once we got very close  
23 to the session, yes. But not -- not normally.

24 Q. Of the four maps you were -- you were  
25 working on all four maps in that time frame, right,

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1 starting in August 2021 through October 2021?

2 A. Yes.

3 Q. And all four maps, you were doing the  
4 same process using the State's computers and using  
5 Maptitude, correct?

6 A. Correct.

7 Q. Were there any of those maps that took a  
8 significantly larger portion of your time to draw?

9 A. Well, obviously, including meetings with  
10 members. 105 house members are significantly more  
11 meetings than, you know, seven for congress and  
12 eight for school board.

13 So, obviously, the house map probably  
14 took a lot longer just in terms of meeting with 105  
15 different -- I didn't meet with everybody. But the  
16 vast majority of 105 people -- and sometimes more  
17 than once -- took a lot longer than meeting with  
18 seven congressmen, for example.

19 Q. In addition to meeting, I assume that  
20 drawing 105 districts probably takes a lot more of  
21 your time to do than just drawing seven. Is that  
22 fair?

23 A. That's fair.

24 Q. If you had to put very rough percentages  
25 on the amount of time you spent on the congressional

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1 map versus the other ones, about how much of your  
2 time would you say you spent?

3 A. Now you're -- now you're making me a  
4 lawyer again. And I'm not good at this.

5 I really -- I don't really know how to  
6 do that. I mean, you would be correct that the  
7 majority -- I mean, I put more time into the house  
8 map than I put into the state school board and the  
9 congressional. But I really don't have a way to  
10 quantify that.

11 Q. Did you put more time into the senate  
12 map, as well?

13 A. Yeah. Obviously, it's 35 members versus  
14 seven or eight. It just takes longer to do the  
15 meetings and follow-ups and so forth.

16 Q. And the state school board --

17 A. Is eight members.

18 Q. Eight members. Did that take you about  
19 the same amount of time to draw as the --

20 A. Yeah.

21 Q. Sorry. Let me make sure that I can  
22 finish.

23 Did drawing the state school board map  
24 take you about the same amount of time as it did for  
25 drawing the congressional map, given that they have

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1 about the same number of districts?

2 A. Yes.

3 Q. Going back to the software, this  
4 Maptitude software, you said that it took about a  
5 week for the census information to be uploaded; is  
6 that correct?

7 A. Yeah, that's what I said.

8 Q. What does that mean?

9 A. Again, this was not part of my  
10 responsibility. But the State got the data, as I  
11 understood it, and gave it to Maptitude. Maptitude  
12 translated it into their software and sent it back  
13 to the State to be loaded on the State computer.

14 But, again, this is all my secondhand  
15 knowledge of what was going on. I was not doing  
16 this.

17 Q. From your perspective, once you arrived  
18 around the end of August looking at Maptitude and  
19 the software, you were able to see what information  
20 has been uploaded, correct?

21 A. Well, once it's -- yeah. Once it's  
22 uploaded, yes.

23 Q. What sort of information is -- was  
24 available to you on the Maptitude software regarding  
25 the districts?

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1 A. Once it's all loaded in, I have, you  
2 know, total population and voting age population and  
3 race down to the block level.

4 Q. Is there any other information that's  
5 available to you in Maptitude?

6 A. I don't believe so.

7 Q. Did you, yourself, upload any additional  
8 information into Maptitude?

9 A. I did not.

10 Q. Did you review any other data in  
11 preparing the maps?

12 A. I did not.

13 Q. Did you meet with anyone between August  
14 2021 and the time that you submitted the maps before  
15 the special session in furtherance of drawing the  
16 2021 congressional map?

17 A. Well, I met with virtually all of the  
18 officeholders.

19 Q. You met with each of the seven  
20 congressional representatives again?

21 A. Oh, yeah. I had Zoom calls with -- with  
22 them. And then -- are you talking just  
23 congressional now, or all of it?

24 Q. Focusing on the 2021 congressional map.

25 A. Yes.

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1 Q. Who did you meet with to discuss the  
2 drawing of the map between August 2021 and when you  
3 submitted the map in the week before the special  
4 session?

5 A. Once we had the real data, I went back  
6 and had Zoom calls with all of the members of  
7 congress or their -- or their chief of staff to talk  
8 about what the differences were from the estimates  
9 versus the actual census data and to reiterate, you  
10 know, what we discussed in May, what was still  
11 operable and what maybe needed to be slightly  
12 revised based on what our thoughts were.

13 Then after those round of Zoom calls, I  
14 went back and drew a proposed map. Which I then did  
15 another round of calls, Zoom calls with, to look at  
16 the final -- semifinal, final version, I guess.

17 Q. In those meetings, did you discuss  
18 anything with the representatives other than changes  
19 that needed to be made for population deviation?

20 A. No.

21 Q. How many meetings would you say you had  
22 with each of the representatives in that time frame?

23 A. It varied. For example, Mo Brooks would  
24 be zero because he again was not interested to  
25 participate. Others took, you know, three, four,

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1 five phone calls. Some were one or two.

2 In the final end, Representative Palmer  
3 decided not to do the final call. So I didn't have  
4 a final call with him. But everybody else, I had at  
5 least two, if not more.

6 Q. Were all of the meetings with the  
7 representatives from August 2021 through the special  
8 session by Zoom?

9 A. Yes.

10 Q. When you had those meetings, would you  
11 share your screen to be able to show what the map  
12 looks like?

13 A. Exactly, yes.

14 Q. Did you discuss with each of the  
15 representatives the map as a whole or just their  
16 specific districts?

17 A. Their specific districts and an adjacent  
18 district if there was some change there.

19 Q. You stated for the 2011 congressional  
20 map that you were actually hired by the seven  
21 congressional representatives, correct?

22 A. Correct.

23 Q. That was not the case for 2021, correct?

24 A. That's correct.

25 Q. Why not?

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1 A. That was not my -- the leadership  
2 decided that they would, you know, hire me through  
3 the 501(c)(4), which -- which is how they hired me  
4 for legislative. I did the legislative maps in  
5 2021, and I guess they preferred that model over the  
6 other one. I don't know. That was their choice,  
7 not mine.

8 Q. Did you receive any other instructions  
9 or requests from the congressional representatives  
10 other than changes to make to account for population  
11 deviation?

12 A. No.

13 Q. Did you meet with any members of the  
14 Alabama state legislature to discuss the 2021  
15 congressional maps?

16 A. Just -- just the two co-chairs, two  
17 chairs.

18 Q. And that's --

19 A. Senator McClendon and Representative  
20 Pringle.

21 Q. What did you discuss with Senator  
22 McClendon and Representative Pringle?

23 A. I would just update them on our progress  
24 and discussions with various members. And to the  
25 extent that there were conflicts like the one I



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1 described between the 1st and the 2nd, I just  
2 updated on that in case they were to receive a call  
3 from somebody, they would know what was happening.

4 Q. In these meetings with Senator McClendon  
5 and Representative Pringle, were you pretty much  
6 just providing information to them?

7 A. Yeah, pretty much.

8 Q. Did you receive any feedback or  
9 particular requests from them about how to draw the  
10 map?

11 A. No.

12 Q. Beyond anything that you were told from  
13 the congressional -- U.S. congressional  
14 representatives, were you given any instructions or  
15 requests about how to draw the 2021 congressional  
16 map from anyone?

17 A. No.

18 Q. And how many times did you meet with  
19 Representative Pringle and Senator McClendon in  
20 preparation for drawing the 2021 congressional maps?

21 A. I don't -- I mean, this was during the  
22 course in time when they were also in town doing  
23 meetings with their colleagues. So maybe I updated  
24 them every other week. It was rather -- I mean, it  
25 wasn't a formally structured we meet every Tuesday

1 at 10:00 o'clock. It was just when they were both  
2 there or singularly there, I would just give them a  
3 quick update.

4 Q. Were these updates by phone or email or  
5 in person?

6 A. Usually in person.

7 Q. Were there ever communications by email  
8 with them?

9 A. No.

10 Q. Did you attend any of the public  
11 hearings in preparation for the 2021 congressional  
12 maps?

13 A. I didn't. They were happening  
14 simultaneously with me being in Montgomery. And I  
15 would occasionally walk in the room while they were  
16 happening to talk to somebody else or whatever. But  
17 I didn't officially attend them.

18 Q. There were a few that you walked into  
19 the room while they were going, you said?

20 A. Well, they were being done in an  
21 adjacent room, and I occasionally walked in. And I  
22 would also occasionally -- either the co-chairs or  
23 Dorman Walker or somebody would come back and update  
24 me as to something somebody said if they thought it  
25 was significant to my drawing.

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1 Q. Do you recall what any of those sort of  
2 comments would have been?

3 A. Yeah. For example -- and this was  
4 already in process, so it wasn't a tremendous shock.  
5 But there were comments, for example, in the  
6 Montgomery meeting that they didn't want to be split  
7 into three districts as they were in 2001, that they  
8 would prefer Montgomery not -- probably they  
9 preferred it not to be split at all. But if it were  
10 going to be split, to certainly not three ways and  
11 have it be two, which was a feature of a map I was  
12 already working on. But things like that.

13 Q. Do you remember any other specific  
14 feedback that you received from the public hearings?

15 A. Just areas like the Shoals area wanted  
16 to be kept as intact as possible. And people in  
17 Madison and Morgan wanted to be -- they thought  
18 there was obviously a lot of community of interest  
19 between those areas in north Alabama. People in  
20 Baldwin and Mobile wanted to be kept together.  
21 There was a lot of community of interest between  
22 those counties. Things like that.

23 Q. When you refer to "the Shoals area,"  
24 you're referring to Muscle Shoals?

25 A. Yes.

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1 Q. Any other specific feedback that you  
2 recall receiving from the public hearings?

3 A. Not on congressional. There was a lot  
4 of feedback on state maps that we also talked about.

5 Q. And did you ever personally sit in on  
6 any of these hearings or hear anything that was  
7 being said personally?

8 A. I did for ten-minute snippets  
9 occasionally when I was waiting to talk to somebody  
10 in that room.

11 Q. Did you gather anything from the time  
12 that you spent in the hearing personally?

13 A. Nothing other than observations that I  
14 relayed to you a minute ago.

15 Q. You mentioned that Montgomery County,  
16 the public hearings provided feedback that they  
17 didn't want to be split. Do you remember why that  
18 was?

19 A. I think -- I think both in Montgomery  
20 County and most any county when you have split  
21 counties or split precincts, there's confusion as to  
22 who somebody's -- who their representative may be.

23 And it was a -- it was obviously a  
24 guideline of the committees on all these maps to try  
25 to split less precincts and less counties.

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1 Q. Do you know when Montgomery County was  
2 originally split?

3 A. Originally split?

4 Q. Correct.

5 A. No. I mean -- no, I don't.

6 Q. The first map you drew was in 1992. Was  
7 Montgomery County already split prior to that?

8 A. I have no idea. I'm sorry. I don't  
9 even remember the map I drew, whether it was split,  
10 to be honest with you.

11 Q. Did any of the information that you  
12 received from the public hearings impact the way you  
13 drew the 2021 congressional map?

14 A. No, other than things like I said, not  
15 splitting Montgomery three ways, putting as much of  
16 the Shoals area together, keeping Mobile and Baldwin  
17 together, keeping Madison and Morgan together.

18 Q. Was that something that you specifically  
19 made changes to your map to accommodate?

20 A. No. Most of those features were already  
21 happening. It just -- I kept it in mind. For  
22 example, when -- we eventually had to split  
23 Lauderdale County between 5 and 4. And when we were  
24 doing that, I was trying to keep Florence and Muscle  
25 Shoals together as much as possible when we were

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1 doing that split. So yes, it was in my mind when we  
2 were, for example, doing that split.

3 Q. Other than the accommodations for the  
4 Lauderdale, Muscle Shoals area, did any of the  
5 public feedback that you received from the public  
6 hearings tangibly impact a change that you made on  
7 the map?

8 A. Not so much a change. But it did -- it  
9 did confirm that our theory of putting -- not  
10 splitting Montgomery three ways was a worthy goal.  
11 And I worked to get Congressmen Rogers to agree to  
12 come out of Montgomery County because he was  
13 partially in Montgomery County.

14 Q. Since we're talking about it, this may  
15 help a bit.

16

17 (Plaintiff's Exhibit 5 was  
18 marked for identification.)

19

20 Q. I'm handing you Exhibit 5. I don't want  
21 this to be a memory test for you. So this is a copy  
22 of the 2021 --

23 A. I've had enough -- I've had enough of  
24 those already.

25 Q. This is a copy of the 2021 congressional

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1 map. Do you recognize this?

2 A. I do.

3 Q. Does this appear to be a true and  
4 correct of the 2021 congressional map?

5 A. It does.

6 Q. We were talking about Montgomery County  
7 here not wanting to be split.

8 A. Three ways, yes.

9  
10 (Plaintiff's Exhibit 6 was  
11 marked for identification.)  
12

13 Q. I'm also going to hand you what's being  
14 marked as Plaintiff's Exhibit 6 for your reference.  
15 This is a copy of the 2011 congressional map.

16 So looking at Montgomery County, it  
17 looks like in -- well, first off, Plaintiff's  
18 Exhibit 6, does that appear to be a true and correct  
19 copy of the 2011 congressional map, to your  
20 knowledge?

21 A. It does.

22 Q. We were -- and you used this 2011  
23 congressional map as the starting point in drafting  
24 the 2021 congressional map, correct?

25 A. I used the cores of the existing

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1 districts as a starting point, yes.

2 Q. Is that different from using this map as  
3 the starting point?

4 A. I don't know. I don't think so.

5 Q. When you began drawing the 2021  
6 congressional map, you didn't start from scratch,  
7 right?

8 A. No. Correct.

9 Q. You started using the 2011 congressional  
10 map?

11 A. Correct.

12 Q. Looking at Montgomery County, so that  
13 was split into three districts in 2011; is that  
14 right?

15 A. That's correct.

16 Q. Do you know why that was split into  
17 three districts at the time?

18 A. Not specifically, other than, obviously,  
19 it had been -- Congressman Mike Rogers in the 3rd  
20 District had had an office in Montgomery, that part  
21 of Montgomery County, and had represented it for a  
22 while and probably didn't -- didn't want to lose  
23 that base of support and financial support and so  
24 forth.

25 Q. In the 2011 congressional map, District



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1 7 reaches into a portion in the middle of Montgomery  
2 County. Do you know why it does that?

3 A. To gain population for that district.

4 Q. Was District 7 reaching into a portion  
5 of Montgomery County in the prior 2001 congressional  
6 map?

7 A. I don't know.

8 Q. Do you remember if Montgomery County --  
9 do you remember if District 7 reached into a portion  
10 of Montgomery County in the 1992 congressional map  
11 that you drew?

12 A. I do not remember, no. I'm sure  
13 somebody has a map and could tell me. But I don't  
14 know.

15 Q. So it looks like from the 2011  
16 congressional map to the 2021 congressional map, you  
17 were able to take District 3 out of Montgomery so  
18 that it's not split three ways anymore and is only  
19 split two ways; is that correct?

20 A. That's correct.

21 Q. Is there a reason why it still needed to  
22 be split into two different districts?

23 A. Yeah. I mean, obviously, the 7th  
24 District was underpopulated. So if you took it all  
25 the way out of Montgomery, then you would have to

1 add a number of different counties to make up that  
2 population.

3 Q. Well, it looks like District 7 also  
4 includes only a portion of Tuscaloosa County and  
5 Jefferson County, correct?

6 A. That's correct.

7 Q. So could you not have taken more of  
8 either Tuscaloosa County or Jefferson County and  
9 then been able to leave Montgomery County as being  
10 solely in one district?

11 A. Well, yeah, it would have been possible  
12 certainly in Jefferson. I don't know about  
13 Tuscaloosa. I don't think actually -- I think there  
14 are many more people in the 7th District portion of  
15 Montgomery than there are in the 4th District  
16 portion of Tuscaloosa. But yes, certainly in  
17 Jefferson that would have been possible.

18 But as you know, they -- these all have  
19 to fit back together at the end. So what might have  
20 been a perfect map for somebody in Montgomery may  
21 not have created a perfect situation for whatever  
22 member represented Jefferson or wherever.

23 Q. Did you consider moving -- did you  
24 consider making Montgomery County solely District 2?

25 A. I did not.

1 Q. Why not?

2 A. Because, again, I didn't think it --  
3 while that may look like geographically not a very  
4 large area, it has a considerable number of voters  
5 in it. And it would have been hard to take that out  
6 of 7 and make up the population somewhere else.

7 About the only place, as you pointed  
8 out, to do that might have been Jefferson. But,  
9 again, we have two representatives in Jefferson  
10 County right now. And it would have been hard to  
11 eliminate one from that process.

12 Q. Is there anything in particular about  
13 this specific portion of Montgomery County that's in  
14 District 7 that makes it a community of interest or  
15 something that ties it into District 7 versus  
16 District 2?

17 A. Not necessarily. I mean, obviously,  
18 geographically it's next to -- it's adjacent to  
19 Lowndes County.

20 Q. Did you look at racial data in including  
21 that portion of Montgomery County in District 7?

22 A. I didn't. When we started doing -- I  
23 didn't initially. When we started filling in this  
24 -- all these discussions we've had up until now have  
25 all been based on total pop. I didn't look at race

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1 at all on the computer when we were adding folks to  
2 these districts or subtracting folks from these  
3 districts.

4 So at this point, I've basically just  
5 been looking at total pop and where do you get the  
6 total pop to get the districts back to ideal  
7 population. So at that point, there was no  
8 discussion of race. It was all a discussion of  
9 total pop.

10 Q. You say "at this point." Where are we  
11 talking in the timeline?

12 A. Up until -- up until we finished the  
13 map.

14 Q. Finishing the map being the week before  
15 the special session?

16 A. Correct.

17 Q. So is it your testimony that you did not  
18 look at race at all in 2021 before submitting the  
19 maps to the special session?

20 A. No, I did not look at it up until the  
21 week before we submitted the maps, when at that  
22 point we did turn on race and look at the racial  
23 breakdowns in the various maps.

24 Q. Why did you look at the racial breakdown  
25 that week before the special session?

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1 A. Well, to -- obviously, we wanted to see  
2 what the, you know, outcomes of our changes were.

3 Q. What do you mean?

4 A. We wanted to see what -- the changes we  
5 had made to get the population balanced among all  
6 these districts, if it changed any of the, you know,  
7 racial makeup of the districts.

8 Q. Why did you want to know that?

9 A. Well, one of our guidelines is to comply  
10 with the Voting Rights Act.

11 Q. And you say "we wanted." Who is "we"?

12 A. The two co-chairs, myself, and legal  
13 counsel.

14 Q. "Legal counsel" being Mr. Dorman --

15 A. Yes.

16 Q. -- Walker?

17 A. Yes.

18 Q. And prior to that week before the  
19 special session, it's your testimony that you did  
20 not look at any of the racial data at all for any  
21 of the districts in drawing the 2021 congressional  
22 map?

23 A. That's correct.

24 Q. What data did you look at?

25 A. Just -- just total pop and geography.

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1 Q. Anything else?

2 A. That's it.

3 Q. Other than modifying the existing  
4 district lines to account for population changes,  
5 did you make any other changes from the 2011  
6 congressional map?

7 A. I'm not sure I follow that.

8 Q. You made changes to the 2011  
9 congressional map for the 2021 map based on changes  
10 in population, correct?

11 A. Correct.

12 Q. Did you make any changes based on any  
13 other factors?

14 A. Are we talking -- we're talking the 2021  
15 map?

16 Q. Correct. So in drawing the 2021 map,  
17 you made certain changes from the prior map based on  
18 changes in population, correct?

19 A. Correct.

20 Q. Did you make any changes based on any  
21 other factors?

22 A. No. I didn't make any changes.  
23 Obviously, where members lived was a consideration.  
24 I certainly would be mindful -- when I was moving a  
25 precinct in Jefferson County, for example, I

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1 couldn't move Congresswoman Sewell out of her  
2 district, for example. But I didn't make any  
3 changes based on that.

4 Q. Other than population data and race data  
5 starting the week before the map was submitted, did  
6 you review any other data about the constituents or  
7 the districts when drawing the 2021 map?

8 A. I did not.

9 Q. If any changes were made to the 2021  
10 map, would you have been the one to physically make  
11 those changes on the computer?

12 A. Yes.

13 Q. Was there anyone else who physically sat  
14 on the computer and made any changes for the 2021  
15 map?

16 A. I don't believe so. I mean, Donna  
17 Loftin, who heads the reapportionment office,  
18 certainly was capable of doing that. But I don't  
19 believe she ever -- she's not really authorized to  
20 change a map, I guess, without me asking her to.

21 Q. Do you know if she made any changes?

22 A. I don't believe she did, no.

23 Q. Did anyone else assist you in drawing  
24 the map?

25 A. Nobody assisted me in drawing the map.

1 Q. When did you have a -- when did you  
2 first have an initial draft map completed?

3 A. Using the real data? I mean, not an  
4 estimate.

5 Q. Did you have an initial draft made from  
6 the estimates?

7 A. I had a -- I roughed -- again, it wasn't  
8 -- it wasn't something that would have -- it wasn't  
9 to zero deviation. It was just roughed-out  
10 counties.

11 So yes, when I came back from my May  
12 meetings, I roughed out a map using the estimates on  
13 Maptitude just to get a feel for what areas needed  
14 to be added and subtracted from various districts.

15 But, again, it was -- it was not -- it  
16 was not to deviation and it was knowing that the  
17 estimates were going to be off by thousands, if not  
18 tens of thousands, which they turned out to be.

19 Q. When was that draft completed?

20 A. The end of May.

21 Q. Did you save a copy of that draft?

22 A. No.

23 Q. After that, when was the next draft  
24 using official data completed?

25 A. After my round of calls in September.



1 So probably mid -- mid to late September would have  
2 been the next draft. And then I did a round of  
3 calls to go over those maps and make any last  
4 changes before the last week.

5 Q. A round of calls being the calls that  
6 you discussed with the U.S. congress  
7 representatives?

8 A. Yes.

9 Q. Did you make any further changes to the  
10 draft based on any feedback you received from those  
11 calls?

12 A. Very minorly. Congresswoman Sewell, I  
13 had split a precinct in Montgomery County that she  
14 did not want split. So I put it back together and  
15 split in a different -- an adjacent precinct. But  
16 very, very minorly.

17 Q. What precinct was that?

18 A. It was the Acadome precinct. I had  
19 split the university into two different districts,  
20 and she, I think wanted it all in her district. So  
21 I put that back together.

22 Q. Do you know why she wanted that all in  
23 her district?

24 A. I don't. I mean, other than that was  
25 one of her principles in this redistricting process.

1 She felt strongly about picking up facilities and  
2 universities and things rather than just random  
3 citizens.

4 Q. And what precinct did you take out from  
5 District 7 in exchange?

6 A. Well, it was a split at an adjacent  
7 precinct. Whitfield, I think, was the name of it.

8 Q. How do you choose that precinct?

9 A. It just was adjacent to it.

10 Q. That was the only factor?

11 A. That was the only factor.

12 Q. So you had the draft completed, you  
13 said, mid September?

14 A. Yeah. And just to give a more complete  
15 answer, I also had to do a -- change the split a  
16 little bit in Lauderdale based on conversations with  
17 Congressman Adderholt. I had conversations with  
18 Representative -- Congressman Moore's  
19 representative, Bill Harris, about he would have  
20 preferred a change in Monroe rather than the way I  
21 did it in Escambia.

22 So they were each -- not every district.  
23 But a number of districts had these little minor  
24 things that we talked through at that point.

25 Q. Beyond any minor changes -- and I assume

1 this is more kind of a precinct-by-precinct type  
2 change that you're referring to there, correct?

3 A. Yes, sir.

4 Q. Beyond that, were there any changes that  
5 you made based on those calls that you would  
6 consider to be significant changes?

7 A. No.

8 Q. So once you had the draft completed in  
9 mid September and then had the calls with the  
10 various representatives to go over that, then you  
11 made whatever minor changes you could based on that  
12 feedback.

13 When did you have the next draft  
14 completed?

15 A. Going into the last -- the next to last  
16 week of October. And in some of these -- as you  
17 well know, with congressional schedules, it's not  
18 like I had seven congressmen lined up to talk to me  
19 at 9:00 o'clock on a Monday morning. This took over  
20 a course of weeks. I would, you know, schedule, and  
21 move and change for voting schedules and all the  
22 wonderful things that go on with dealing with  
23 congressmen.

24 Q. And in that same time frame, you were  
25 also drawing three other maps?

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1 A. Correct.

2 Q. And meeting with all of the  
3 representatives and senators and all of that?

4 A. Yes, sir.

5 Q. Was there any other drafts that you had  
6 other than the first one that you made using the  
7 unofficial data in the summer of 2021, the next  
8 draft that you made using the official data in mid  
9 September 2021, and then the draft that you had  
10 based on the congressional representatives' feedback  
11 that was completed the week before the special  
12 session in October of 2021? Were there any other  
13 drafts that you made of the 2021 congressional map?

14 A. No.

15 Q. Between those last two drafts that we  
16 discussed, between September 2021 and the special  
17 session, did you meet with anyone else to discuss  
18 the redrawing of the 2021 map, congressional map,  
19 other than the seven representatives and Senator  
20 McClendon and Representative Pringle?

21 A. And legal counsel.

22 Q. Anyone else?

23 A. No.

24 Q. At that time, did you consider  
25 Mr. Walker to be your attorney?

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1 A. I considered him to be the  
2 reapportionment committee's attorney.

3 Q. Did you consider him to represent you  
4 personally?

5 A. I don't know how to answer that. I  
6 didn't -- I didn't feel I needed representation at  
7 that point personally.

8 Q. Did you have any sort of retention  
9 agreement with Mr. Walker or his office?

10 A. No.

11 Q. Once you had the draft completed of the  
12 2021 congressional map the week before the special  
13 session, who did you provide it to?

14 A. Well, obviously, all of the members saw  
15 their districts. But they didn't really see the  
16 rest of the map. The members of congress saw their  
17 district, but they didn't really -- and adjacent  
18 districts. But they didn't really see the rest of  
19 the map.

20 I think at that last week, I went  
21 through that map with Representative Pringle and  
22 Senator McClendon and Dorman Walker. Obviously,  
23 Donna Loftin, who runs the office, was in the  
24 background during most of this.

25 Q. What sort of feedback did you receive

1 when you met with Senator McClendon and  
2 Representative Pringle about the draft map?

3 MR. WALKER: I'm going to object to  
4 attorney-client privilege to the extent that I was  
5 present in the room and we were having an  
6 attorney-client communication. If you had any  
7 communications with them that I was not present, you  
8 may answer the question.

9 A. There were -- they just looked at the  
10 map. There was nothing substantive in terms of a  
11 response.

12 Q. And are you going to refuse to answer  
13 any questions that I were to ask you that would  
14 involve any discussions that you had where  
15 Mr. Walker was present?

16 MR. WALKER: I would instruct him not to  
17 answer those questions if other conditions  
18 indicating it was an attorney-client privilege were  
19 present.

20 Let me -- let me clarify that for you.  
21 If I believed we had a conversation that was an  
22 attorney-client privilege, I would -- I would  
23 instruct him not to answer the question. I don't  
24 think that all the conversations I had with him were  
25 covered by the privilege.

1 MR. THOMPSON: When you say you don't  
2 think that all of the conversations you had with  
3 him, do you mean nonsubstantive conversations like  
4 lunch and dinner?

5 MR. WALKER: Certainly that would be  
6 included. What I'm saying is there -- I can think  
7 of times when he and I were speaking, although I may  
8 not know exactly what we were talking about, when  
9 there were other people in the room who were not  
10 within the privilege. And we may have been talking  
11 about the map. I just don't know.

12 But there were certain times when I  
13 reviewed with him specifically the map. And I would  
14 contend that that's covered by the attorney-client  
15 privilege.

16 MR. THOMPSON: Understood. And you  
17 would instruct him not to answer on those.

18 MR. WALKER: Yeah.

19 Q. And would you follow that instruction?

20 A. Yes.

21 Q. So walk me through the timeline, then,  
22 once you provided the draft to Senator McClendon and  
23 Representative Pringle. What happened with the map  
24 at that point?

25 A. I mean, once it was finalized and they

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1 made no changes to it, it was submitted to be drawn  
2 up into a bill and prepared to be presented at the  
3 -- be sent out to the members of the reapportionment  
4 committee the following Monday and then voted on in  
5 committee on Tuesday.

6 Q. Were there any changes made to the map  
7 by the reapportionment committee?

8 A. No.

9 Q. Were there any changes made to the map  
10 after it was submitted to the legislature?

11 A. No.

12 Q. So the version of the map that you  
13 completed the week before the special session is  
14 identical to the version of the map that was  
15 ultimately enacted that we've marked as Exhibit 5,  
16 Plaintiff's Exhibit 5, correct?

17 A. Correct.

18 Q. Did you save any drafts of the 2021  
19 congressional map?

20 A. No, sir. The way Maptitude works is it  
21 just -- every time you make a change, it saves -- it  
22 saves the map at that point. So previous iterations  
23 don't -- don't really exist.

24 Q. Did you print out any copies of any  
25 drafts?



1 A. No.

2 Q. Do you have any notes that you took or  
3 used while drafting the 2021 congressional map?

4 A. No. I mean, I'm sure I had a scrap of  
5 paper somewhere that said Congressman Moore would  
6 rather split Escambia and Congressman Carl would  
7 rather split Monroe. But they were -- all these  
8 things were so -- there were not very many of them.  
9 There weren't too may. I didn't need notes to  
10 remember that.

11 Q. Do you have any of those notes saved?

12 A. No.

13 Q. If you needed to modify the maps now, do  
14 you have any estimate of about how long that would  
15 take you to do?

16 A. Modify in what way?

17 Q. For instance, are you familiar with what  
18 this lawsuit is about?

19 A. Well, it's three different lawsuits, if  
20 I understand it correctly.

21 Q. What is your understanding of the three  
22 different lawsuits?

23 A. I think two of the -- well, two of the  
24 lawsuits I think would have preferred two majority  
25 black districts. And the Singleton lawsuit would

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1 have preferred sort of a whole county map with  
2 two -- I would call them influence districts.

3 THE REPORTER: What districts?

4 A. Influence districts

5 Q. Would that be the same as -- I've heard  
6 "opportunity district." Would "influence district"  
7 and "opportunity district" be about the same?

8 A. Yes, sir.

9 Q. And what's your understanding of what an  
10 influence district or opportunity district is?

11 A. It would be a district that would be  
12 less than a majority of BVAP, but still have a  
13 substantial population of minorities that could  
14 potentially impact the election of a candidate of  
15 their choice.

16 Q. And when we say "minorities" here  
17 specifically, are we referring to the black voting  
18 age population?

19 A. Primarily here in Alabama, you would be  
20 referring to the black voting age population.

21 Q. So if in this case the court were to  
22 find that the maps do not comply with the Voting  
23 Rights Act or the 14th Amendment and they needed to  
24 be modified, do you expect that you would be the one  
25 that would be asked to make those modifications?

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1 A. I don't have a crystal ball. I can't  
2 predict the future.

3 Q. Is that something that's covered in your  
4 contract?

5 A. It is not.

6 Q. If you were asked to modify the map to  
7 make changes to comply with the Voting Rights Act or  
8 the 14th Amendment, in that situation, do you have  
9 any estimate about how long it would take you to do  
10 that?

11 A. No. I mean, asked by whom?

12 Q. The Alabama state legislature, the  
13 courts, Mr. Walker, any of us.

14 A. No. I mean, I -- conceptually, I guess  
15 that would depend on what the court deemed changes  
16 were.

17 Q. Is that something that you think you  
18 could complete within a month?

19 A. I would hope so. I don't know.

20 Q. Is it something you think you could  
21 complete within a week?

22 A. You're asking me a hypothetical about  
23 something that hasn't happened, and I don't have a  
24 clue what the changes would be.

25 Q. When you met with Congressman Sewell,

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1 did you receive any specific instructions from her  
2 about how to draw District 7?

3 A. No, not specifically. Again, it was  
4 more of -- our initial meetings were more of here is  
5 what the estimates show, here is -- you're  
6 obviously -- the district is going to be  
7 underpopulated. Let's talk about areas where you  
8 may -- may pick up population to get closer to the  
9 ideal.

10 As I said earlier, she was interested in  
11 facilities and universities and some companies and  
12 military, like Maxwell, and so forth. So she was  
13 interested in things above and beyond just picking  
14 up additional voters or citizens. So we talked  
15 about that briefly.

16 And then we just went through the most  
17 likely areas where she could pick up additional  
18 population. And the most likely in my mind, again,  
19 to present to her as options were counties that were  
20 split.

21 For example, Clarke County was -- under  
22 this map, the 2011 map, was split between 7 and 1.  
23 We know 1 is going to be over. We knew -- at the  
24 beginning, we didn't know how much. But we knew 1  
25 would be over, and we knew 7 would be under.

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1                   So a logical thing, in my mind anyway,  
2 would be let's put Clarke County back together. And  
3 whatever population that is, let's put that into 7.

4                   And also we talked about some of the  
5 changes that would happen that would cascade to her  
6 from north Alabama. As we knew, District 5 would be  
7 over. The only place District 5 can go to is to  
8 District 4 because it's the only district adjacent  
9 to it. And that would then put District 4 over.  
10 And one of the options was for her to pick up some  
11 more of District 4 in Tuscaloosa. So we talked  
12 about that.

13                  And then we talked about potential  
14 changes in Jefferson, another area where she could  
15 pick up additional population.

16 Q.               You mentioned that she wanted  
17 universities in her district. What were the names  
18 of the universities she wanted?

19 A.               She wanted to make sure that whatever  
20 changes we made in Tuscaloosa, we kept the  
21 University of Alabama in her district. She was  
22 interested in picking up Maxwell Air Force Base in  
23 Montgomery, if that was a possibility.

24                  As I discussed earlier, I had split a  
25 precinct that had a university in Montgomery. And

1 she wanted that in her district not split. So we  
2 talked about things like that.

3 Q. Do you remember the name of that  
4 university in Montgomery?

5 A. Yeah, I do. I'm blanking on it at the  
6 moment. Alabama -- is it State?

7 MR. WALKER: Alabama State, ASU.

8 A. ASU. ASU. Sorry.

9 Q. Other than those things that you just  
10 discussed, did you receive any other instructions or  
11 feedback from Congressman Sewell about how to draw  
12 District 7?

13 A. No, not at that time. We did -- in the  
14 next round of those talks after we had real numbers,  
15 we did talk about some of the changes in Jefferson.

16 In this -- in the 2011 map, some of the  
17 precincts of Homewood -- I think there were three or  
18 four Homewood precincts. Some were in her district,  
19 and some were in 6. She thought that maybe it might  
20 make sense for all of them to be in one district.  
21 She would be happy if they were hers, which I did.

22 So we talked about a few things like  
23 that in the next round of discussions.

24 Q. Did you discuss anything else with her  
25 about how to draw her map?

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1 A. No.

2 Q. Did you discuss race at all with  
3 Congressman Sewell?

4 A. No.

5 Q. Did she give you any instructions or  
6 requests about a certain black voting age population  
7 percentage that she wanted in District 7?

8 A. She did not, other than I think there  
9 was -- we both assumed, and I think she would  
10 confirm, that she wanted a majority -- a majority  
11 black district for her district.

12 And she also, I should add -- there was  
13 one other thing. When we initially asked every  
14 member for their home addresses so we made sure we  
15 had them inside their own districts, she actually  
16 sent in two addresses, knowing that only one of them  
17 was her official home address.

18 One of them was also her home -- her  
19 mother's home or whatever in Dallas County. And she  
20 wanted -- would prefer that both of those addresses  
21 be inside her district. So that was one request she  
22 made.

23 Q. Was that an accommodation you had to  
24 change the map to --

25 A. No. They were -- it was already

1 happening. They both were -- they both under this  
2 map were in her district, and they both under this  
3 map were in her district.

4 Q. Going back to your prior statement, you  
5 said that you didn't discuss race with Congressman  
6 Sewell; is that correct?

7 A. Not at that point.

8 Q. Did you at some point?

9 A. In the last week, she did ask what was  
10 the BVAP of my -- her district.

11 Q. And what did you tell her?

12 A. I told her it was 54.22.

13 Q. And what did she say?

14 A. She didn't -- I mean, she was  
15 comfortable with that, I guess. She didn't comment  
16 further. She didn't ask me to make any changes, I  
17 guess, if that's what you're asking me.

18 Q. You said before then that you both  
19 assumed that she wanted a majority black population.  
20 What are you basing that off of?

21 A. I don't even know if it's an assumption.  
22 I think she -- I think she did say that, that she  
23 would prefer to continue to have a majority black  
24 district.

25 Q. You think she said that, or you know she



1 said that?

2 A. I think she -- yeah, I think -- I think  
3 she said that.

4 Q. But you don't know for certain?

5 A. I'm pretty confident she said that, yes.

6 Q. Are you certain that she said that?

7 A. I'm pretty confident she said that.

8 Q. Just to be clear, pretty confident, but  
9 not 100 percent certain, fair?

10 A. Sure.

11 Q. Did she say anything about any sort of  
12 percentage of black voting age population that she  
13 wanted in District 7?

14 A. No.

15 Q. Did you discuss race with any of the  
16 other representatives?

17 A. I did not.

18 Q. So Congressman Sewell was the only  
19 Congressman you discussed race with?

20 A. Well, she's the only one who asked at  
21 the end of the process what her black -- black  
22 voting age population was.

23 Q. Other than the U.S. congressional  
24 representatives and Senator McClendon and  
25 Representative Pringle, did you speak with any other

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1 Alabama legislators or their staff about the 2021  
2 congressional maps?

3 A. No. Maybe -- maybe right before we went  
4 to the floor, I think I probably had a conversation  
5 with the pro tem and speaker just briefly to say  
6 that the members of congress were reasonably in  
7 agreement on this map. But it was just sort of a  
8 pro forma discussion, not about the details of the  
9 map.

10 Q. Did you speak with anyone else?

11 A. No.

12 Q. Did you correspond with anyone by email  
13 regarding the redistricting process?

14 A. No.

15 Q. Did you make any recommendations to the  
16 committee, the reapportionment committee, about how  
17 the map should be drawn beyond just providing them a  
18 copy of the map?

19 A. No.

20 Q. Did the reapportionment committee make  
21 any requests or recommendations to you about how the  
22 map should be drawn or changed?

23 A. None other than the guidelines they  
24 passed.

25 Q. Did you receive any requests or

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1 instructions about how to draw the 2021  
2 congressional map from anyone else that we haven't  
3 discussed yet?

4 A. No.

5 Q. Did you receive any feedback from anyone  
6 else that we haven't discussed yet about the way  
7 that the 2021 congressional map was drawn?

8 A. No. I'm assuming you're including  
9 chiefs of staff as a subset of a congressman.

10 Q. Certainly. No one other than the  
11 congressmen or their chiefs of staff or anyone else  
12 that we've discussed?

13 A. Right.

14 MR. THOMPSON: Dorman, I think we've  
15 been going a little over an hour. We're approaching  
16 that lunch time. We could go a little bit longer,  
17 or we could go ahead and break now. What do you  
18 prefer?

19 MR. WALKER: I'm happy with whatever  
20 y'all want to do.

21 MR. THOMPSON: Are you hungry, sir?

22 THE WITNESS: Not overly. But I'm happy  
23 to --

24 MR. WALKER: I usually go to lunch at  
25 11:30. So I'm happy to take a lunch break.

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1 MR. THOMPSON: Let's -- let's take a  
2 lunch break, then.

3 MR. WALKER: All right.

4 THE VIDEOGRAPHER: We're off the record.  
5 The time is 11:42 a.m.

6 (Lunch break was taken.)

7 THE VIDEOGRAPHER: We are back on the  
8 record. The time is 12:57 p.m.

9 Q. Mr. Hinaman, before we broke for lunch,  
10 we had discussed some of the conversations that you  
11 had with the seven U.S. congressmen. Do you recall  
12 that?

13 A. Yes.

14 Q. And we went into some specifics about  
15 your discussions with Congressman Sewell. Or  
16 Congresswoman Sewell. Excuse me. I would like to  
17 discuss some of the specifics with the other  
18 representatives. So I just kind of want to go down  
19 the line.

20 So starting with Representative Carl in  
21 District 1, can you tell me what specifics you  
22 recall from your discussions with him?

23 A. Yes. But just to be clear, are we --  
24 you just want -- over the whole time frame, just  
25 capsulize it? Or are you talking about a specific

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1 time frame?

2 Q. At any point in the discussions you had  
3 with them in drawing the 2021 congressional map.

4 A. Okay. So essentially from May to  
5 October?

6 Q. Correct.

7 A. Okay. Yeah. So we talked about Clarke  
8 County which was split, of course, between 7 and  
9 District 1. And we talked that the 1st District  
10 would likely be over or was over after we got the  
11 real numbers, and that one of the solutions to that  
12 would be putting Clarke County back together and be  
13 putting it in 7.

14 And then whatever else the overage was,  
15 which turned out to be 739 people, that we would  
16 take those out of either -- initially we said Monroe  
17 or Escambia. And as it turned out, we fine tuned it  
18 to Escambia. And that's where we made that change.

19 And those are basically the discussions  
20 with the 1st District congressman.

21 Q. Did he have any objections to putting  
22 all of Clarke County in District 7?

23 A. He did not.

24 Q. All right. Tell me what specifics you  
25 recall from your discussions with Congressman Moore

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1 in District 2.

2 A. Well, we talked again about making  
3 Montgomery County only split between 7 and 2 and  
4 getting the 3rd District out of Montgomery County,  
5 which was good because 2 was under anyway. So they  
6 needed to pick up some people.

7 Initially I said, well, depending on  
8 what the numbers are, we might need to split off a  
9 little bit of Elmore to balance out 3 if we're not  
10 splitting Montgomery. But as it turned out, we  
11 didn't have to do that. We did -- we did make some  
12 changes to 3 in Coosa and Chilton, but we made no  
13 further changes in the 2nd.

14 We talked a little bit about the  
15 Escambia and Monroe thing. Again, he would have  
16 preferred not to have picked up another county. But  
17 unfortunately, that was not in the cards by 739  
18 people. So he needed to -- he did end up picking up  
19 Escambia.

20 And we talked about just geographically  
21 making the 7th District a little more compact in  
22 Montgomery from where the 2011 lines were versus to  
23 what they are now in the 2021 plan.

24 And at the end of it -- I mean, we had  
25 some discussions about Maxwell going into the 7th,

1 which surprisingly he wasn't too excited about  
2 initially, but at the end was comfortable with I  
3 think primarily because there was some talk of  
4 another BRAC, base closing commission.

5           And Congressman Moore probably thought  
6 it would be helpful to have Terri representing part  
7 -- that part of Maxwell that she would have, and he  
8 represents another part of Maxwell, the annex, in  
9 his district. So two congresspeople fighting that  
10 was maybe better than one.

11 Q.           Where is Maxwell?

12 A.           Maxwell is in the northern little part  
13 of Montgomery County here that was -- in 2011 was in  
14 the 2nd, but is now in the 7th.

15 Q.           With Congressman Sewell, especially in  
16 the area you were just discussing there, it had  
17 gotten as granular was this college or whatnot. Did  
18 you have discussions to that detail with either of  
19 the two representatives in District 1 or 2?

20 A.           No, other than the Maxwell, Maxwell  
21 annex thing we just talked about with Congressman  
22 Moore. He wanted to make sure he still had one of  
23 them. And he has the annex one, which is further  
24 west in Montgomery, but not the actual base itself.

25 Q.           Do you know why he wanted that in his

1 district?

2 A. Again, so they had two voices on base  
3 closing issues rather than one.

4 Q. Do you recall anything else specifically  
5 from your discussions with Congressman Moore?

6 A. No.

7 Q. How about Congressman Rogers in District  
8 3?

9 A. Well, we talked briefly. There was a  
10 little piece of Cherokee County that was split off  
11 in the last redistricting, which was really somewhat  
12 needless. So we talked about putting that back  
13 together.

14 We talked about again him getting out of  
15 Montgomery County so that it would only be split two  
16 ways instead of three. And then we talked about  
17 what that might mean in terms of where he would pick  
18 up.

19 Coosa had been in the 3rd in some  
20 earlier maps, meaning 2001 or sometime back in the  
21 past. So he was fine picking up Coosa County from  
22 6. And then for population -- obviously, population  
23 reasons, he needed a little more than that. So we  
24 took, I think, like 12,000 people from Chilton and  
25 put it into 3 to get his population to where it



1 needed to be.

2 Q. Anything else you recall?

3 A. No.

4 Q. What about Congressman Adderholt in  
5 District 4?

6 A. Yeah, I talked to him numerous times.  
7 Part of it is, obviously, he was going to pick up a  
8 lot of folks from the 5th district. And there was  
9 initial discussion on which end of the 5th, should  
10 we take them from Jackson County or should we take  
11 them from Lauderdale, and how was the best way to do  
12 that.

13 And we had a couple of different  
14 discussions about that and finally decided that  
15 putting the Shoals -- Muscle Shoals area back  
16 together as much as possible in Lauderdale was the  
17 preferable way to do that. And that's what we  
18 talked about.

19 And then, obviously, that required him  
20 to lose some of Tuscaloosa, a few precincts in  
21 Tuscaloosa, to make up for -- to get the population  
22 to equal out.

23 And also he had a little chunk of Blount  
24 County, as well, from 6. And we talked about making  
25 Blount whole again and not splitting it between two

1 congressional districts.

2 Q. Did you have any discussions with him  
3 about which specific areas of Tuscaloosa to include  
4 or not include?

5 A. A little bit. I mean, we talked about  
6 the precincts, the next most likely geographical  
7 precincts to add into 7. We talked about them. It  
8 was sort of obvious geographically where he had to  
9 go next. So there wasn't much discussion about it.

10 Q. How did you choose the precincts you  
11 chose other than geography?

12 A. Well, that's -- population and geography  
13 were the only two ways to choose them.

14 Q. Do you recall anything else, specifics  
15 about your conversations with Congressman Adderholt?

16 A. No. And then at the end -- as I said, I  
17 had splint a precinct in Lauderdale to get to zero  
18 deviation in District 5, and he referred a different  
19 precinct split. So I changed it to the one he  
20 preferred. So that was -- that was one of the final  
21 changes at the end that we made.

22 Q. Moving on to Congressman Brooks in  
23 District 5. What do you recall from those  
24 conversations?

25 A. Well, there weren't any because

1 Congressman Brooks decided not to meet -- this is my  
2 presumption -- because he was running for the senate  
3 and had less interest in how this was going to come  
4 out.

5 I did meet the first time with his chief  
6 of staff just to talk about keeping Morgan and  
7 Madison together. But that was -- that was about  
8 it.

9 Q. What was the discussion there about  
10 keeping Morgan and Madison together?

11 A. The community of interest. And a number  
12 of people that, obviously, live in northern Morgan  
13 work in Huntsville, in Madison County, and so forth,  
14 and thought it was a good combination to keep them  
15 whole and together.

16 Q. Other than that first meeting -- and I  
17 guess that would have been back in May --

18 A. May.

19 Q. -- of 2021 with the chief of staff for  
20 Congressman Brooks, did you meet with anybody else  
21 on behalf of Congressman Brooks or his office?

22 A. No. I called his chief of staff back  
23 once we had, you know, roughed out a -- gotten the  
24 math from the real data. And he -- he didn't call  
25 me back. I called him a couple of times. And I

1 assumed that meant he was less interested in how  
2 this was going to go.

3 Q. And then finally, what about Congressman  
4 Palmer in District 6? What do you recall about  
5 those conversations?

6 A. Well, I talked to him about again  
7 putting Blount back together and giving that all to  
8 him. I talked to him -- in the meantime, he had --  
9 he had initially, I thought, lived in Jefferson  
10 County. And then he had moved to Shelby.

11 So I talked a little bit about making  
12 sure I had the right home address for him. Because  
13 I initially thought he still lived in Jefferson, but  
14 he didn't. So we did have the right address in  
15 Shelby. So that was fine.

16 I talked about he may lose Coosa to the  
17 3rd and a little part of Chilton. He was  
18 comfortable with that. And I talked to him about  
19 some of the changes in Jefferson in the 7th District  
20 where geographically I was trying to make the 7th  
21 District's footprint in Jefferson more compact by  
22 adding western Jefferson and shortening the district  
23 on the top. And I wanted him to be aware of that.

24 But as I said earlier, we had initial  
25 meetings and even a follow-up call. But when the

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1 final map was done, meaning that last week of  
2 October, he -- he allowed as how he didn't really  
3 want to -- his chief of staff told me that the  
4 congressman did not really want to talk about it,  
5 that he was convinced we were going to go to court,  
6 and he didn't really see a need to discuss it.

7 Q. Who was that that told you that?

8 A. Congressman Palmer's chief of staff.

9 Q. And when was that discussion?

10 A. That was in mid October.

11 Q. And why did he say that he was convinced  
12 that this was going to go to court?

13 A. I don't know. He was -- the chief of  
14 staff said that -- the chief of staff said that he  
15 had been told, I think, by the NRCC that this map  
16 was going to go to court, and that Congressman  
17 Palmer had decided to not discuss it further.

18 Q. Did you ask him why he thought it was  
19 going to court?

20 A. No. I accepted his answer.

21 Q. Did you have any idea about why this  
22 would go to court based on that discussion?

23 A. No.

24 Q. And you didn't care to ask?

25 A. It was his opinion. I didn't think it

1 was relevant to what I was doing.

2 Q. Jefferson County, the way it's split in  
3 the 2021 congressional map, is not exactly a  
4 straight line. How did you decide which areas of  
5 Jefferson County would move from District 6 to  
6 District 7?

7 A. I was looking geographically to widen  
8 the face of the protrusion into Jefferson -- if you  
9 want to call it that, into Jefferson County. I was  
10 looking to not split precincts. Those are all,  
11 except for one that's split for deviation -- well,  
12 two, technically. One Congressman Sewell --  
13 Congresswoman Sewell lives in and another one.

14 But I was trying not to split precincts.  
15 I was picking whole precincts. And I was trying to  
16 make the district more compact, meaning widen it as  
17 it goes into Jefferson County and eliminate some of  
18 the longer, further-away ones at the northern part  
19 of the county.

20 Q. So how does that process work when  
21 you're choosing which precincts to pick up? Are you  
22 just kind of choosing at random geographically as  
23 you move up and seeing what works? Or are there  
24 other factors at play that you're considering?

25 A. No, that's exactly it, seeing what works

1 numerically and making something, in my mind, look  
2 more compact geographically.

3 Q. Are there any other factors or data that  
4 you're considering when you're choosing which  
5 precincts to include?

6 A. No. I mean, other than -- we had that  
7 discussion about Homewood where she allowed that --  
8 we had split a couple of Homewood precincts, some on  
9 one side of her line in 7 and some on the other side  
10 in 6, and thought it might be good to group them all  
11 together.

12 Q. You mentioned that there were two  
13 precincts that were split for deviation purposes,  
14 one of which Congressman Sewell lives in you said.  
15 What were those two precincts?

16 A. The names?

17 Q. Do you recall?

18 A. I do not.

19 Q. This isn't a memory test. I just --

20 A. I do not.

21 Q. Okay.

22 A. And the reason it's not one -- I was  
23 trying to make the split just solely in one  
24 precinct. But unfortunately the census blocks  
25 didn't cooperate very much. And when I got to where

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1 I got to geographically in the one -- the precinct  
2 she lived in, I was hoping I could pick up the right  
3 number of populations.

4 But unfortunately I hit a situation  
5 where there was like a 550 block next to it, and  
6 that was too many. So that was not going to work.  
7 So I had to split another precinct to get to zero  
8 deviation.

9 Q. Do you recall anything else specifically  
10 from your discussions with Congressman Palmer or his  
11 chief of staff in furtherance of drawing the 2021  
12 congressional map?

13 A. No.

14 Q. And I think we discussed this earlier.  
15 But in any of those discussions with any of those  
16 congressmen, Congressmen Carl, Moore, Rogers,  
17 Adderholt, Brooks, Palmer, did race ever come up in  
18 your discussions with any of them or their staff?

19 A. No.

20 I mean, I'll amend that slightly. I do  
21 think in the final when I went through with  
22 everybody, I think maybe Congressman Moore's  
23 district director, Bill Harris, who I was talking  
24 to, may have asked, "Can you tell me what the BVAP  
25 of the 2nd District is now?" I think I probably



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1 gave him that number.

2 Q. And when was that?

3 A. In the last -- that last week when we  
4 turned race on.

5 Q. You gave him the --

6 A. He asked --

7 Q. -- black voting age population?

8 A. Yeah. He asked what the BVAP for that  
9 district was, and I gave him that number.

10 Q. Was there any further discussion about  
11 it?

12 A. No.

13

14 (Plaintiff's Exhibit 7 was  
15 marked for identification.)

16

17 Q. I'm handing you what's been marked as  
18 Plaintiff's Exhibit 7. This is a copy of the  
19 reapportionment committee redistricting guidelines  
20 that was produced in this lawsuit. The Bates number  
21 at the bottom is RC 043723, and it's dated May 5th  
22 2021.

23 Do you see that?

24 A. I do.

25 Q. Do you recognize this document?

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1 A. I do.

2 Q. What is this document?

3 A. These are the guidelines that were  
4 approved by the reapportionment committee for  
5 drawing the four maps.

6 Q. Were you provided a copy of these  
7 redistricting guidelines before you drafted the 2021  
8 congressional map?

9 A. I was.

10 Q. Who provided it to you?

11 A. The two co-chairs, probably with Dorman  
12 Walker, as well. I'm not sure who handed it to me.

13 Q. And when was that?

14 A. It would have been around the time it  
15 was passed, May 5th.

16 Q. What --

17 A. Which very importantly happens to be my  
18 birthday.

19 Q. That is an important note. Thank you  
20 for letting me know. Happy belated birthday.

21 A. Thank you.

22 Q. What were you told when you were  
23 provided these guidelines?

24 A. I was told these were the guidelines for  
25 drawing the four maps that you've been contracted to

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1 draw, and to follow them to the best of my  
2 abilities.

3 Q. Anything else that you recall?

4 A. No.

5 Q. And did you, in fact, follow these  
6 guidelines in drawing the 2021 congressional map?

7 A. I did.

8 Q. Let's take a look at the criteria that's  
9 listed here. So starting on Page 1, you see Line 10  
10 there. It says Section II, Criteria for  
11 Redistricting.

12 A. Yes, sir.

13 Q. I want to talk through these with you.  
14 So Sections II a and b both state that the  
15 congressional district should equalize total  
16 population and have minimal population deviation.

17 Do you see that?

18 A. I do.

19 Q. What does minimal population deviation  
20 mean to you?

21 A. I took that to mean for the  
22 congressional districts, that that was -- they  
23 should be zero for six of the districts and plus one  
24 for the remaining district because the population  
25 was not divisible by seven. So six were to zero

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1 deviation, and one should be plus one.

2 Q. Which district did you choose to be the  
3 plus one deviation?

4 A. I knew you would ask me that. I don't  
5 -- I would have to look. I think it was the 6th  
6 maybe. I would have to look at a map. I don't have  
7 numbers. I'm sorry.

8 Q. Was it District 7?

9 A. No, I don't think so. I think it was 2  
10 or 6, but I can't remember which.

11 Q. And what did you do to make sure that  
12 your map complied with that zero deviation for six  
13 of the districts and plus or minus one for the  
14 other?

15 A. I moved -- I split seven precincts down  
16 to the census block level to get to zero deviation  
17 for six of the districts and plus one for the  
18 seventh one.

19 Q. Did anyone tell you that zero percent  
20 deviation was required or that there was a certain  
21 cutoff that you had to reach to satisfy this  
22 criteria?

23 MR. WALKER: Objection to form. You can  
24 answer.

25 A. I was told that it was literally zero

1 deviation, meaning zero -- not percent, but zero  
2 people except for the one that had to be plus one.

3 Q. Is that plus one person?

4 A. Yes.

5 Q. Understood.

6 A. Sorry. Plus one person.

7 Q. And who told you --

8 A. Dorman Walker, legal counsel.

9 Q. Section II c looks like it's about  
10 legislative and board of education districts. So I  
11 don't think that would apply to the congressional  
12 map. Is that correct?

13 A. Correct.

14 Q. Section II d says that the plan must  
15 comply with the one person, one vote principle of  
16 the Equal Protection Clause of the 14th Amendment of  
17 the United States Constitution.

18 Do you understand what the one person,  
19 one vote principle is?

20 A. I think I do.

21 Q. What's your understanding?

22 A. Again, that's so no -- so people have  
23 equal representation, the representatives in those,  
24 in the congressional case, should be representing  
25 the same number of people.

1 Q. So that goes back to the population  
2 deviation?

3 A. Correct.

4 Q. And where does that understanding come  
5 from?

6 A. Where does my understanding come from?  
7 I'm sure if I had any questions about it, I asked  
8 legal counsel.

9 Q. So other than what you just discussed  
10 doing for Sections II a and b in adjusting for the  
11 population, did you do anything else to make sure  
12 that your plan complies with the one person, one  
13 vote principle?

14 A. No.

15 Q. Section II e looks like it just states  
16 that a plan that does not comply with the population  
17 requirements above will not be approved.

18 Is there anything additional you needed  
19 to consider here for this section e beyond what  
20 we've already discussed?

21 A. I don't believe so.

22 Q. Section II f states, "Districts shall be  
23 drawn in compliance with the Voting Rights Act of  
24 1965 as amended. A redistricting plan shall have  
25 neither the purpose nor the effect of diluting

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1 minority voting strength, and shall comply with  
2 Section 2 of the Voting Rights Act and the United  
3 States Constitution."

4 Are you familiar with the Voting Rights  
5 Act of 1965?

6 A. I'm not a lawyer, but I'm familiar with  
7 it.

8 Q. What is your understanding?

9 A. Well, that the -- a plan should not have  
10 the intent or purpose of discriminating against any  
11 minority population.

12 Q. Where does that understanding come from?

13 A. Just conversations with legal counsel  
14 and others during the process.

15 Q. Are you familiar with Section 2 of the  
16 Voting Rights Act?

17 A. Again, I'm not a lawyer. But vaguely.

18 Q. Have you ever read Section 2 of the  
19 Voting Rights Act?

20 A. I'm not sure I have.

21 Q. What is your understanding of what  
22 Section 2 requires?

23 A. Where there -- I guess my understanding  
24 of it, a layman's understanding of it, would be  
25 where there's a sufficient and compact enough

1 population of -- minority population to create a  
2 district, a congressional district in this case,  
3 that a district should be drawn if it's compact and  
4 sort of meets the Gingles, I guess, requirements,  
5 compact, contiguous population.

6 Q. Where there would be a majority black  
7 district?

8 A. Right, and would have the opportunity to  
9 elect a candidate of their choice.

10 Q. And does that understanding come from  
11 the same sources, conversations with counsel?

12 A. Yes, sir.

13 Q. What did you do to make sure that your  
14 plan complies with Section 2 of the Voting Rights  
15 Act?

16 A. Again, once it was done and we turned on  
17 race, we talked about it. No one asked me to make  
18 any other changes. And I talked to legal counsel  
19 and, I guess, concluded that it satisfies Section 2  
20 of the Voting Rights Act.

21 Q. Anything else?

22 A. No.

23 Q. Did you personally make a determination  
24 that your plan does not have the purpose or effect  
25 of diluting minority voting strength?



1 A. I'm -- I'm not a lawyer, so I don't know  
2 that I can make that -- I don't know that it's my  
3 job to make that distinction. But I don't believe  
4 it discriminated against anyone.

5 Q. Did you do anything to make that  
6 determination yourself?

7 A. Other than talk to legal counsel, no.

8 Q. Other than potentially legal counsel,  
9 did you have discussions with anyone else about  
10 whether your plan complied with Section II of the  
11 Voting Rights Act?

12 A. No.

13 Q. In making the determination, whether  
14 that's through conversation with legal counsel or  
15 not, about whether your plan complies with this  
16 policy, did that require you to review the racial  
17 makeup of the districts?

18 A. Well, yeah. I mean, race -- at that  
19 point, we had turned race on. So the BVAPs and  
20 numbers were available.

21 Q. And you say they were available. So  
22 then you had to review them, as well, to make sure  
23 that everything was in compliance with this policy?

24 A. Well, we -- the numbers were then  
25 revealed or available, and we discussed the various

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1 numbers related to the map.

2 Q. Did you have anyone other than  
3 Mr. Walker or someone with his firm analyze your map  
4 at any point to confirm that it complies with  
5 Section 2 of the Voting Rights Act?

6 A. I did not.

7 Q. Do you know if anyone reviewed the map  
8 to determine whether it complies with Section 2 of  
9 the Voting Rights Act, other than potentially  
10 Mr. Walker and his firm?

11 A. I do not, no.

12 Q. And other than what we've discussed  
13 already, did you do anything else to make sure that  
14 your plan complies with Section 2 of the Voting  
15 Rights Act?

16 A. I did not.

17 Q. Moving on to the next criteria, Section  
18 II g. This one is a little longer.

19 It states, "No district will be drawn in  
20 a manner that subordinates race-neutral districting  
21 criteria to considerations of race, color, or  
22 membership in a language-minority group, except that  
23 race, color, or membership in a language-minority  
24 group may predominate over race-neutral districting  
25 criteria to comply with Section 2 of the Voting

1 Rights Act, provided there is a strong basis in  
2 evidence in support of such a race-based choice. A  
3 strong basis in evidence exists when there is good  
4 reason to believe that race must be used in order to  
5 satisfy the Voting Rights Act."

6 Do you see that?

7 A. I do.

8 Q. What is your understanding of what that  
9 section requires?

10 A. My understanding of what that section  
11 requires is that's why -- when we made all of our  
12 changes to the districts by adding or subtracting  
13 population, that's why race was not on. We did it  
14 based on total population. And then at the end of  
15 the process, we did turn race on to look at various  
16 districts.

17 And because we were doing a number of  
18 these maps at the same time, there were a couple of  
19 instances in the other maps where we did look at  
20 race to add to a district. But that did not come  
21 into play in congressional.

22 Q. What, if anything, did you do to make  
23 sure that specific congressional districts complied  
24 with this policy?

25 A. I made sure that when I added -- I used

1 traditional redistricting principles of total pop  
2 and geography considerations to add and subtract to  
3 these districts, and that that was not based on  
4 race.

5 Q. Flip the page to Page 2. The next  
6 section is Section 2 h, and it states that districts  
7 must be composed of contiguous and reasonably  
8 compact geography.

9 What is your understanding of what this  
10 section requires?

11 A. Yeah, obviously contiguous counties  
12 and/or precincts had to be adjacent, to be hooked  
13 together, to form a district. You couldn't have  
14 part of Madison County tied to Mobile or something  
15 crazy like that.

16 And to the extent possible, I was trying  
17 to, when changing things inside a county as  
18 Jefferson, I was trying to make -- or Montgomery,  
19 for that matter, tried to make districts more  
20 geographically compact so they were not as spread  
21 out.

22 Q. Beyond what you just mentioned with  
23 Montgomery -- sorry. Was that Jefferson County?

24 A. And Montgomery, too.

25 Q. And Montgomery County. Beyond that,

1 what did you do to make sure that your plan complies  
2 with this policy?

3 A. That's about it.

4 Q. Moving on to the next section, Section  
5 II i. It lists several requirements of the Alabama  
6 Constitution. I'm not going to read all of them  
7 here.

8 Did you consider these factors in  
9 drawing your map?

10 A. I did.

11 Q. It appears, just by looking at them,  
12 that most of them do not apply to the congressional  
13 map. Rather, they talk about Alabama senate and  
14 Alabama house. Is that right?

15 A. Correct.

16 Q. How did you consider these factors here  
17 under Section II i in drawing the congressional map?

18 A. Well, I don't know how far down this  
19 list -- I don't know how far down this list you're  
20 counting.

21 Q. It looks likes II i. It's from Line 3  
22 down to Line 20 on Page 2 of Exhibit 7.

23 A. As you say, most of them don't really  
24 apply. They are all -- all districts will be  
25 single-member districts, they're contiguous. That's

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1 already basically been covered in other things we've  
2 discussed.

3 Q. Anything else that you had to take into  
4 account to comply with this policy?

5 A. I don't think so.

6 Q. Section II j starting at Line 21 there.  
7 Section II j lists six redistricting policies. Do  
8 you see that?

9 A. Uh-huh.

10 Q. Sorry. Can you answer verbally?

11 A. Yes. Sorry.

12 Q. That's fine.

13 Did you consider these redistricting  
14 policies when drawing your map?

15 A. I did.

16 Q. How?

17 A. Well, I wanted to make sure that no --  
18 to the extent possible that no incumbents were put  
19 together, which they were not, in the congressional  
20 map. While continuity by water was allowed, I was  
21 trying to not use that. Which I don't think we did.

22 I don't know how far down your --

23 Q. I can walk through them with you. That  
24 might make more sense.

25 First off, did anyone explain to you

1 what these policies mean?

2 A. No. I'm sure if I had a question, I  
3 would have asked legal counsel. But I don't  
4 remember asking.

5 Q. Similarly, did anyone explain to you how  
6 to apply these policies in drawing the map?

7 A. No.

8 Q. What is your understanding of the  
9 priority amongst these various policies?

10 A. I think the only two that are paramount  
11 to the rest of them would be one person, one vote  
12 and the Voting Rights Act.

13 The rest of them are somewhat -- can  
14 occasionally be in conflict. And it depends on the  
15 various situations where one might trump the other  
16 or vice versa.

17 You may have two incumbents that live  
18 very close to one another. Maybe they need to be  
19 split apart. That may make the districts not quite  
20 as compact as you would like. But one of those --  
21 you know, you couldn't put the two incumbents  
22 together. So sometimes they are in conflict, and  
23 you have to resolve that.

24 Q. Other than the two you just mentioned,  
25 one person, one vote and the Voting Rights Act, did

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1 you place any greater importance on one of these  
2 policies over the other?

3 A. No.

4 Q. Let's walk through these. So the first  
5 policy under Section J starting on Line 25 there  
6 states, "Contests between incumbents will be avoided  
7 whenever possible."

8 What's your understanding of what this  
9 requires?

10 A. That when -- certainly when possible, I  
11 would not put incumbents in the same district.

12 Q. What did you do to make sure that you  
13 complied with that?

14 A. Retrieved -- made sure that we retrieved  
15 all of the home addresses and looked to where they  
16 were and made sure two of them were not in the same  
17 district.

18 Q. You might have answered this earlier.  
19 But did you have to make any modifications to your  
20 map to comply with this?

21 A. Not the congressional map.

22 Q. This factor applies equally to both  
23 parties, correct?

24 A. Certainly, yes.

25 Q. So you applied it equally to all



1 incumbents, both the republicans and to the  
2 democrat, correct?

3 A. Correct.

4 Q. The second policy there, Section II  
5 j(ii) starting on Line 26, states -- I don't know  
6 why I'm having trouble pronouncing the word.  
7 "Contiguity by water is allowed, but point-to-point  
8 contiguity and long-lasso contiguity is not."

9 What is your understanding of what that  
10 policy requires?

11 A. I'm not sure I even know what long-lasso  
12 contiguity is, to be honest with you.

13 But point-to-point, occasionally you can  
14 have a precinct or a census block that connects to  
15 the next one just by one point in space. And that's  
16 not -- under their guidelines, not allowable in  
17 terms of connecting them together.

18 Again, on the congressional map, it  
19 didn't come into play very much because I tried not  
20 to split -- I only split seven precincts and tried  
21 not to have situations where census blocks were --  
22 weren't any -- weren't close to any of those options  
23 there.

24 Q. Did you have to do anything else to make  
25 sure your plan complied with this policy?

1 A. No.

2 Q. Did you have to make any modifications  
3 to your map to comply with this policy?

4 A. I did not.

5 Q. The third one -- the third policy, which  
6 is Section II j(iii,) states, "Districts shall  
7 respect communities of interest, neighborhoods, and  
8 political subdivisions to the extent practicable and  
9 in compliance with paragraphs a through i."

10 What is your understanding of what this  
11 policy requires?

12 A. It requires -- like I said earlier, in  
13 areas; for example, Mobile and Baldwin which wanted  
14 to stay together or Madison and Morgan that had  
15 specific communities of interest, it was to keep  
16 areas together that have similar -- and, obviously,  
17 there are lots of different communities of interest.  
18 So I tried to keep areas, to the extent possible,  
19 together.

20 Obviously, this comes into conflict with  
21 county lines, precinct lines, other things. So it's  
22 not always -- and everybody has -- a number of  
23 people have different views of what communities of  
24 interest are. So it's certainly not always possible  
25 to keep all of them together.

1 Q. What is your definition of a community  
2 of interest?

3 A. My definition of community of interest,  
4 it can be geographic, it can be economic, where  
5 people work, it can be racial, it could be  
6 geography, it could be people on the bay, for  
7 example, for Mobile and Baldwin counties. A host  
8 of -- a host of communities of interest.

9 Q. What do you consider to be communities  
10 of interest in Alabama?

11 A. All those things I just listed.

12 Q. Is there any sort of particular  
13 communities of interest that are well established or  
14 a list of any of these? Or is this just something  
15 that is subjectively known but doesn't really exist  
16 in writing anywhere?

17 A. I don't know of a definitive list of all  
18 the communities of interest in Alabama.

19 Q. Are there any specific communities of  
20 interest that come to mind for you right now?

21 A. No, other than the ones I listed. I  
22 mean, precincts can be -- counties are, I guess,  
23 communities of interest sometimes. I mean, it's --  
24 there are a whole host of things.

25 Q. It sounds like communities of interest

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1 can be somewhat fluid. Is that fair to say?

2 A. It is fair to say.

3 Q. One area, say, where we're sitting right  
4 now in Montgomery, could be part of three, four,  
5 five, six different communities of interest  
6 depending on what factors you're looking at?

7 A. Yeah, whether they're economic or racial  
8 or social or everybody roots for the same football  
9 team, I suppose.

10 Q. Do they?

11 A. No.

12 Q. I see. I see. That would be a  
13 community of interest perhaps.

14 Are you familiar with the black belt?  
15 You mentioned that earlier.

16 A. I am.

17 Q. What is the black belt?

18 A. It's a group of mostly rural counties  
19 that have a -- for the most part have a majority  
20 black population.

21 Q. Do you know what counties are in the  
22 black belt?

23 A. I'm not sure I can list every one. But  
24 yeah, in general, I do.

25 Q. What counties would you say are in the

1 black belt?

2 A. I would say Sumpter, Greene, Choctaw,  
3 Marengo, Hale, Perry, Dallas, Wilcox, Lowndes, I  
4 guess Macon and Bullock. Some would say Montgomery.

5 Q. Do you consider the black belt to be a  
6 community of interest?

7 A. I do.

8 Q. So in drawing your map, what did you do  
9 to make sure that your plan complies with this  
10 policy, that it respected communities of interest?

11 A. Again, I mean, because there are so many  
12 different communities of interest, they're not -- I  
13 mean, no plan is going to respect all of them. So  
14 there are trade-offs.

15 There are also -- you know, the entire  
16 black belt I imagine if you made into a  
17 congressional district would accomplish -- would hit  
18 up against other one person, one vote issues and  
19 other issues in here, as well. So they are  
20 sometimes in conflict. So you can't -- you can't  
21 satisfy all communities of interest.

22 Q. Did you have to make any specific  
23 modifications to your map to make sure that you were  
24 respecting communities of interest?

25 A. No. Although, again, I tried to keep,

1 for example, the Muscle Shoals area together in  
2 the -- in the 4th District when we split Lauderdale.  
3 Not that it was at issue, but the people in Mobile  
4 and Baldwin very much wanted to be together because  
5 they share the bay. But that didn't require a  
6 change. It just is a . . .

7 Q. Other than the modification for the  
8 Muscle Shoals community, are there any other  
9 specific modifications that you felt like you made  
10 in drawing the 2021 map?

11 A. No, not specifically.

12 Q. Does your map split any communities of  
13 interest?

14 A. Oh, I'm sure it does. I mean, all maps  
15 split some communities of interest.

16 Q. And part of that is because of what we  
17 just discussed, that communities of interest can  
18 mean lots of different things?

19 A. To different people, I'm sure.

20 Q. Looking at the bottom of Section II  
21 j(iii,) that third policy, it gives a definition.  
22 It says, "The term communities of interest" --  
23 excuse me.

24 It says, "A community of interest is  
25 defined as an area with recognized similarities of

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1 interests, including but not limited to ethnic,  
2 racial, economic, tribal, social, geographic, or  
3 historical identities. The term communities of  
4 interest may in certain circumstances include  
5 political subdivisions such as counties, voting  
6 precincts, municipalities, tribal lands and  
7 reservations, or school districts."

8 Did you review any ethnic, racial,  
9 tribal, or other similar data to identify  
10 communities of interest?

11 A. I did not.

12 Q. Moving to the next policy, the fourth  
13 policy, Section II j(iv.) It states, "The  
14 legislature shall try to minimize the number of  
15 counties in each district."

16 I think that's pretty self-explanatory.  
17 But what is your understanding of what that policy  
18 requires?

19 A. Yeah, that's sort of a compactness  
20 thing. I was trying to keep the fewest number of  
21 counties necessary to -- and it's not always --  
22 there are other -- the next one down says  
23 "preserving cores of existing districts."

24 I mean, some of these things come into  
25 conflict. But to where possible, I tried to deal in

1 whole counties, keeping counties whole, and the  
2 minimum number to reach the ideal population.

3 Q. Did you have to make any specific  
4 modifications to your map to comply with that  
5 policy?

6 A. No. Although it does come into effect  
7 when people were talking about adding -- where you  
8 split a -- for example, the Escambia County split,  
9 you know, where does that go.

10 I was trying to keep districts so that  
11 not all of the splits were in the same district and  
12 the number of counties in a particular district  
13 didn't grow a lot. Because for a congressional  
14 office, that takes on local governments and more  
15 work. So I tried to be mindful of that when looking  
16 at it.

17 Q. Other than trying to be mindful of that,  
18 did you have to make any specific changes?

19 A. No.

20 Q. You referenced it just now. The next  
21 policy, the fifth policy, Section II j(v) states,  
22 "The legislature shall try to preserve the cores of  
23 existing districts."

24 What is your understanding of what that  
25 policy requires?



1 A. That's basically the cores of the -- of  
2 existing districts or the counties that make up the  
3 majority of those districts, to keep them together  
4 in the same district.

5 Obviously, incumbents have a preference  
6 to not have to add folks they haven't represented  
7 when they can continue to keep the folks they have  
8 been representing.

9 Q. What, in your mind, is the core of an  
10 existing district?

11 A. The core of an existing district is  
12 basically -- I view it as geography. It's the  
13 county -- the key counties that make up the current  
14 district, current as in 2001.

15 Q. Where --

16 A. Or 2011 I mean.

17 Q. Where does that understanding come from?

18 A. I don't know. That understanding comes  
19 from what the cores of a district are.

20 Q. Your understanding of what a core of a  
21 district is comes from --

22 A. I mean, that's what the definition of  
23 those words are to me anyway.

24 Q. Did you have some sort of metric to use  
25 when determining what the core of an existing

1 district is?

2 A. I did not.

3 Q. Does maintaining the core of districts  
4 require considerations of racial data?

5 A. I don't think it does, no.

6

7 (Plaintiff's Exhibit 8 was  
8 marked for identification.)

9

10 Q. I'm handing you what's been marked as  
11 Plaintiff's Exhibit 8. This is a document that was  
12 produced in this lawsuit. The Bates number in the  
13 corner is RC 00056. It's a seven-page document.  
14 Each page has one of the seven congressional  
15 districts from the 2021 congressional map.

16 Do you see that?

17 A. I do.

18 Q. Have you seen this document before?

19 A. I have not.

20 Q. And you can take a look through it if  
21 you don't believe me. But these are the seven --  
22 these are maps of each of the seven congressional  
23 districts in the 2021 map that you drew; is that  
24 correct?

25 A. Yes, sir.

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1 Q. Looking at page one here, District 1,  
2 show me on here where the core of District 1 is.

3 A. Well, the core of District 1 to me would  
4 be Mobile and Baldwin counties.

5 Q. Flipping over to -- and why do you  
6 consider those two --

7 A. Well, that's --

8 Q. -- to be the core?

9 A. Those are the two predominant counties.  
10 They have the vast majority of the population in the  
11 district.

12 Q. Flipping the page to District 2. What  
13 do you consider to be the core of District 2?

14 A. The core of District 2 is a little more  
15 complicated than that, I guess. You have the Wire  
16 -- you have Dothan, which is Houston County, you  
17 have the Wiregrass region, you have Montgomery, and  
18 then you have Autauga and Elmore on top -- of top of  
19 them.

20 Q. And why do you consider those counties  
21 to be the core of this district?

22 A. Again, that's where the majority of the  
23 population is. And they've been for the most part  
24 consistently inside the 2nd District for a  
25 considerable period of time.

1 Q. Moving the page to District 3, the same  
2 question. What do you consider to be the core of  
3 District 3?

4 A. The core of District 3 would be Calhoun  
5 and St. Clair. And then obviously more down, Lee  
6 and Russell, which are very fast-growing counties,  
7 especially Lee County. That would be the core of  
8 the district to me.

9 Q. And why do you say that?

10 A. Again, it's the vast majority of the  
11 population. It's also -- those areas have been  
12 pretty much continuously in the 3rd District.

13 Q. Turning the page to District 4, same  
14 question. What do you consider to be the core of  
15 District 4?

16 A. The core of District 4 would be sort of  
17 the Winston, Walker, Cullman area, and then northern  
18 Tuscaloosa which was only added ten years ago but  
19 certainly plays a key role in the district now. And  
20 then sort of Marshall, Etowah, again large  
21 population, have been in the district a considerable  
22 amount of time.

23 Q. Is your answer for why those are the  
24 core based on population again?

25 A. Population, yeah.

1 Q. Flipping the page to District 5, same  
2 question. What's the core there?

3 A. The core would be Madison and Morgan and  
4 Limestone, which is now rapidly growing, as well.  
5 Again, population, and they've been in that district  
6 for a considerable period of time.

7 Q. Any other reasons?

8 A. No.

9 Q. Turning the page to District 6, same  
10 question.

11 A. District 6, obviously Shelby and then  
12 Jefferson because of population would be, in my  
13 mind, the core of that district.

14 Q. Any other reasons?

15 A. No. It's population primarily.

16 Q. Finally flipping the page to District 7.  
17 What would you consider to be the core of District  
18 7?

19 A. I would say the core of District 7 is  
20 the black belt counties that we talked about earlier  
21 from Choctaw through to Lowndes, and then also the  
22 portions of Tuscaloosa and Jefferson.

23 Q. What are the reasons for considering  
24 those to be the core?

25 A. Again, population and that they've been

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1 in that district for a long period of time.

2 Q. And going through each of these counties  
3 that you consider to be the core of each district,  
4 is that a determination that you made? Or is that  
5 something that you were told by someone else?

6 A. That's a determination I made.

7 Q. Have you discussed what you consider to  
8 be the core of each of these districts with anyone  
9 else?

10 A. I may have discussed it with legal  
11 counsel. But I don't have a specific recollection  
12 of the discussion.

13 Q. Has anyone ever told you before what the  
14 core of each district is?

15 A. No.

16 Q. Looking back at the policy that we were  
17 referencing here about preserving the cores of each  
18 of the districts, what did you do to make sure that  
19 your plan preserved the core of each of these  
20 districts?

21 A. I kept the areas we referenced by  
22 district inside that district.

23 Q. Did you have to make any specific  
24 modifications to comply with this?

25 A. No.

1 Q. Where did this policy rank in comparison  
2 to the other policies?

3 A. It was equal to all except one person,  
4 one vote and the Voting Rights Act.

5 Q. We're almost through the criteria here.  
6 The last policy, Section II j(vi) states, "In  
7 establishing legislative districts, the  
8 reapportionment committee shall give due  
9 consideration to all the criteria herein. However,  
10 priority is to be given to the compelling state  
11 interests requiring equality of population among  
12 districts and compliance with the Voting Rights Act  
13 of 1965, as amended, should the requirements of  
14 those criteria conflict with any other criteria."

15 That sounds to be pretty much what you  
16 just said to me, correct?

17 A. Correct.

18 Q. To your knowledge, was there any  
19 conflict between the five policies we just discussed  
20 and the requirements regarding equality of  
21 population?

22 A. No. I mean, obviously, there can be  
23 conflicts between one person, one vote and  
24 communities of interest and one person, one vote and  
25 how many counties are in a district. But not on

1 that level, I guess. You would have to ask me that  
2 one again.

3 Q. And did you run into any of those  
4 conflicts? Did you have to make any modifications  
5 based on any sort of conflict like that in drawing  
6 the map?

7 A. Well, I mean, I didn't run into them.  
8 But, I mean, I kept those in mind when we were doing  
9 our initial additions or subtractions to the plan.

10 Q. Same question. To your knowledge, was  
11 there any conflict between those five policies we  
12 just discussed and the requirements under the Voting  
13 Rights Act of 1965?

14 A. No. As I stated, when I added  
15 population to the 7th district, for example, I was  
16 not looking at race. So there was no conflict with  
17 any of it to the Voting Rights Act.

18 THE REPORTER: There was no conflict  
19 what?

20 A. With any of those to the Voting Rights  
21 Act.

22 Q. I don't think it's another policy. But  
23 looking down here at the bottom, g, the last section  
24 under the criteria. Section g states that the six  
25 policies we just discussed in paragraphs j(i)



1 through (vi) are not listed in order of precedence,  
2 and in each instance where they conflict, the  
3 legislature shall at its discrimination determine  
4 which takes priority.

5 Were you given any instruction on which  
6 policy should take priority over the others?

7 A. No, other than section 6 that says  
8 clearly one person, one vote and the Voting Rights  
9 Act. But other than that, no.

10 Q. Is there anything else in Exhibit 8,  
11 which is the reapportionment committee redistricting  
12 guidelines, that you considered other than the  
13 criteria we just discussed in Section II?

14 A. No.

15 Q. In looking back at these criteria in  
16 Exhibit 8, Section II, were these the main factors  
17 that you considered when drawing the 2021  
18 congressional map?

19 A. They were.

20 Q. Did you consider any other factors when  
21 drawing the 2021 congressional map?

22 A. I did not.

23 Q. Are you aware of any racial polarization  
24 analysis that was done on any of the districts on  
25 the 2021 congressional map?

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1 A. I'm not.

2 Q. What is your understanding of what a  
3 racial polarization analysis entails?

4 A. I think it -- I've never done one, and  
5 I'm not an expert. But my understanding -- a  
6 layman's understanding of it, it is an analysis of  
7 performance of how a district would perform in terms  
8 of electing a candidate of choice for a minority  
9 candidate.

10 Q. Do you know why a racial polarization  
11 analysis was not conducted?

12 A. I do -- that was -- I do not.

13 Q. Did you ever suggest one?

14 A. I did not.

15 Q. Why not?

16 A. It wasn't under my purview.

17 Q. What do you mean?

18 A. It wasn't part of my -- I was asked to  
19 draw four maps and submit them to the legislature.

20 Q. Did anyone ever talk to you about a  
21 racial polarization analysis?

22 A. Counsel. We talked -- we've talked  
23 about --

24 MR. WALKER: Objection to form.

25 Q. Without going into any discussion that

1 you had with Mr. Walker, did anyone else ever talk  
2 to you about any racial polarization analysis being  
3 done for the 2021 congressional map?

4 A. No.

5 MR. THOMPSON: For the record, Counsel,  
6 I have a copy here of the joint stipulated facts  
7 that were agreed to by counsel and filed this past  
8 Friday. I only have one copy.

9 MR. WALKER: Do you want me to get a  
10 copy made, copies made?

11 MR. THOMPSON: We can. I just have a  
12 question about one of these. So if it works, I can  
13 just read it into the record and show the witness.

14 MR. WALKER: That's fine.

15 Q. Paragraph 62 of -- for your knowledge,  
16 sir, this is a document titled Joint Stipulated  
17 Facts for Preliminary Injunction Proceedings. And  
18 this was a document of stipulated facts that the  
19 parties in the three lawsuits here have agreed to.  
20 Does that make sense?

21 A. Yes.

22 MR. DAVIS: Actually, there are  
23 differences. What one set of counsel agreed to with  
24 us may not be exactly what another set of counsel  
25 agreed to with us. So you might want to clarify for

1 the record in which case those stipulations are.

2 MR. THOMPSON: This is the Milligan  
3 plaintiffs versus Merrill stipulations.

4 Q. All right. Paragraph 62 in this -- and  
5 I'll read it to you, and then I can show it to you.

6 It states, "In recent litigation,  
7 Secretary Merrill stated that CD 7," which is  
8 Congressional District 7, "appears to be racially  
9 gerrymandered, with a finger sticking up from the  
10 black belt for the sole purpose of grabbing the  
11 black population of Jefferson County. Defendant  
12 does not believe that the law would permit Alabama  
13 to draw that district today if the finger into  
14 Jefferson County was for the predominant purpose of  
15 drawing African American voters into the district."  
16 And that's from Secretary of State Merrill's  
17 pretrial brief in Chestnut v. Merrill.

18 And I'll show that to you. Just let me  
19 know when you've had a chance to look at it.

20 A. Okay.

21 Q. Do you agree with Secretary Merrill that  
22 District 7 appears to be racially gerrymandered?

23 MR. DAVIS: Object to the form.

24 MR. WALKER: Object to the form.

25 MR. DAVIS: Which District 7? What

1 year?

2 MR. THOMPSON: I believe this was in  
3 reference to the 2011 --

4 MR. WALKER: Right.

5 MR. THOMPSON: -- congressional map.  
6 Correct?

7 MR. DAVIS: I just want to make sure  
8 it's clear if, in fact, you're asking him about the  
9 2011 district, that y'all are on the same page.

10 MR. THOMPSON: Thank you.

11 Q. So do you agree with Secretary Merrill  
12 that District 7 in the 2011 Alabama congressional  
13 map appears to be racially gerrymandered?

14 A. Well, again, I'm not a lawyer nor an  
15 expert. But I think it's clear there is a racial  
16 component to the finger that goes into Jefferson  
17 County.

18 Q. And why do you say that?

19 A. Well, I think because of shape and size  
20 and what have you. And, again, I haven't done -- I  
21 haven't looked at it specifically. But I imagine,  
22 obviously, the majority of the folks inside that  
23 finger, for lack of a better word, are probably  
24 African American and the majority of folks on the  
25 outside probably aren't.

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1 Q. And you drew the original District 7  
2 back in 1992, we discussed, right?

3 A. Correct.

4 Q. So you drew that original, for lack of  
5 better terms, finger that extends into District 6?

6 A. Yeah. And I'm not sure it looked  
7 exactly like that. But yes, I did.

8 Q. And why did you draw that long finger  
9 extension into District 6?

10 A. Well, it partially probably had to do  
11 with where the incumbent lived at that point. But  
12 also to create a majority black district.

13 Q. Moving ahead to the 2021 congressional  
14 map. Were you asked to do anything to District 7 so  
15 that it does not appear to be racially  
16 gerrymandered?

17 A. I wasn't asked to do anything. But when  
18 I was looking at adding population to District 7, I  
19 was hoping -- my goal was to make it more compact  
20 and geographically comprehensible in terms of, for  
21 example, Jefferson County. So that's why I was  
22 adding west Jefferson County and gaining population  
23 there.

24 Q. Did you do anything specifically in  
25 drawing the 2021 congressional map to modify it so

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1 that District 7 does not appear to be racially  
2 gerrymandered?

3 A. I don't know how to answer that other  
4 than I tried to make it more geographically compact  
5 in shape.

6 Q. Other than that, did you make --

7 A. And not -- and not split precincts.  
8 Which I think a number of precincts were split in  
9 this version.

10 Q. Other than trying to make it  
11 geographically compact and not splitting precincts,  
12 did you make any other changes for that purpose?

13 A. No.

14 MR. WALKER: Just so the record is  
15 clear, the witness' reference to "this version" was  
16 to the 2011 version.

17 A. When I said they were split. Is that  
18 what you're talking -- yeah.

19 MR. THOMPSON: Thank you.

20 Q. And I'm referring to when you were  
21 drawing the 2021 map now. So thank you for the  
22 clarification.

23 Did you specifically make any changes in  
24 drawing the 2021 map to ensure that District 7 does  
25 not appear to be racially gerrymandered?

1 A. No, other than -- other than making the  
2 district more compact and more geographically  
3 contiguous.

4 Q. Anything else?

5 A. And not split precincts.

6 Q. Anything beyond that?

7 A. No.

8 Q. Do you know if District 7 would still be  
9 majority black without that finger sticking up into  
10 Jefferson County?

11 A. I do not.

12 Q. Have you looked at that?

13 A. No. But, of course, it's not really a  
14 finger anymore. It was basically the southwestern  
15 part of the county.

16 Q. In drawing the 2021 congressional map,  
17 were you asked to consider anything about race when  
18 drawing District 7?

19 A. No.

20 Q. Did you consider anything about race  
21 when drawing District 7?

22 A. No.

23 Q. And you say "No." That was before the  
24 week before you submitted this to the special  
25 session, correct?



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1 A. Correct. But even once we turned race  
2 on, nobody asked me to make any changes to District  
3 7 or any other district.

4 Q. And did you make any changes to District  
5 7 at that point?

6 A. No.

7 Q. Did you look at the racial makeup of  
8 certain neighborhoods that week before the special  
9 session?

10 A. I did not.

11 Q. Did you take into account any of the  
12 other characteristics of the black voting age  
13 population when drawing District 7?

14 A. Help me with that one.

15 Q. Similar to what I asked before. Did you  
16 take into account different socioeconomic factors  
17 within the black voting age population?

18 A. No, sir, I did not.

19 Q. Attitudes?

20 A. No, sir.

21 Q. Interests?

22 A. No.

23 Q. Type of employment?

24 A. No.

25 Q. Income?

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1 A. No.

2 Q. Educational level?

3 A. No.

4 Q. Favorite football team?

5 A. No.

6 Q. Voter turnout?

7 A. No, sir.

8 Q. Election results to assess party  
9 affiliation?

10 A. No.

11 Q. Were you asked to consider anything  
12 about race when drawing any of the other districts?

13 A. I was not.

14 Q. Did you consider anything about race  
15 when drawing Districts 1 through 6?

16 A. I did not.

17 Q. Did you consider whether it would be  
18 possible to create a second black majority district  
19 when drawing the 2021 congressional map?

20 A. I did.

21 Q. When did you make that -- when did you  
22 consider that?

23 MR. WALKER: I'm going to assert the  
24 attorney-client privilege.

25 THE REPORTER: I'm sorry?

1 MR. WALKER: I'm asserting the  
2 attorney-client privilege in response to that  
3 question.

4 MR. THOMPSON: To the question of when?

5 MR. WALKER: He can answer when.

6 Q. When did you consider whether making a  
7 -- excuse me. Let me ask the question again.

8 When did you consider whether it would  
9 be possible to create a second majority black  
10 district?

11 A. After we got the final census results.  
12 So early September.

13 Q. Did anyone ask you to consider that?

14 MR. WALKER: Objection.

15 MR. THOMPSON: Was that an instruction  
16 not to answer, or just an objection?

17 MR. WALKER: I think he can tell you  
18 that I asked him to consider that.

19 Q. I'll go ahead and let you --

20 A. Dorman Walker asked me to take -- to  
21 look at it, yes.

22 Q. Did you attempt to draw such a plan?

23 MR. WALKER: Objection. I instruct the  
24 witness not to answer. It's privileged.

25 Q. Beyond your discussion with Mr. Walker,

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1 did you discuss with anyone else the possibility of  
2 creating a second majority black district?

3 A. I did not.

4 Q. Do you agree that it would be possible  
5 to create a second majority black district in  
6 Alabama?

7 MR. DAVIS: Object to the form.

8 MR. WALKER: Same objection.

9 THE WITNESS: Does that mean I'm not  
10 supposed to answer?

11 MR. WALKER: It's an objection to the  
12 form of the question.

13 A. I think it would be possible. It's a  
14 question of whether -- how many counties and  
15 precincts you feel comfortable splitting to do so  
16 and how -- what the shape and size and scope of it  
17 would be.

18 Q. Would it be possible to create a second  
19 majority black district and still comply with the  
20 reapportionment committee redistricting guidelines?

21 A. I would not think so.

22 Q. Why not?

23 A. Well, I can't say every -- some of the  
24 plans that were submitted that did that either  
25 paired incumbents or disallowed cores of districts

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1 or made an inordinate number of splits or had 20  
2 counties in a congressional district or some other  
3 thing that was not positive in our guidelines.

4 Q. You said some of the other plans that  
5 were submitted. I know we referenced this way back  
6 earlier there morning --

7 A. Yes.

8 Q. -- that there were, you said,  
9 approximately 41 plans that were offered at some  
10 point in the special --

11 A. Not congressional. All the -- all the  
12 whole. That was all. That was legislative, that  
13 was everything.

14 Q. Understood. This may help.

15  
16 (Plaintiff's Exhibit 9 was  
17 marked for identification.)

18  
19 Q. I'm marking Plaintiff's Exhibit 9. This  
20 is another document that was produced in this  
21 lawsuit. It's Bates number RC 000007. And I will  
22 represent to you that the file name for this  
23 document is Congressional Plans Introduced in 2021  
24 Special Session.

25 Have you seen this document before?

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1 A. I don't think I have.

2 Q. Does this appear to be a list of the  
3 congressional plans that were introduced in the 2021  
4 special session?

5 A. It does.

6 Q. Did you review any of these maps?

7 A. I looked at most all of them, yes.

8 Q. Earlier today you made a distinction  
9 between looking at and reviewing.

10 A. Well, because a couple of these plans I  
11 know were put into the system very, very late in the  
12 process. So my quote, unquote review of them may  
13 have been ten minutes.

14 Q. Which plans were those?

15 A. Well, Senator Coleman's plan. Senator  
16 Hatcher's plan, I think, came in very late. A  
17 couple of these others which are full plans,  
18 obviously, but they were more amendments. Like  
19 Waggoner and Barfoot were done on the last day. So  
20 I looked at them, but I didn't have very long to  
21 look at them.

22 Q. Did you have an opportunity to review  
23 the Holmes congressional plan?

24 A. Yeah. Again, that was basically a  
25 change for Congressman Moore when we were discussing

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1 the whole Escambia versus Monroe thing. So it  
2 was -- it was not really a whole -- it was a whole  
3 plan. But the changes were very specific to  
4 Congressman Moore. So yes, I'm familiar with it.

5 Q. Did you have an opportunity to review  
6 the Faulkner congressional plan two?

7 A. I did. Those were changes that were  
8 primarily in Jefferson County. Again, the vast  
9 majority of the plan was the same this as the  
10 Pringle plan. So I was familiar with those changes.

11 Q. You may or may not know the answer to  
12 this. There's only one Faulkner plan listed here,  
13 but it's numbered two. Do you know if there was a  
14 Faulkner plan one?

15 A. I don't know. I don't know.

16 Q. It seems to be like the school prank  
17 where you number the pigs one, two, and four.

18 A. One would guess there would be a one.  
19 But I don't -- I don't know that.

20 MR. WALKER: I think that's the best  
21 extraneous comment in a deposition I've ever heard.

22 Q. Understood.

23 Then did you review the Singleton  
24 congressional plans? And there's three of those  
25 here.

1 A. The first one, the whole county plan, I  
2 did because that was a plan that was submitted to  
3 public hearings along the way and had been in the  
4 office for quite a while. So yes, I did. I did  
5 have more time to look at that one, yes.

6 Q. And that's plan one, the --

7 A. Plan one, yeah, SB-10. Yes, sir.

8 Q. I'm sorry. Go ahead.

9 A. Yes, plan one, SB-10.

10 Q. And are you aware that that one was  
11 submitted by the League of Women Voters?

12 A. Yes, sir.

13 Q. And there is also two other plans, plan  
14 two and plan three. Did you have an opportunity to  
15 review those?

16 A. Much more quickly. I mean, they were  
17 offshoots of the initial plan that just changed  
18 deviation for the most part.

19 Q. I want to walk through those, the Holmes  
20 plan, the Faulkner plan, and the Singleton plan.

21 Starting with the Holmes plan, why did  
22 you review that one?

23 A. I reviewed that because that was put in  
24 essentially for Congressman Moore because he did not  
25 want to pick up another county. And instead of



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1 splitting Escambia between 1 and 2, he wanted to  
2 split Monroe between 1 and 7 so that District 7  
3 would pick up an additional county and he would not,  
4 and then make the corresponding change in Montgomery  
5 to offset the 739 people that were needed to get 1  
6 to zero deviation. To my knowledge, those were the  
7 only changes.

8 Q. You had had conversations with  
9 Congressman Moore when you were creating your map,  
10 correct?

11 A. Correct.

12 Q. Were these changes in the Moore --  
13 excuse me.

14 Were these changes in the Holmes plan  
15 changes that you did not want to or did not for some  
16 reason make in the 2021 map that you drew?

17 A. That's correct.

18 Q. And why did you not make those changes?

19 A. Because I didn't think it was fair to  
20 put the majority of split counties into the 7th  
21 District.

22 Q. Why not?

23 A. I just didn't think any one district  
24 should have to have four split counties when other  
25 districts only had one.

1 Q. Was that the only reason you didn't make  
2 those changes?

3 A. Primarily. I didn't think it was a good  
4 -- first of all, it's 739 people. It's not really  
5 -- you couldn't make a case that Congressman Moore  
6 was going to lose re-election over gaining 739  
7 republicans in Escambia County.

8 So I was not concerned about what it did  
9 to his district. I was concerned about the fairness  
10 issue of putting all of the splits in one  
11 congressional district.

12 Q. Were there any other reasons why you  
13 didn't incorporate those changes in the Holmes plan  
14 into your map?

15 A. That was -- that was the primary reason.

16 Q. Were you asked by anybody to review the  
17 Holmes congressional plan?

18 A. Well, when it was offered on the  
19 floor -- I'm not sure where it was offered. The  
20 house floor maybe. This doesn't say on here.

21 But whatever chair where that was being  
22 offered asked me to, I'm sure, tell him what I knew  
23 about the Holmes plan.

24 Q. What did you tell him?

25 MR. WALKER: You can tell him.

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1 THE WITNESS: I thought you didn't want  
2 me to --

3 MR. WALKER: You can tell him.

4 A. I told him that I didn't -- I didn't  
5 think that was a good change to our map because,  
6 again, it put all of -- not all. But put another  
7 split into the 7th District. Which I didn't think  
8 it was equitable to put most of the splits in one  
9 congressional district.

10 Q. Did you tell him anything else?

11 A. That's basically it.

12 Q. Did you provide any evaluations or  
13 recommendations regarding that map?

14 A. Other than voting it down, no. I  
15 suggested they not vote for it.

16 Q. Moving to the Faulkner congressional  
17 plan two.

18 A. Yes.

19 Q. Why did you review that map?

20 A. That was the change where I had put  
21 Homewood back together that made a few people in  
22 Jefferson County, I guess, unhappy.

23 So representative Faulkner, who is from  
24 Jefferson County, had a map that took the three  
25 Homewood precincts out of District 7 and put them

1 into District 6, and took four precincts in the  
2 Center Point area, which is the northern end of  
3 District 7, and put those back into District 7. So  
4 I reviewed those changes.

5 Q. Similar to before, were you asked by  
6 anybody to review that plan?

7 A. I was. And whatever -- again, I think  
8 these were offered in the house. So I think it  
9 probably would have been Representative Pringle that  
10 asked me for a quick analysis of what the plan  
11 changes were.

12 Q. And what did you tell him?

13 A. I told him that it moved the Homewood  
14 area into District 6, and it took those four  
15 precincts at the northern end of district -- who  
16 were in District 7 and added them back into District  
17 7.

18 And I allowed as how I didn't think that  
19 was really a good thing to do because it eliminated  
20 some of my geographical compactness of what I was  
21 trying to do when we were adding in western  
22 Jefferson and not extending the quote, unquote  
23 finger further north into Jefferson County.

24 Q. To your knowledge, did any of the  
25 changes from your plan to the Faulkner plan have to

1 do with any racial factors?

2 A. I don't know -- I mean, I don't know  
3 about the motivations of who drew the Faulkner plan.

4 Q. Are you aware of any racial  
5 considerations that were taken in account in drawing  
6 the Faulkner plan?

7 A. I'm not.

8 MR. WALKER: Objection to form. You may  
9 answer.

10 Q. What about the Singleton plan? Why did  
11 you review that plan?

12 A. Well, that was one that -- the initial  
13 Singleton plan was one that was offered at a number  
14 of public -- virtually every public hearing, I  
15 believe. It had been in existence for quite a  
16 while.

17 So I looked at it for what it -- you  
18 know, for what it was doing. And I had a little  
19 more time to look at it, actually, than some of  
20 these other ones that came in at the last minute.

21 Q. Do you know what feedback there was from  
22 the public hearings on the Singleton plan?

23 A. Not specifically. I really don't.

24 Q. Did you ever hear of any public feedback  
25 on the Singleton plan?

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1 A. Not that comes to mind, no.

2 Q. Were you asked by anybody to review the  
3 Singleton plan?

4 A. Again, I was when it was offered in the  
5 house or senate -- I guess it was offered on the  
6 senate floor maybe first. Whichever chair of  
7 wherever it was offered, I was asked to comment on  
8 it.

9 Q. And what did you tell that chairperson?

10 A. Well, the initial Singleton plan was not  
11 a zero deviation plan. So it really didn't meet our  
12 guidelines. I also think it paired a couple of  
13 incumbents, if I'm remembering the plan correctly,  
14 in the 3rd District. I think it put in -- put maybe  
15 Shelby County in the 3rd. So it would have paired  
16 Gary Palmer and Mike Rogers. And it wasn't to zero  
17 deviation. Also, it didn't have a majority black  
18 district in it.

19 Q. Was that an issue to you, that there's  
20 not a majority black district?

21 A. Yeah. Well, it -- it was an observation  
22 that it did not have a majority black district.

23 Q. Does that matter for any particular  
24 reason to you?

25 A. Well, it matters -- again, I'm not a

1 lawyer. But I suppose there would be some question  
2 to how well it comported with Section 2 of the  
3 Voting Rights Act. But, again, that wasn't my major  
4 concern with it.

5 Q. There were two subsequent Singleton  
6 plans, plan two and three.

7 A. Yeah.

8 Q. Both of which you stated -- and it  
9 describes here in Exhibit 9 as having adjustments  
10 for population deviation.

11 Were there any other changes in  
12 Singleton plan two and three other than changes to  
13 deviation, to your knowledge?

14 A. Not to my knowledge. And, again, I  
15 looked at -- I didn't look at these plans  
16 extensively. But to my knowledge, it was just a  
17 change in deviation.

18 Q. Were those other observations that you  
19 made to Singleton plan one regarding incumbents  
20 being paired up against each other, a lack of a  
21 black majority district, any other observations you  
22 made, were any of those addressed with Singleton  
23 plan two or three?

24 A. Not that I'm aware of.

25 Q. Were you asked by anybody to review

1 Singleton plan two and three?

2 A. Again, in whatever body they were  
3 offered in, the chair would have asked me about  
4 them, yes.

5 Q. Do you recall what recommendations or  
6 observations you provided?

7 A. Basically the same ones. The narrow  
8 deviation, again while a more narrow deviation, was  
9 not to zero deviation. And I think it still paired  
10 the incumbents. And as I remember, the BVAPs on the  
11 districts were very similar between -- among the  
12 three. So I don't think it changed any of those  
13 things.

14 Q. You also mentioned that you looked at  
15 briefly the Coleman plan, Hatcher plan, Waggoner  
16 plan, and Barfoot --

17 A. Yeah.

18 Q. -- plan.

19 A. Yes, sir.

20 Q. Did you make any observations from your  
21 looking at or review of those?

22 A. No. Well, the Barfoot plan was sort of  
23 just the senate version of the Holmes plan making  
24 the change for Representative Moore.

25 The Wagner plan was basically Faulkner



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1 and Barfoot put together or Barfoot and Holmes put  
2 together. It also made the Moore change, but made  
3 the Faulkner change in Jefferson County. So they  
4 were just sort of different versions or compilations  
5 of those two things.

6 Q. I'm going to stop you right there  
7 because I think there's -- it looks like there's two  
8 Waggoner plans here. Which one are you referring  
9 to, three or one?

10 A. Three was the combination. One -- one  
11 was essentially the Faulkner version of the plan,  
12 only in a -- drawn up by a senator or offered by a  
13 senator.

14 Q. And I interrupted you there. I think  
15 the only other plan we haven't discussed yet is the  
16 Hatcher plan.

17 A. Right. And, again, that came in, if I  
18 remember correctly, the night before it was offered  
19 on the floor. So I really looked at it for  
20 literally ten minutes before whoever -- wherever it  
21 was offered. I guess on the senate side. So I  
22 didn't do a very deep analysis of the Hatcher plan.

23 Q. For each of these plans that you said  
24 you just looked at briefly, the Coleman plan, the  
25 Waggoner plans, the Barfoot plan, and the Hatcher

1 plan, is it a similar response as you had to the  
2 other ones, that you were asked to look at those by  
3 whoever was presenting them on the floor?

4 A. Whoever was managing the time, the time  
5 on the floor.

6 Q. And as to each of those, do you recall  
7 what your feedback was?

8 A. Yeah. I mean, obviously, the Waggoner  
9 plan was the same as the Faulkner plan. So I didn't  
10 think it was a good change. And the Barfoot plan  
11 was essentially the same as the Holmes plan. So I  
12 didn't think that was a good change. And the  
13 Waggoner three was just a compilation of the two of  
14 them added together, which didn't do anything to  
15 move the bar.

16 Q. What about the Coleman plan?

17 A. The Coleman plan, again, I didn't look  
18 -- didn't have a chance to look at very much. I  
19 believe it paired two incumbents in 1, in District  
20 1, Carl and Moore. And it certainly didn't respect  
21 the cores of districts because I think it had  
22 District -- District 7 went from Mobile to  
23 Tuscaloosa maybe.

24 Anyway, again, I didn't spend a lot of  
25 time on either of those, looking at either of those

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1 plans.

2 Q. What about the Hatcher plan?

3 A. The Hatcher plan I think was obviously a  
4 two black district plan.

5 THE REPORTER: Two?

6 A. Two black district plan. I do think it  
7 -- I think it paired incumbents, but maybe I'm  
8 wrong. Again, geographically it was not very  
9 compact. I think it went from Mobile to Russell  
10 essentially on one of the black districts.

11 So I didn't think it -- I didn't think  
12 it followed our guidelines very well in terms of  
13 compactness.

14 Q. Other than compactness --

15 A. And splits. I think it also had like 13  
16 county splits, where the Pringle plan had six. I  
17 think it split a lot more precincts.

18 Q. Other than compactness and splitting  
19 precincts, was there any other reason that you felt  
20 that the Hatcher plan did not comply with the  
21 guidelines?

22 A. Those were the main issues.

23 Q. Were there any other issues?

24 A. I don't think so.

25 Q. And with the Singleton plan, were there

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1 any reasons why you felt that the Singleton plan did  
2 not comply with the redistricting guidelines?

3 A. Yeah. Well, the initial Singleton plan  
4 was not to zero deviation. It did pair incumbents  
5 again in the 6th -- in the 3rd District, it had two  
6 incumbents together, Moore and -- not Moore. Palmer  
7 and Mike Rogers.

8 Q. Any other reasons?

9 A. And, again, it didn't have a majority  
10 black district.

11 Q. Speaking of that, when you drew your  
12 map -- which on this table, I would assume that's  
13 the Pringle congressional plan. Correct?

14 A. Yes, sir.

15 Q. When you drew the 2021 congressional  
16 map -- remind me. Did you start with drawing  
17 District 7?

18 A. No. Actually, I started -- I started  
19 with District 5 because I knew it had to spill into  
20 4. And I had to do that before I could do much else  
21 there.

22 Q. What order did you go in for drawing the  
23 districts after that?

24 A. I basically moved down -- moved down the  
25 state. I did 5 to 4. And then the changes that 4

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1 -- putting Cherokee back together in 3, putting  
2 Blount back together in 6, corresponding changes in  
3 Tuscaloosa in 7. I basically worked down the map  
4 from there.

5 Q. And you stated that you did not look at  
6 the racial data in drawing the 2021 map until the  
7 week before the special session, correct?

8 A. Correct.

9 Q. When you did review the racial data, if  
10 it had shown that District 7 was below 50 percent  
11 black voting age population, what would you have  
12 done?

13 A. I would have talked to legal counsel  
14 about what steps to take at that point.

15 Q. Do you believe that you would have  
16 needed to make modifications to make the black  
17 voting age population percentage higher than 50  
18 percent?

19 MR. WALKER: Object to the form, calls  
20 for speculation.

21 Q. You can answer.

22 A. I'm sorry. Say that again.

23 MR. THOMPSON: Can I have the question  
24 read back?

25 (Record read.)

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1 A. I think if it had come back under 50  
2 percent, in consultation with legal counsel, I  
3 assume we would have, under the guidelines, looked  
4 for a basis and evidence to see if one existed to  
5 add African Americans to the district.

6 Q. Did you draw any other maps other than  
7 -- let me take a step back.

8 Did you draw any other congressional  
9 maps other than the HB-1 Pringle congressional plan  
10 that was ultimately enacted?

11 A. This cycle -- I don't know what time  
12 frame we're talking about.

13 Q. I'll try again. Sorry.

14 In drawing the 2021 congressional maps,  
15 through that process you drew the map that was  
16 ultimately enacted, correct?

17 A. Yes, sir.

18 Q. Did you draw any other maps in that  
19 cycle --

20 MR. WALKER: I'm going to --

21 Q. -- for the congressional plan?

22 MR. WALKER: -- object to the extent  
23 that -- and you may not be intending to. You're  
24 asking him whether he tried to draw a two majority  
25 black district --

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1 Q. I'm just asking if you drew any other  
2 maps at all.

3 MR. WALKER: And my instruction to you  
4 is if you did anything at the instruction of me  
5 alone, then that would not be part of your answer.

6 A. Other than that, no.

7 Q. I've gone a little over an hour there,  
8 but I wanted to finish up. I think I'm done with my  
9 questions for now. So I think we'll take a break  
10 and then allow some other folks to ask you some  
11 questions. Is that fair?

12 A. That's fair.

13 THE VIDEOGRAPHER: We are off the  
14 record. The time is 2:28 p.m.

15 (Recess was taken.)

16 THE VIDEOGRAPHER: We are back on the  
17 record. The time is now 2:47 p.m.

18 MR. THOMPSON: At this time, I'm going  
19 to pass the questions to Mr. Blacksher.

20 EXAMINATION BY MR. BLACKSHER:

21 Q. Good afternoon, Mr. Hinaman.

22 A. Good afternoon.

23 Q. So it was Dorman Walker who told you you  
24 were required to achieve zero population deviation;  
25 is that right?

1 MR. WALKER: Object to the form.

2 Q. You know, I'm having -- I've had trouble  
3 hearing you throughout. So I'm going to have to ask  
4 you to speak up a little louder.

5 What was your last response?

6 MR. WALKER: Are you talking to me, Jim?

7 MR. BLACKSHER: The witness didn't  
8 respond? That was you?

9 MR. WALKER: That was I who said "Object  
10 to the form." He doesn't make objections.

11 MR. BLACKSHER: Oh, you said objection?

12 MR. WALKER: Yes.

13 Q. Okay. I'm going back to what you said  
14 in your examination, your direct examination, I  
15 guess we call it, where you said you were advised  
16 that you needed to use zero deviation in your plan.  
17 Is that right?

18 A. That's correct. Under two criteria for  
19 redistricting, B, "Congressional districts shall  
20 have minimal population deviation."

21 I was told by counsel that that was zero  
22 for six districts and plus one for one district.

23 Q. And when you say "by counsel," you mean  
24 -- well, I didn't ask you. Were you advised by  
25 lawyers other than Dorman Walker?



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1 A. No.

2 Q. So it was Dorman who told you that  
3 minimal deviation means zero deviation?

4 A. That's correct.

5 Q. Okay. So you also drew the plan in  
6 1992. And did you read the opinion of the court in  
7 West v. Hunt, the 1992 opinion that adopted your  
8 plan?

9 A. I'm sure I did in 1992 or '93. But I  
10 sure don't remember it today.

11 Q. You don't recall -- well, let me ask you  
12 this: Did counsel tell you or remind you that in  
13 that decision, the three-judge court said that  
14 because it was a court-approved plan, a  
15 court-ordered plan, it felt constrained to have  
16 perfect or zero deviation. But that if the  
17 legislature had drawn the plan itself, it would have  
18 had greater leeway with respect to deviation?

19 MR. WALKER: Objection.

20 Q. Do you recall reading that?

21 MR. WALKER: Jim, you've asked that  
22 question several ways. And one -- it could be  
23 interpreted in one way to be whether or not I gave  
24 him advice on that. If that's what you're asking, I  
25 object to that.

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1 Q. Okay. So if you read the West v. Hunt  
2 opinion -- let me ask this question -- do you recall  
3 the court saying that it felt compelled, because it  
4 was a court-ordered plan, to use zero deviation?

5 A. I do not. As I said, I probably read it  
6 30 years ago. I certainly don't remember what it  
7 said today.

8 Q. Were you advised to use zero deviation  
9 by anybody -- any lawyers in Washington, say,  
10 connected with the republican party, the RNC or --  
11 what was that other organization that you used  
12 letters for? NRRC or something?

13 A. No. In terms of the -- are you talking  
14 about the 2021 plan?

15 Q. The 2021 plan, yes.

16 A. No, I did not speak to anybody at the  
17 NRCC or the RNC or anybody in Washington other than  
18 members of congress and their staffs.

19 Q. Okay. NRCC, what does that stand for?

20 A. National Republican Congressional  
21 Committee.

22 Q. Okay. But they didn't give you any  
23 instructions or any advice about zero deviation?

24 A. No, sir.

25 Q. What about the members of congress in

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1 the Alabama delegation? Did they give you any  
2 instructions to use zero deviation?

3 A. No, sir.

4 MR. BLACKSHER: Eli, did I print out a  
5 copy of the passage from State of Alabama versus  
6 U.S. Department of Commerce that you can show him?

7 MR. HARE: Let me see here.

8 MR. BLACKSHER: It's got a highlighted  
9 section in it.

10 MR. HARE: Yes.

11 MR. BLACKSHER: Okay. Can you mark that  
12 as -- what did you say, PX 10?

13 MR. HARE: Right. It's PX 10.

14  
15 (Plaintiff's Exhibit 10 was  
16 marked for identification.)

17  
18 MR. BLACKSHER: And show that to  
19 Mr. Hinaman

20 Q. That, Randy, is the document that was  
21 filed by the State of Alabama, as you can see, in  
22 Montgomery's federal court against the census bureau  
23 and styled 21-211.

24 And would you please read the  
25 highlighted part in Paragraph 116 of the State's

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1 complaint?

2 A. The part --

3 Q. Read it into the record.

4 A. I must admit highlighting in it in blue  
5 makes it rather hard to read. But nevertheless.

6 "Even at the higher census geography of  
7 Alabama's congressional districts, the November 2020  
8 demonstration data indicated that the differential  
9 privacy algorithm skewed the data enough to create  
10 population deviation on a level that courts have  
11 found in other contexts to violate the supreme  
12 court's equal population jurisprudence."

13 Q. Thank you.

14 And under that language is a table that  
15 shows what the State thought were errors caused by  
16 differential privacy in the demonstration. And they  
17 were congressional districts.

18 Did counsel tell you that the State of  
19 Alabama thought that the zero deviation requirement  
20 was using flawed data, in their opinion?

21 MR. WALKER: Objection to form. And I  
22 instruct the witness not to answer.

23 Q. Okay. Are you going to follow counsel's  
24 advice not to answer my question, Mr. Hinaman?

25 A. I am.

1 Q. So aside from what counsel told you,  
2 were you aware that the State of Alabama took the  
3 position in federal court that the -- that the 2020  
4 census, because of differential privacy, would not  
5 be reliable enough to use for zero -- for separating  
6 people at that level?

7 A. I was not.

8 MR. BLACKSHER: Eli, if you can find  
9 that passage from the public hearing at Northeast  
10 Alabama Community College.

11 MR. HARE: I've got it right here.

12 MR. BLACKSHER: And mark that as Exhibit  
13 11, please.

14  
15 (Plaintiff's Exhibit 11 was  
16 marked for identification.)

17  
18 MR. BLACKSHER: And show that to Randy,  
19 to Mr. Hinaman.

20 Q. As you can see, this is a transcript of  
21 the reapportionment committee's hearing on September  
22 1 at Northeast Alabama Community College. And I've  
23 printed out Page 12 and highlighted it.

24 Would you read the highlighted statement  
25 of one Toni McGriff who lives in Dutton? Would you

1 read into that into the record, please?

2 MR. WALKER: You haven't highlighted the  
3 whole statement. You've highlighted Lines 5 through  
4 16. Is that what you want him to read?

5 MR. BLACKSHER: Yes, the highlighted  
6 lines, please.

7 A. "Most of Jackson County, particularly  
8 all of Jackson County -- practically all of Jackson  
9 County is in Congressional District 5. But there is  
10 a tiny little sliver of southern Jackson County  
11 that's in 4. And I understand about trying to get  
12 everything equalized in terms of population. But  
13 the very few people who live there very frequently  
14 think they're in District 5 and do not know who to  
15 vote for. And I would ask that you consider that  
16 when you are redistricting so that you don't have  
17 that tiny little sliver out of that county. It is  
18 in a section called Macedonia. Senator Livingston  
19 would know where I'm talking about, I'm sure."

20 Q. Thank you.

21 So did anyone on the reapportionment  
22 committee, the chairs or counsel, show you or tell  
23 you about that testimony?

24 MR. WALKER: Objection as to what he may  
25 have been told my counsel. Otherwise, he may answer

1 the question.

2 A. I was not familiar with that testimony.

3 But I did, of course, put Jackson County back

4 together.

5 Q. You sure did. And who paid the price

6 for that? Lauderdale County?

7 A. Well, you're comparing 17 people to

8 43,000 or something. I'm not sure that's a fair

9 comparison. But yes.

10 Q. Was it 17 people in Jackson County?

11 A. I'm making up that number. You're  
12 comparing a few people to many tens of thousands.

13 But nevertheless.

14 Q. In most of the cases on the 2021 plan,

15 the enacted plan, for example, down in Escambia

16 County where you had to put the eastern slice of

17 Escambia into 2?

18 A. Yeah, 739 people.

19 Q. 739 people. Do you think that they're

20 going to share the sentiment of Mr. Toni McGriff in

21 Jackson County?

22 A. They may very well.

23 Q. And what I'm saying, what I'm trying to

24 point out, can't we agree that most of these tiny

25 splits to achieve zero population result in people

1 being basically separated from their home county and  
2 put in a district where they really don't have much  
3 influence at all over the member of congress, right?

4 A. In the Escambia County case, I would  
5 agree with that. Although looking at the map, there  
6 aren't many examples of that. Because most of the  
7 other splits in the enacted map are much larger  
8 segments of folks.

9 Q. Okay. Now, you said that you began  
10 working on the congressional plan in May at some  
11 point; is that correct, when you found out that  
12 Alabama would have seven seats in congress  
13 apportioned to it?

14 A. Yes, once we found out seven. And also  
15 the guidelines were passed on May 5th. I started  
16 work thereafter.

17 Q. And you were using estimated census data  
18 to sort of rough out what that plan might look like;  
19 is that correct?

20 A. That's correct.

21 Q. And those estimated census data were  
22 only available for whole counties, right?

23 A. I believe that's the case, yes.

24 Q. So you were having to work with whole  
25 counties. And when the final census data came out,



1 you simply had to adjust with the correct 2020  
2 legacy data; is that correct?

3 A. That's correct. Although while the  
4 estimates captured the flavor of the changes that  
5 happened over the last ten years, meaning four  
6 districts were over and three districts were under  
7 and the estimates properly identified those  
8 districts, they didn't really capture the magnitude  
9 of it.

10 Because I think the estimates had the  
11 7th District being 30,000 and some odd number under  
12 when it ended up being 54, and it had the 5th  
13 District being something like 23,000 over when it  
14 was really 43.

15 So while it captured the over/under  
16 nature of the districts, it didn't -- it didn't do a  
17 particularly good job of capturing the ultimate  
18 numbers.

19 Q. Did you attempt drawing a whole county  
20 plan at that point in May of 2021?

21 A. No. I just -- no.

22 Q. Why not?

23 A. Well, I don't even consider it a plan.  
24 I mean, I was just lumping together -- and I do  
25 think I was able to split. I just don't think the

1 answers were very accurate on what Maptitude had for  
2 estimates.

3               So I didn't -- I didn't -- I lumped some  
4 counties together and I split some larger counties  
5 based on precincts, knowing that those numbers were  
6 not going to be very accurate, and then waited until  
7 we got the real numbers.

8 Q.               Okay. And when you got the real  
9 numbers, did you attempt to draw a whole county  
10 plan?

11 A.               I did not.

12 Q.               And why did you not attempt to do that?

13 A.               No one asked me to do that. And, again,  
14 my understanding of our guidelines would be that  
15 that would not have followed the proper deviation.

16 Q.               Take a look at our whole county --

17               MR. BLACKSHER: Can you mark a copy -- I  
18 don't think it's been passed around yet -- just so  
19 we can be talking from something, the same thing?

20               MR. HARE: This will be Plaintiff's  
21 Exhibit 12.

22

23               (Plaintiff's Exhibit 12 was  
24 marked for identification.)

25

1 Q. So think along with me, Mr. Hinaman,  
2 about how you might have attempted to reproduce your  
3 starting point of the plan, which was the 2011 plan,  
4 right?

5 A. Yes, sir.

6 Q. And if you were going to attempt to take  
7 the 2011 plan and create whole districts and you  
8 start with Congressional District 7, then you would  
9 try to make Jefferson, Tuscaloosa, and Montgomery  
10 whole. And that's what this plan does, doesn't it?

11 A. It does.

12 Q. You would have attempted to keep as much  
13 of the black belt together as you could. And that's  
14 what this plan does, doesn't it?

15 MR. WALKER: Objection. I'm not sure,  
16 Jim, the way you're phrasing your questions, what  
17 you're asking him. You seem to be telling him what  
18 he would have been doing and then -- I'm just  
19 confused.

20 MR. BLACKSHER: I'm asking leading  
21 questions, Counsel. Is that all right?

22 MR. WALKER: Well, you're allowed to ask  
23 leading questions. I just didn't understand what  
24 you were doing. So go ahead, if that's what you  
25 want to do.

1 MR. BLACKSHER: Can you read the  
2 question back, please, Court Reporter? I'm sorry.

3 (Record read.)

4 MR. WALKER: Objection to form.

5 A. It does, I guess. Hale and Perry I  
6 think would be considered part of the black belt,  
7 and that's in a different district. But by and  
8 large, you're correct, yes.

9 Q. Switching gears for a minute. When you  
10 met with Congresswoman Sewell, do I understand you  
11 to say that she -- your testimony was that  
12 Congresswoman Sewell wanted to keep her district the  
13 way it is, adjusted for the population deviation  
14 known; is that correct?

15 A. I would phrase it this way: I met with  
16 Congresswoman Sewell and told her her district was  
17 54,000 under. And I gave her some options of where  
18 it made, in my opinion anyway, sense to gain folks  
19 to make up that 54,000 difference. And then we  
20 worked through that on the map. That's how I would  
21 phrase it.

22 Q. Did Congresswoman Sewell tell you she  
23 was opposed to attempting to draw two districts in  
24 which blacks could elect candidates of their choice?

25 A. She did not. She didn't offer an

1 opinion, to my knowledge, on that issue.

2 Q. Say again.

3 A. She didn't offer an opinion on that, to  
4 my knowledge.

5 Q. And you didn't ask her about it?

6 A. I did not.

7 Q. Were you aware of all of the  
8 nongovernmental organizations and grass roots  
9 organizations in Alabama who have been urging the  
10 legislature to draw two districts from which blacks  
11 can elect candidates of their choice?

12 A. I'm not sure that I was that aware of it  
13 in our initial meetings in May. Obviously, once  
14 public hearings were held and your whole county plan  
15 came out and so forth and so on, I was obviously  
16 more aware of it at that point.

17 Q. Okay. So what you're saying is that you  
18 simply sat down with Ms. Sewell and made suggestions  
19 on how to increase -- get 53,000 and some odd  
20 additional population in District 7, correct?

21 A. That's correct, and keeping her existing  
22 -- the core of her existing district together.

23 Q. And didn't I hear you say you suggested  
24 that one option might be to making Tuscaloosa County  
25 and Montgomery County whole; that is, swapping the

1 population in Montgomery -- in Tuscaloosa County,  
2 north Tuscaloosa County, with a population that  
3 extends into Montgomery County?

4 A. I didn't offer that.

5 Q. What did -- you said something in your  
6 earlier examination about considering that option.

7 A. If I did, I didn't mean to. I did not  
8 consider that option.

9 Q. You did not consider that option?

10 A. No, I did not.

11 Q. Why not?

12 A. Because I started with her existing  
13 cores of districts and I looked at what she needed  
14 to gain, and I suggested areas that she may wish to  
15 gain in. And we worked through the map and made  
16 those changes.

17 Q. Well, I mean, was the -- is the little  
18 -- the extension of District 7 that goes into  
19 Montgomery County part of the core of that  
20 district, in your opinion?

21 A. It may be now. It probably wasn't at  
22 the -- obviously, I don't think it existed at the  
23 beginning. It's a lot of people. I mean, I don't  
24 know the exact number. We can obviously look it  
25 up. But it's --

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1 Q. Well, I can tell you that based on the  
2 data that Dorman Walker and the reapportionment  
3 committee provided to us, the population of  
4 District 7 in Montgomery County is 62,519.

5 A. Okay.

6 Q. And the population of the portion of  
7 Tuscaloosa County that's in District 4, the  
8 northern part of Tuscaloosa County, is 42,770. So  
9 there's about a 20,000 difference between those two  
10 split counties making them whole in District 7.

11 MR. BLACKSHER: So I'm going to ask  
12 Eli, if he would, to mark up those two documents  
13 that show -- that are labeled Plan Tuscaloosa and  
14 Montgomery Whole and show it to Mr. Hinaman.

15 MR. HARE: I'm going to mark them as  
16 -- the map as Plaintiff's 13, and then the chart or  
17 the data sheet as Plaintiff's 14, Jim.

18  
19 (Plaintiff's Exhibits 13&14  
20 were marked for identification.)  
21

22 Q. I'll tell you, Mr. Hinaman, that I did  
23 this with Dave's Redistricting app. Are you  
24 familiar with Dave's Redistricting app?

25 A. I've heard of it. I've never used it.

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1 Q. Okay. And I did exactly what I just  
2 suggested. I made -- took Montgomery County  
3 completely out of District 7, and I put all of  
4 Tuscaloosa County into District 7. And that 20,000  
5 difference I got out of Jefferson County.

6 Otherwise, it looks pretty close to  
7 the map that you ended up drawing and that was  
8 enacted. But, of course, would you -- would agree  
9 that it otherwise (inaudible) the one that you  
10 drew?

11 A. Yeah. Obviously, there's a split in  
12 Blount and a split in Etowah that I don't have.  
13 But yeah.

14 Q. Well, this is a good point. When you  
15 talk about making changes in District 7 like I just  
16 did with Dave's, you end up requiring changes in  
17 several of the surrounding districts.

18 I mean, for example, because District  
19 6 lost population to District 7, I elected to get  
20 some population out of Blount. And that ended up  
21 splitting Blount.

22 A. Right.

23 Q. And because Montgomery County went  
24 into District 2, I ended up having to do a little  
25 split of Elmore County, right?



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1 A. Yes, sir.

2 Q. And on up the line, if you will. But,  
3 of course, I didn't have to interfere with the  
4 split you made in Lauderdale County. And these are  
5 -- and this is not zero deviation.

6 If you look to the left in that table,  
7 you will see that there are as many as 471 people  
8 in District 2 who are going to have to be -- I'm  
9 sorry. District 3 who are going to have to be  
10 taken out, right?

11 A. Yeah. I'll take -- I can't find that  
12 number on this sheet. But I'll take your word for  
13 it.

14 Q. Well, it's on the map.

15 A. Oh, I'm sorry. Yeah, I see it. Thank  
16 you. I was looking on the corresponding number  
17 sheet. Sorry.

18 Q. The point I want to make here is isn't  
19 it true when you're drawing maps and you get to 471  
20 people who have to be moved in order to get to zero  
21 deviation, you go down to the block level, right?

22 A. Most times, yeah. Precincts aren't  
23 going to have an exact number or that small a  
24 number.

25 Q. And I'll represent to you that I

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1 didn't -- this is drawn with precincts. So you're  
2 going to have to split some precincts, right?

3 A. Yes, sir.

4 Q. But that usually can be done after you  
5 have achieved the goal you set out to in broader  
6 terms in your districting scheme, right?

7 A. Sure.

8 Q. There are a lot of ways that you can  
9 split precincts or counties in order to achieve  
10 this -- this sacred zero deviation objective. And  
11 yet you didn't consider this option at all when you  
12 were going over the plan with Congresswoman Sewell;  
13 is that correct?

14 A. That's correct.

15 Q. She did not -- she did not have an  
16 option to consider this arrangement, right?

17 MR. WALKER: Objection to form.

18 A. Obviously, she could have said how  
19 about if I get all of Tuscaloosa County and come  
20 out of Montgomery? Which she said neither.

21 Q. Well, I wonder if the reason she said  
22 neither is because it turns out that doing that  
23 reduces the BVAP, the black voting age population,  
24 to 49.79 percent?

25 MR. WALKER: For CD 7?

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1 THE REPORTER: For what?

2 MR. WALKER: CD 7.

3 Q. Do you see that in the statistical  
4 table?

5 A. Yes, sir, I do.

6 Q. So would that have been a problem for  
7 Terri Sewell based on what she was telling you were  
8 her objectives?

9 A. I don't know specifically. I don't  
10 think she considered this map. So I can't -- I  
11 don't really know how to answer your question.

12 Q. Okay. Did you and Congresswoman  
13 Sewell discuss the whole county plan, the League of  
14 Women Voters' whole county plan?

15 A. We did not. I don't think it -- in  
16 our initial meetings, I don't think it existed. Or  
17 at least I was not aware of it. I don't think she  
18 was. So we really did not.

19 Q. It didn't exist in May, but it did  
20 exist before you finalized the plan that became  
21 HB-1, right?

22 A. Correct.

23 Q. And September 1, 2021, was the first  
24 public hearing of the reapportionment committee.  
25 And the League of Women Voters was the first

1 witness at the first hearing offering that plan;  
2 isn't that correct?

3 A. I wasn't at that hearing. But I'll  
4 take your word for it.

5 Q. So you're telling us that the  
6 whole county plan offered by the League of Women  
7 Voters was never discussed at all when you were  
8 communicating with Congresswoman Sewell?

9 A. I don't believe it -- maybe it was  
10 discussed at the very end about what other plans  
11 are out there. We may have had a minor discussion  
12 about -- frankly, I think at that point in time  
13 yours would have been the only other publicly  
14 acknowledged congressional plan. So she may have  
15 mentioned it. But we didn't have a very healthy  
16 discussion about it. Let's put it that way.

17 Q. What do you mean not healthy?

18 A. Very long, very detailed. She was  
19 asking what other plans have you heard about. And  
20 I think at that point, yours was the only one that  
21 was public at that point in time.

22 Q. Did she tell you she would object to  
23 that plan?

24 A. We didn't have that detailed a  
25 discussion about it.

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1 Q. So we don't know -- we don't know  
2 whether Congresswoman Sewell would be happy with  
3 the whole county plan or not; is that correct?

4 A. I do not know, no. You may know.

5 Q. Sir?

6 A. I don't know. I mean, you may have  
7 talked to her about it. I don't have any knowledge  
8 of it directly.

9 Q. I understand.

10 Can you take another look at the  
11 whole county plan map, please?

12 A. Yes, sir.

13 Q. And compare it -- and compare it with  
14 the map of the 55 -- 555 plan, HB-1, the enacted  
15 plan.

16 A. Yes, sir. Exhibit 5.

17 Q. If the court wanted to -- was drawing  
18 a remedial plan in this case, just for the sake of  
19 argument, it had reached the point where it was  
20 going to draw its own plan, and it wanted to change  
21 the whole county plan to look more like the plan  
22 that the legislature enacted, that would simply be  
23 a matter of changing the array between Districts 5  
24 and 4, correct?

25 A. No. I mean -- well, first of all,

1 Terri Sewell doesn't even live in District 7 under  
2 your whole county plan. She lives in District 6.

3 Q. I'm sorry. I'm not being clear, and  
4 my question was not understood by you.

5 I'm just asking if the court wanted to  
6 change the array -- if it was drawing a  
7 court-ordered plan and it wanted to make the whole  
8 county plan 5 and 4 look more like the whole --  
9 like the 5 and 4 districts in the enacted plan, it  
10 would simply be a matter of balancing out the  
11 populations between 4 and 5, correct, splitting  
12 some counties as needed?

13 A. Yeah. Obviously, 4 has changes in  
14 Tuscaloosa and St. Clair that are different than  
15 the enacted plan.

16 Q. Every -- every change has a ripple  
17 effect, right?

18 A. Yes, sir.

19 Q. All right. But there would be no  
20 problem in putting Lauderdale, Colbert, and  
21 Franklin in CD 4 and moving Morgan County back up  
22 into CD 5 if the court wanted to do that and made  
23 the splits necessary to bring it into population  
24 equality; isn't that correct?

25 A. Yeah. These hypothetical the court

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1 wants to change things are hard for me. But yes, I  
2 guess that's correct.

3 Q. I'm looking at the map of the plan you  
4 drew in 1992 that was adopted by the three-judge  
5 court in West versus Hunt. Did that map ever get  
6 shown to you today, or not?

7 A. It has not been shown to me today.

8 MR. BLACKSHER: Okay. I'm looking at  
9 it in the amended complaint. I don't know if  
10 anyone has a copy there that they can show  
11 Mr. Hinaman or not.

12 But do you recall, Mr. Hinaman, that  
13 the plan you drew in 1992 included all of the same  
14 counties that are in the plan you drew in 2021?

15 A. I'm not sure I -- I'm not sure I know  
16 what that -- I'm not sure I know what you mean by  
17 that.

18 Q. The plan that you drew in 1992 had  
19 Clarke split, it had Pickens split, Tuscaloosa and  
20 Jefferson split, and Montgomery County split.

21 Now, your plan in 2021 leaves Pickens  
22 whole, correct?

23 A. Correct, and Clarke whole.

24 Q. And Clarke whole. But Tuscaloosa,  
25 Jefferson, and Montgomery are still split?

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1 A. Yes, sir.

2 Q. So your 2021 plan, the plan you drew  
3 and that was enacted by the legislature in 2021,  
4 preserves the core of the 1992 plan that you drew;  
5 is that correct?

6 A. It's -- it's correct. But you've  
7 missed a few steps along the way, obviously.  
8 Because as we discussed earlier in the deposition  
9 testimony, it more preserves the cores of the 2011  
10 districts, which I guess by chain preserve some of  
11 the 2001 districts, which the legislature preserved  
12 some of the 1992 districts, if that made any sense.

13 In other words, I did not use the 1992  
14 map as the starting point for my 2021 map.

15 Q. No. You used the 2011 plan, correct?

16 A. Correct.

17 Q. And isn't it true that the 2002 plan  
18 and the 2011 plan preserved the cores -- the core  
19 of the 1992 plan?

20 A. For the most part.

21 Q. Can we sum up your testimony about how  
22 you went about drawing the 2021 enacted plan by  
23 saying that you drew the plan so that it satisfied  
24 what each incumbent member of the Alabama  
25 congressional delegation wanted? That was your



1 primary guideline, right?

2 A. Well, that was a part of it. My  
3 primary guidelines were the guidelines given to me  
4 by the reapportionment committee, and then based  
5 off of the subsequent population shifts over the  
6 last ten years to repopulate or take away from,  
7 depending on the over/under of each district,  
8 population, and geography to reach the required  
9 guidelines of zero deviation and preserving the  
10 cores of districts.

11 And, of course, where possible -- and  
12 we've had a couple of minor cases where it wasn't,  
13 as we discussed with Representative Moore and so  
14 forth. But preserving what the incumbents would  
15 have -- would like to accomplish, as well.

16 Q. But your testimony is that nobody else  
17 but the members of the Alabama congressional  
18 delegation had any input into the decisions you  
19 made about how to draw that plan; isn't that  
20 correct?

21 A. That's pretty much correct, yes, sir.

22 Q. No member of the Alabama legislature's  
23 reapportionment committee, including its chairs,  
24 had any input into that plan; isn't that correct?

25 A. They had all the input they wanted

1 into the plan. But they chose to allow the members  
2 of congress to talk about what areas they wanted to  
3 gain and lose underneath the guidelines that they  
4 had already passed.

5 Q. And, in fact, in 19 -- let's see.

6 Excuse me.

7 In 2011, that's what the legislature  
8 did, as well. They simply deferred to what the  
9 congressional delegation wanted in redrawing that  
10 plan, right?

11 A. No, that's not -- that was the goal I  
12 had. But that's not what happened. When we got --  
13 as you may remember, when we got to the senate  
14 floor, there were some members of the senate who  
15 may have wanted to run in one district or another  
16 who moved some things around.

17 My map -- my initial map in 2011  
18 didn't even have the 4th District in Tuscaloosa.  
19 It had the 6th District in Tuscaloosa.

20 So there were numerous changes made on  
21 the senate floor and probably subsequently the  
22 house floor from the map that the members and I  
23 worked on, members of congress and I worked on.

24 Q. But that didn't happen in 2021?

25 A. It did not happen in 2021. The map

1 that came out of -- the map that I gave to the  
2 chairs that was offered at the reapportionment  
3 committee was not amended through the process. So  
4 it was identical to what was passed into law and  
5 signed by the governor.

6 Q. Okay. So let me just go over -- I  
7 think I'm about finished here. I want to make sure  
8 I understand what your testimony is.

9 You considered no other plans that did  
10 not have a zero deviation; is that correct? You  
11 never considered drawing a plan that did not have a  
12 zero deviation?

13 A. That's correct. My understanding and  
14 -- my understanding of the guidelines required us  
15 to be at zero deviation.

16 Q. And you understood, didn't you, that  
17 Jefferson County was now at a population level that  
18 was smaller than an ideal congressional district  
19 and, therefore, no longer needed to be split? You  
20 were aware of that, weren't you?

21 A. I'm aware of it. I'm not sure I  
22 focused on it. But what you say is true.

23 Q. It wasn't -- it wasn't a priority for  
24 you to try to make Jefferson County whole? That's  
25 what you're saying?

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1 A. That's correct.

2 And, frankly, when I started the  
3 meetings, I didn't even -- at the time I started  
4 the meetings -- subsequently I realized it. But at  
5 the time I started the meetings, I actually thought  
6 that both Representative -- Congresswoman Sewell  
7 and Congressman Palmer both lived in Jefferson  
8 County. As I turned out, he had -- Representative  
9 Palmer had moved over the last few years into  
10 Shelby.

11 But at the time, I would have thought  
12 that that wasn't possible under our guidelines.  
13 Because when I started the process, I thought they  
14 both lived in Jefferson County.

15 Q. But, in fact, you found out that  
16 Congressman Gary Palmer lives about three blocks  
17 south of the Jefferson County line in Shelby  
18 County, and Congresswoman Sewell lives about a mile  
19 away from where Palmer lives. But she's on the  
20 Jefferson side of the line in Lake Cyrus, right?

21 A. That's correct, yeah.

22 Q. But I also understood you to say that  
23 Congresswoman Sewell considered making her  
24 residence, for purpose of redistricting, Dallas  
25 County. Am I correct?

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1 A. I'm not sure I would phrase it that  
2 way.

3 When asked what residence -- when  
4 asked for her residence address so it could be put  
5 in the computer so that we would make sure she was  
6 inside her district, she gave us both her address  
7 where she votes at, which is obviously Jefferson  
8 County, and her ancestral home. I don't know the  
9 right way to phrase it. Where she grew up in  
10 Dallas County.

11 Q. She grew up in Selma, right?

12 A. Yes. Yes, sir.

13 Q. Okay. And you're aware, aren't you,  
14 that there is no residency requirement for members  
15 of congress, aren't you?

16 A. I am aware. I'm also aware it's  
17 exceedingly difficult to get elected when you're  
18 outside of your district. It makes a rather good  
19 TV spot.

20 Q. So even though congress -- Congressman  
21 Palmer still lives in the city of Birmingham, he's  
22 in that part that extends into Shelby County, he  
23 would not feel comfortable representing the  
24 Birmingham area again; is that right?

25 A. I don't know that. He may feel

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1 perfectly comfortable. But I've -- I've seen in  
2 other races where, you know, the fact that somebody  
3 doesn't reside in their district is not a positive  
4 when you get around to campaigning.

5 Q. Okay. I think I'm about done here. I  
6 need one more look at my notes.

7 That's it. Thank you very much,  
8 Mr. Hinaman.

9 A. Thank you.

10 MS. MADDURI: This is Lali Madduri for  
11 the Caster plaintiffs. We don't have any  
12 questions.

13 MR. THOMPSON: I think that's all the  
14 questions that I have at this time, too. So on  
15 behalf of all the plaintiffs, I'll pass the witness  
16 at this time.

17 MR. WALKER: Let us have a few  
18 minutes.

19 THE VIDEOGRAPHER: We're off the  
20 record. The time is 3:34 p.m.

21 (Recess was taken.)

22 THE VIDEOGRAPHER: We are back on the  
23 record. The time is 3:39 p.m.

24 MR. WALKER: We have nothing to ask  
25 Mr. Hinaman. So I guess we're done. Thank you

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1 very much, everyone.

2 THE VIDEOGRAPHER: This ends the  
3 deposition of Randy Hinaman. The time is now  
4 3:40 p.m.

5

6 (DEPOSITION ENDED AT 3:40 P.M.)

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ACCR# 134, Expires 9/30/25  
505 North 20th Street, Suite 1250  
Birmingham, AL 35203



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# Exhibit 2

RETRIEVED FROM DEMOCRACYDOCKET.COM

ALABAMA PERMANENT COMMITTEE ON REAPPORTIONMENT  
AND REDISTRICTING PUBLIC HEARING

HELD ON  
THURSDAY, SEPTEMBER 9TH, 2021  
BEGINNING AT 11:00 A.M.

LOCATION:  
LURLEEN B. WALLACE COMMUNITY COLLEGE  
750 GREENVILLE BYPASS  
GREENVILLE, ALABAMA 36037  
AND  
ONLINE VIA MICROSOFT TEAMS MEETING

TRANSCRIBED REMOTELY BY:  
KATHLEEN F. CAVAZOS, RPR,  
COURT REPORTER

## I N D E X

## OPENING REMARKS:

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## EXHIBIT:

Exhibit 1. ONLINE ATTENDANCE LIST. . . . . 30

1           SENATOR MCCLENDON: Let me ask everybody that  
2 came in online virtually today to please mute your  
3 microphones on your devices, laptops, cell phone,  
4 whatever you're using. Mute your microphone and turn  
5 your cameras off, please. That will help us. When those  
6 mics are on, we get an echo.

7           My name is Jim McClendon. I'm a state senator.  
8 My home is in St. Clair County, and I am the Senate chair  
9 of redistricting. To my right is state Representative  
10 Chris Pringle who is now joining. He is the House chair  
11 of redistricting. And on my left is Mr. Dorman Walker,  
12 an attorney that is employed by the Redistricting  
13 Committee. Also with us today is state Senator Bobby  
14 Singleton, who is also a member of the committee.

15           Anybody coming in late, I'll remind you to  
16 please turn off your mic, please turn off your camera and  
17 we'll -- thank you -- and we'll get to you later.

18           Every 10 years, new census data is taken, and  
19 there's two parts to this number. Number one is not only  
20 the numbers of people that we have but where they are,  
21 where they're located. And what happens over a 10-year  
22 period, folks migrate, and there's a pattern here in  
23 Alabama and across the nation. Our population tends to  
24 leave rural areas and move in a direction and closer to  
25 urban areas. So we have target numbers or ideal numbers



1 of how many representatives, for example, should be in a  
2 district. So we have to redraw the districts to catch up  
3 with the population so we get back to our ideal numbers.

4 Now, this committee will be drawing, we haven't  
5 yet, but will be drawing Congressional maps, Senate maps  
6 and the Alabama House of Representatives maps and state  
7 board of education maps. So our purpose is to get input  
8 from around the state, hear what you have to say, any  
9 suggestions you can make, ideas you can give us. You'll  
10 give those. We have a court reporter that will be taking  
11 down everything, and it will go in the record and be  
12 reviewed by members of the committee.

13 I'll give you an idea of Senate district sizes  
14 based on the new data, the new 2020 census data that we  
15 received. In your area, Senate district 23 lost 24,000  
16 people. The population has gone down. Now, the target  
17 and ideal district size for a Senate district is 143,551,  
18 and we do have latitude of plus or minus five percent.  
19 So we can see that Senate 23 has dropped substantially in  
20 population, and we're going to have to adjust the size of  
21 that district to capture the necessary people to bring it  
22 up to respect the concept of one person, one vote.

23 Senate 25 in your area is up by 6,200. These  
24 are round numbers, about 6,200. And 31 is down by about  
25 2,700. Your house districts in your area, House 69, lost

1 about 4,500 people. House 90 lost 5,600, and 92 lost  
2 3,200. Again, those are round numbers. So, as you can  
3 see, these districts have had changes in population.  
4 Now, one of the interesting things that can happen is a  
5 district can lose or gain population, and the adjacent  
6 district will be affected even if their population has  
7 stayed about the same because you've got to go somewhere.

8 So with that being said, I'm going to turn this  
9 over to Representative Pringle. Sir, if you'll take  
10 over.

11 REPRESENTATIVE PRINGLE: Thank you, Senator.  
12 Again, my name is Chris Pringle. I'm the state  
13 representative from House district 101, and I'm the House  
14 chairman of the Reapportionment Committee.

15 Today, you will be called on to speak in the  
16 order in which you signed up. Speakers are limited to  
17 three minutes each. When called, please come to the  
18 microphone, state your name clearly and as slowly as  
19 possible and state the community you represent and the  
20 district or districts you wish to speak about. If you  
21 decide you want to speak but did not sign up, we'll ask  
22 at the end of this hearing if anyone who hasn't spoken  
23 would like to. If you are participating remotely, send  
24 us your questions or comments, and we'll read them into  
25 the record.

1           The hearing is being transcribed by a court  
2     reporter working remotely. If you have anything you'd  
3     like to introduce into the record as an exhibit, bring it  
4     to the microphone when you speak and let the hearing  
5     officer have it. We will then take it, put it into the  
6     permanent record of the committee.

7           Today's hearing is to deal with redistricting.  
8     We're not here to discuss any other matters that might be  
9     pending before the legislature, so please keep your  
10    comments germane to the issue of redistrict.

11          With that, I'd like to turn it over to Dorman  
12    Walker.

13          MR. WALKER: Hello. Welcome to the hearing, and  
14    thank you in particular to Lurleen B. Wallace Community  
15    College of Greenville for hosting the hearing. Thank you  
16    to those of you in the auditorium who have come to the  
17    hearing and those of you who are attending virtually.

18          Before I take testimony -- Before we take  
19    testimony, I'd like to go over some explanations about  
20    the redistricting process that may be helpful. One of  
21    those is the idea of ideal population. Redistricting, as  
22    Senator McClendon indicated, is all about equalizing  
23    populations, and we have some play with that in terms of  
24    the numbers that can be put into a district.

25          The state board of education and legislative

1 districts don't have to be exactly equal, but it all is  
2 driven by what's called the ideal population, and that is  
3 simply the new population of the state, which I'm going  
4 to round off to five million, divided by the number of  
5 districts we have. So if you want to get the ideal  
6 population of the Senate districts, you divide five  
7 million by 35, and you'll get 143,551. You won't  
8 actually because I rounded off the state population, but  
9 that's the ideal population, and that's how it's  
10 calculated. And you can do the same thing with eight  
11 districts for the state board of education, 105 for the  
12 House. So that drives everything about redistricting.

13 A consequence of that is that a lot of people  
14 who have spoken throughout the hearings have talked about  
15 their counties being split or their cities being split,  
16 and a number of you may wish to talk about that, too, and  
17 if you do, good. That's valuable testimony for the  
18 committee to hear, but I want to explain because it might  
19 be helpful to understand that the requirement for  
20 population equality can bump up against the requirement  
21 to protect communities of interest. An example would be  
22 what happens, I think, really, every 10 years to the  
23 cities of Tuscaloosa and Auburn, which is that they are  
24 population centers in the midst of fairly sparsely  
25 populated areas, indeed, particularly in the case of

1 Tuscaloosa, in the counties to the west and south --  
2 well, to the north of Tuscaloosa, they are all losing  
3 population. And districts in those counties have to be  
4 repopulated back up to the ideal population or within  
5 five percent of the ideal population, and the only place  
6 to get that additional population -- Well, there's two  
7 ways to get it. One is you can expand into our rural  
8 counties, in which case, you wind up having an enormous  
9 district, and that violates the guideline that districts  
10 should be as compact as possible, or you can go into a  
11 municipality like Tuscaloosa or Montgomery or Auburn and  
12 divide it among several other districts. It's not  
13 because of maliciousness, necessarily, that  
14 municipalities and counties for the same reason get  
15 divided. Sometimes that happens because it's necessary  
16 in order to achieve equal population, which, along with  
17 non-discrimination, takes priority over everything.

18 These hearings will conclude on the 16th, and  
19 they are being transcribed by a court reporter. I expect  
20 that fairly soon, the transcriptions of these hearings  
21 will start to appear on the Redistricting Committee  
22 website. To get to that website, you Google Alabama  
23 legislature. One of the drop-down tabs is redistricting.  
24 If you go there, you'll be able to find the transcripts  
25 of all the hearings, and you can read those, if you want

1 to, and see what attachments they have to them.

2 At the same time, various senators and House  
3 members and state board of education members and  
4 Congressional members or their staff are starting to meet  
5 with the map drawer and have preliminary talks about how  
6 the districts should change. If it's a district that has  
7 lost population, where should it take population from?  
8 If it's an adjoining district that needs to lose  
9 population, what population should be taken from that  
10 district? What do the incumbents prefer? What makes  
11 sense in terms of communities of interest, that sort of  
12 thing? So it can be a fairly complex process that takes  
13 some time to get through.

14 Ultimately, all of that information will be  
15 distilled into a bill that will be introduced by the  
16 committee when we have -- when the governor calls a  
17 special session for redistricting. This has to be done  
18 in a special session because we have elections in 2022,  
19 and we've already had the regular session for 2021.  
20 Nobody knows exactly when the governor will call the  
21 special session for redistricting. It may be in the  
22 latter part of October.

23 Assuming that's the case, sometime before the  
24 session starts, I imagine that a bill proposed by the  
25 committee with new districts will be prefiled, and other

1 legislators may also want to draw bills or submit  
2 different legislative plans. So there will probably be  
3 for -- at least for the state board of education -- well,  
4 for all four plans, there are going to be alternative  
5 plans submitted, I think, not just one, and the  
6 individual legislators who sponsor those plans control  
7 when those plans are made public. They can make them  
8 public at the time that they introduce them or prefile  
9 them, or they can make them public before then, but  
10 that's not controlled by the committee.

11 Nevertheless, once the special session is  
12 called, there will be committee hearings at which the  
13 various plans will be looked at and discussed, and those  
14 hearings are open to the public, and the legislative  
15 special session will be live streamed so that you can, if  
16 you continue to have an interest in this matter,  
17 participate in that way.

18 Now, also, I think before I draw the -- before  
19 we take testimony, I'd like to give you some information  
20 about how districts are drawn. The legislature can't  
21 just draw districts in just any manner that it wishes.  
22 It's bound by federal and state constitutional and  
23 statutory requirements and by the race-neutral guidelines  
24 that the legislature has adopted for itself.

25 So what are those? The first overarching

1 requirements are one person, one vote or population  
2 equality must be achieved in the new districts. And in  
3 addition, the new district must be non-discriminatory.  
4 They must comply with, in particular, the equal  
5 protection clause of the federal constitution and section  
6 two of the Voting Rights Act.

7 Beyond that, the legislature is bound by the  
8 race-neutral criteria that it has established, and I'll  
9 go over those in just a second. But no district shall be  
10 drawn in a manner that subordinates race-neutral  
11 districting criteria to considerations of race, color or  
12 membership in a language minority group except that race,  
13 color or membership in a language minority group may  
14 predominate over race-neutral districting criteria to  
15 comply with section two of the Voting Rights Act,  
16 provided there is a strong basis in evidence to support  
17 such a race-based choice. A strong basis in evidence  
18 exists when there is good reason to believe that race  
19 must be used in order to satisfy the Voting Rights Act.

20 When the legislature draws districts, it should  
21 make them reasonably compact, which is a relative term,  
22 for each plan, and all districts should reflect the  
23 democratic will of the people, which is one reason for  
24 these hearings, so that the legislature can receive  
25 testimony from the people about how districts should be



1 drawn.

2           Districts are drawn on the basis of total  
3 population. The census bureau reports many different  
4 types of population. For example, I could ask for  
5 population of all people who have graduate degrees or all  
6 people who have two cars and color TVs in their house,  
7 but what we use for drawing districts is total  
8 population, which is simply everybody who was in the  
9 state and everybody who was in a district on census day.  
10 And that could include, or it does include a lot of  
11 people who can't vote, children, people under 18, people  
12 who have lost the right to vote, people who are residing  
13 in the state but are not citizens of the state or  
14 citizens of the country. Nevertheless, total population  
15 has traditionally been the basis for drawing districts  
16 and that's what the legislature will continue to use.

17           There are times when the legislature looks at a  
18 subset of total population called voting age population,  
19 which is 18 and older. It may at times look, under  
20 certain circumstances, at the white voting age population  
21 and the black voting age population of a district, again,  
22 to ensure compliance with the equal protection clause of  
23 the federal constitution and the Voting Rights Act.

24           The number of state Senate districts, the  
25 legislature has to draw 35 Senate districts and 105 House

1 districts, although the constitution would allow 106.  
2 All districts are single-member districts. Only one  
3 person is elected from each district. In some parts of  
4 the country, there are multi-member districts, but we  
5 only have single-member districts in Alabama. When the  
6 legislature draws districts, contests between incumbents  
7 should be avoided, and the cores of existing districts  
8 should be preserved.

9 In addition, every district is required to be  
10 contiguous, which means that each point on its border has  
11 to be in contact with another district or one of the  
12 outer borders of the state. Contiguity across water is  
13 allowed. So if your district is divided by a river or a  
14 lake, that doesn't defeat contiguity.

15 Finally, districts should respect communities of  
16 interest, neighborhoods and political subdivisions to the  
17 extent practicable. A community of interest is defined  
18 as an area with recognized similarities of interest,  
19 including, but not limited to, ethnic, racial, economic,  
20 tribal, social, geographical and historical identities.  
21 The term "communities of interest" may, in certain  
22 circumstances, include political subdivisions such as  
23 counties, voting precincts, municipalities, tribal lands  
24 and reservations and school districts. The discernment,  
25 weighing and balancing of the very factors that

1 contribute to communities of interest is an intensely  
2 political process best carried out by the elected  
3 representatives of the people.

4 In establishing legislative districts, the  
5 Reapportionment Committee and the legislature shall give  
6 due consideration to all these criteria that I have  
7 discussed. However, priority is to be given to the  
8 compelling state interest requiring equality of  
9 population among districts in compliance with the equal  
10 protection clause of the Voting Rights Act of 1965.

11 In addition, these criteria are not listed in  
12 order of precedence, and in each instance where they may  
13 conflict, the legislature shall, at its discretion,  
14 determine which takes priority.

15 We're ready now to receive testimony, and the  
16 first person who has signed up to speak is Brock Kelly.  
17 And, Mr. Kelly, if you could come up to the podium,  
18 please.

19 By the way, if any of the speakers have paper  
20 notes or they have a map or anything like that that they  
21 want to introduce into the record as an exhibit to their  
22 testimony, just let the coordinator there at Lurleen B.  
23 Wallace State know, and that will be forwarded to us and  
24 included in the transcript.

25 Welcome, Mr. Kelly.

1 MR. KELLY: Thank you. My name is Brock Kelly.  
2 I'm the president of Lurleen B. Wallace Community College  
3 and, first and foremost, I wanted to welcome you guys to  
4 the campus, welcome to the audience, welcome everyone  
5 online. This meeting me know is important for our  
6 district. It's important for our state, and we are just  
7 honored to be able to host this meeting. Thank you.

8 MR. WALKER: Thank you. Thank you again for  
9 hosting the meeting.

10 The next person is Christopher -- and I'm sorry,  
11 Christopher. I can't quite read your last name.

12 MR. BENNETT: Bennett.

13 MR. WALKER: I'm sorry. Christopher Bennett.  
14 Mr. Bennett, please come up.

15 MR. BENNETT: My name is Christopher Bennett,  
16 and I'm the chairman of the Walker County Democratic  
17 Committee, and I don't know whether this is a testimony  
18 or not, but I do have a question. I know we're dealing  
19 with the Senate and the House plan for redistricting. My  
20 question is -- I have a question: Would any information  
21 be given for redistricting in the Butler County  
22 Commissioner and board of education districts? And my  
23 second question is, where can we find this information or  
24 where can this information be obtained?

25 MR. WALKER: The Butler County -- and I'm

1 thinking you were referring to Butler County Board of  
2 Education districts -- will be handled by the Butler  
3 County Commission and the Butler County School Board. In  
4 some counties, those districts are congruent, and the  
5 same districts serve both bodies. In other counties,  
6 regardless of whether or not they have the same number of  
7 districts, they're done differently, and I don't know how  
8 Butler County does it, but that's a matter that will be  
9 handled by them.

10 By state law, county boards of educations are  
11 required to redistrict within six months after release of  
12 the redistricting data. So that would be six months from  
13 August 12 would be the deadline for the Butler County  
14 Board of Education to complete its redistricting. So you  
15 would have to go to the websites for those two bodies to  
16 find out what their redistricting procedures are going to  
17 be and when they're going to have hearings and that sort  
18 of thing.

19 Did I answer your first question?

20 MR. BENNETT: Pretty much, yes.

21 MR. WALKER: And what, again, was your second  
22 question?

23 MR. BENNETT: My second question is where can  
24 this information be obtained here in the county?

25 MR. WALKER: The county commission and the state

1 board of education, but you can also go to the census  
2 bureau, and you can see -- you can get a lot of  
3 information that is available online now about your  
4 county, about the population of any municipality with  
5 5,000 or more people within your county, and that may be  
6 useful to you, too. Just go to Quick Facts or google  
7 Census Bureau Quick Facts and go to the tab Alabama and  
8 then Butler County, and you can start from there.  
9 There's a huge amount of information available at the  
10 county level.

11 But in terms of particular -- what the districts  
12 are now and what the populations of those districts are,  
13 that information would come from the county commission  
14 and the board of education.

15 MR. BENNETT: So you're saying that none of this  
16 information has been sent to anyone in the county as it  
17 relates to the commissioner districts?

18 MR. WALKER: This is a hearing on legislature  
19 redistricting.

20 MR. BENNETT: Yeah. I know it.

21 MR. WALKER: Okay. And I'm not sure if I  
22 understand the question. The census bureau data is  
23 available to the county commission and to the board of  
24 education. Also, once the legislature completes its  
25 redistricting, the reapportionment office is available to

1 assist the boards of education and county commission and  
2 other local governments with their redistricting. In  
3 addition, a number of other sources, such as Alabama  
4 State University and some of the regional development  
5 offices have redistricting software that can help with  
6 redistricting, too.

7 MR. BENNETT: Thank you.

8 MR. WALKER: Yes, sir.

9 The next person who has asked to speak is Mr., I  
10 think, McWilliams. I can't quite read your first name,  
11 and I apologize.

12 MR. MCWILLIAMS: It's Jackie. Good morning.

13 MR. WALKER: Good morning, Mr. McWilliams.

14 MR. MCWILLIAMS: Just call me Jackie. Okay?  
15 I'm on the county commission of district two, and excuse  
16 my attire, but I own a barbecue place on I-65 and didn't  
17 really feel like putting a suit on for y'all. But if  
18 you're ever looking for good barbecue --

19 MR. WALKER: Wait a second. Court reporter, can  
20 you hear what he's saying? You might need to move a  
21 little closer to the microphone, sir.

22 MR. MCWILLIAMS: Okay. First of all, thank you  
23 for coming here today and giving us the opportunity to  
24 talk about these lines.

25 Certainly, we weren't aware that it was not

1 something that dealt with county commission lines or  
2 board of education lines, so we won't trouble you any  
3 further except to say that we have not received those  
4 numbers yet from the county or what they actually are and  
5 will go through the process of finding that out.

6 But in looking at the Congressional lines and  
7 also looking at the state board of education lines from  
8 the map and realizing I've only had a few minutes to look  
9 at this since I've been here, certainly we're down in  
10 population, and we're down in population with the  
11 districts that we join, which would be seven in the  
12 Congressional district and then five in the state board  
13 of education. So we're losing population in these areas.

14 I guess what I would take with me this morning  
15 is that certainly we see those numbers went down, but we  
16 don't want -- and you clarified some of it in some of  
17 your topics about keeping numbers as relates to race  
18 where it will be beneficial to both races. We don't want  
19 a race where one district is so predominant that either  
20 section doesn't have a little bit of voice in this. All  
21 our sections here in Butler County, people are divided  
22 because of the demographics that we have in Butler  
23 County. We're pretty much 52, 53.7, so we want to keep a  
24 voting perspective to that. So I'd like to put that in  
25 our place in Butler County.



1           We know you have a tough task in front of you  
2     trying to do this. I've been on the county commission 22  
3     years, so this is the third time that I have been  
4     involved in this. I realize it's very tedious, and  
5     you're dealing with a lot of emotional factors from a lot  
6     of different people, but we wanted to put that two cents  
7     worth in and let you know that we just want to make sure  
8     that we have good, fair representation on not only local  
9     levels but also on state levels.

10           Thank you so much.

11           MR. WALKER: Thank you very much,  
12     Mr. McWilliams.

13           Is there anyone else present in the auditorium  
14     who would like to speak? If so, just come on up to --  
15     Yes, sir. Come on up to the podium -- rostrum.

16           (Inaudible.)

17           MR. WALKER: I'm sorry. Would you state your  
18     name clearly and slowly for the court reporter?

19           MR. WEST: George (phonetic) West, city council  
20     (inaudible)

21           MR. WALKER: Spell your last name, please.

22           (Inaudible.)

23           MR. WALKER: I'm sorry. We couldn't quite make  
24     that out.

25           (Inaudible.)

1 MR. Walker: W-E-S-T? Joe West?

2 MR. WEST: Joe West (inaudible.) Either one is  
3 fine. Thank you for holding this seminar. I guess my  
4 question is, as the Alabama legislature is getting ready  
5 to draw the lines and determine what the new  
6 Congressional lines will be and the state Senate lines  
7 will be and the state board of education lines will be, I  
8 think we're in a district now that lost population. For  
9 instance, the first I'm looking at, we're minus 3.382,  
10 and I guess my question to you is maybe a dumb question,  
11 that if you lose population, does that mean that you're  
12 maybe put in another district, or if you lose population,  
13 will a district who gained come over into your district?

14 MR. WALKER: No, it's a very good question, and  
15 I'm not sure if you were talking about the Congressional  
16 district or one of your legislative districts, but the  
17 principle is the same for all. We start with the ideal  
18 population, whatever that is. Let's say -- Let's just  
19 say 47,820 for a house district, and if a district has  
20 lost population, then, yes, it's got to get some  
21 population from somewhere else. So that means,  
22 typically, that that district's boundaries are going to  
23 expand into another area to pick up more citizens.  
24 Conversely, if a district is overpopulated, it has to  
25 shed population, and so it will contract in order to give

1 population to districts that need it. And that's sort of  
2 the phenomenon I was talking about when earlier I  
3 referred to, by example, the city of Tuscaloosa being  
4 split up into a number of different districts so that it  
5 can give its excess population to districts that need it.

6 So that was a good question. Anyone else in the  
7 auditorium who would like to speak?

8 MR. WEST: Thank you very much. That answered  
9 my question.

10 MR. WALKER: Thank you, Mr. West.

11 Is there anyone participating remotely who --

12 MS. OVERTON: I've been told Jackie Woods, who  
13 is at the college, would like to speak. Jackie.

14 MR. WALKER: Is this Jackie Woods?

15 MR. WOODS: Yes, I'm Dr. Woods and, first, I  
16 would like to thank each of you for just giving us this  
17 great opportunity to learn.

18 I have a question. I'm just going to give it  
19 and look at -- Our community is -- Let's just look at an  
20 example. If you have a population, let's say, 37,540,  
21 whatever, I'm going to talk approximately, and that's  
22 total population for a county, then you look at minority  
23 representatives, minorities in that particular population  
24 would be, let's say, 13 percent, so within a proximity of  
25 about 4,880, somewhere within that area. Don't hold me

1 to that. So if you're looking at -- And you mentioned  
2 the fact in terms of race, 1965 voters. And in looking  
3 at how the districting itself, primarily, you have 13  
4 particular counties in that area that the example is  
5 coming from, and it's scattered.

6 So my question to you -- When I say "scattered,"  
7 all over in terms of that 4,000 number that I have  
8 mentioned. So if you want to get what's fair for all,  
9 some type of representation for the minorities, that  
10 4,000 group, what would be the best method for fair  
11 representation for all?

12 And I'll say this: Over right at 200 years,  
13 there has never been a minority on that particular set  
14 that I'm speaking of, without saying too much. So how  
15 would you go about doing that? And you could look at  
16 packing, you could pack it, but you would have to look at  
17 how you would go about redistricting that particular  
18 section taken from a scattered and then look at the  
19 minority representation where it does not have any type  
20 of impact; whereas, they would get some type, some  
21 type -- and I'm coming with this -- over 200 years there  
22 has never been a minority in that particular section.

23 MR. WALKER: I'm not quite sure that I  
24 understand your question, but I'll make a stab at it, and  
25 you can tell me if I've been helpful.

1           The Voting Rights Act, section two, requires the  
2       drawing of a majority minority district -- and I'll just  
3       say a minority black district is what it's going to be in  
4       Alabama -- if it's possible to do so. And one of the  
5       first determinants of that is whether there is a  
6       sufficiently numerous and geographically compact black  
7       population. And without knowing what jurisdiction you're  
8       talking about and how many districts there are under  
9       consideration, I couldn't go --

10           MR. WOODS: Five districts, five.

11           MR. WALKER: If there are five districts, then  
12       you would -- In order to -- I guess, the first thing you  
13       would look for is, is there a minority population here  
14       that is sufficiently numerous to form a majority in one  
15       of five districts or two of five districts, depending  
16       upon whatever it is, and then is that population in a  
17       relatively compact area so that it can be drawn into one  
18       or two or whatever districts, or is it spread out  
19       homogeneously throughout the county as a whole? If it's  
20       the latter, then you can't draw a majority black  
21       district. So that would be the first thing that you  
22       would look at.

23           There are some other ways to skin the cat.  
24       There are a few jurisdictions in Alabama that don't have  
25       single-member districts. They use alternative -- They

1 have black and white population, but they don't have  
2 single-member districts. They use an alternative voting  
3 system called cumulative voting, and that is a way where,  
4 if there is a sufficient number of minority population,  
5 everybody runs at large, but the voting system is such  
6 that if the minority population -- For example, if there  
7 are five seats on the county commission, each person gets  
8 five votes and you can spend those votes any way you  
9 want. If the minority population spends all of its votes  
10 on a preferred minority candidate under the cumulative  
11 voting system, then they can elect someone at large. And  
12 that system is used in some counties and is particularly  
13 helpful where there are not geographically compact  
14 populations of minority members but there are  
15 sufficiently large numbers of minority members in that  
16 jurisdiction.

17 Is that a helpful answer to you?

18 MR. WOODS: It is. So how does one go about  
19 implementing or asking for the cumulative vote? How do  
20 they go down that path?

21 MR. WALKER: That would have to be done by a  
22 local law by your delegation. They could pass a local  
23 law that would say in X, Y, Z county elections for the  
24 county commission or whatever would be done by cumulative  
25 voting.

1 MR. WOODS: Okay. I thank you.

2 MR. WALKER: Yes, sir. Thank you for your  
3 questions and comments.

4 MR. WOODS: Have a great remaining afternoon.  
5 Thank you.

6 MR. WALKER: Thank you.

7 Anyone who wants to make a question or comment  
8 remotely?

9 MS. OVERTON: Yes. We've got a couple of  
10 comments and questions.

11 MS. PATTON: Hello. My name is Sylvia, and I  
12 just have a couple of questions that I would like to ask.  
13 Number one is --

14 MR. WALKER: Last name?

15 MS. PATTON: Patton.

16 MR. WALKER: Patton? Okay. Thank you. And if  
17 you can speak closer into the microphone, we're having a  
18 little bit of difficulty hearing y'all.

19 MS. PATTON: Okay. One of the questions that I  
20 have, and I want you to hear me, is you were saying that  
21 after the census, that we have six months before  
22 redistricting is done, and by August the 12th we  
23 should -- No. I want to ask questions kind of like  
24 locally for the county. So you have six months before  
25 you Do the state districts, but like the county, how long

1 will they have before they do the county redistricting,  
2 is one of the questions I wanted to know.

3 And the second question is getting back to what  
4 Dr. Woods was saying, who determines on the county -- who  
5 determines about redistricting the counties? And let me  
6 give you an example. I'm a city councilwoman for the  
7 city of (inaudible) Alabama, and district one is  
8 predominantly black, and district one is the district  
9 that I won in. And another place in (inaudible) county  
10 may be predominantly black in district one (inaudible)  
11 was scattered. And how could we -- When can we and how  
12 can we go to the county commission and decide  
13 redistricting by the use of numbers, because we have the  
14 numbers of the blacks that are in the county, but when we  
15 go to the county side, it's scattered. How can we  
16 correct that? Who do we need to talk to in order to  
17 change that?

18 And then the third question is, when you get  
19 ready to vote on county commission, why can't -- Is there  
20 two elections where, okay, you have one election where  
21 you vote for the person that wins it. And then later on  
22 you come in, and is it legal for everyone to vote for  
23 that district? Because in Florala, when I run in  
24 district one, that's who I'm competing against, somebody  
25 in district one. Everybody in district two, three, four



1 and five cannot vote for me because they're not in my  
2 district. So where is that -- How can you -- If they're  
3 not in district one, they're not supposed to be voting  
4 for you and not somebody from district two, three, four,  
5 five. That's how votes get scattered.

6 MR. WALKER: Your questions are a little bit  
7 outside the scope of the hearing, which is about  
8 redistricting for the state offices. I just don't  
9 remember off the top of my head if there is a timeline  
10 for county commissions to redistrict. There is, of  
11 course, a practical timeline in that redistricting has to  
12 be completed before elections in 2022 or whenever the  
13 next elections are for your county commission.

14 For the rest of your questions, I think you need  
15 to take those up with your county commission attorney who  
16 should be able to answer those.

17 MS. PATTON: All right. Thank you.

18 MR. WALKER: Thank you, ma'am.

19 I'm going to see if we've got any questions from  
20 people who are participating remotely now.

21 MS. OVERTON: Yes. We've got three. The first  
22 is from Tabitha Isner. She just wanted some  
23 clarification.

24 "Did you say that compactness would be  
25 prioritized over communities of interest?"

1 MR. WALKER: No, I did not say that compactness  
2 was prioritized over communities of interest. I think  
3 what I said is that sometimes those two criteria can  
4 conflict, and the legislature has to make a choice.

5 MS. OVERTON: Okay. The second question comes  
6 from Felecia Scalzetti.

7 "Please repeat the timeline regarding draft  
8 maps. Does the committee already have maps drafted that  
9 they are adjusting after hearing comments, or will they  
10 wait until the end of the public comments on the 16th to  
11 start drafting?"

12 MR. WALKER: There are no existing maps at this  
13 point that I know of. I know that -- I mean, there may  
14 be various legislators who are working on maps either not  
15 on the reapportionment system or they're working on the  
16 reapportionment system but they're confidential until  
17 they're released by the legislature. So if somebody were  
18 coming in here and working on something, I would not know  
19 it unless it was made public.

20 There is -- There are, however, conversations  
21 ongoing with a map drawer and the members of the  
22 legislature and the state board of education and the  
23 Congressional delegation about how they want their maps  
24 redrawn, and that's where we are right now as we're  
25 receiving these comments.

1 But the transcripts of these hearing will be  
2 made available to the map drawers and to the legislators.

3 MS. OVERTON: We have a final comment from  
4 Kendra Majors.

5 "In the earlier hearing, you vaguely touched on  
6 the fact that redistricting in Alabama is not really  
7 non-partisan. How does that work to guarantee fair  
8 districts and fair representation for all Alabamians  
9 given that one party overwhelmingly controls the Alabama  
10 legislature currently?"

11 MR. WALKER: I'm not going to answer that  
12 question. Fairness is in the eyes of the beholder, and I  
13 think that's where I'll leave it.

14 MS. OVERTON: No other questions or comments.

15 MR. WALKER: Is there anybody else in the  
16 auditorium who wants to speak?

17 All right. There being no one else who wants to  
18 speak, thank you to everyone for participating either  
19 remotely or by coming to the auditorium. Your  
20 participation is important to the process.

21 Thank you for Lurleen B. Wallace Community  
22 College for allowing us to have the hearing at your  
23 facility, and this hearing is now closed.

24 (Exhibit 1 marked.)

25 \*\*\*\*\*

C E R T I F I C A T E

STATE OF ALABAMA       )  
COUNTY OF MOBILE       )

I hereby certify that the above and foregoing deposition was taken down by me in stenotype and transcribed by means of computer-aided transcription, and that the foregoing is a true and correct transcript of the testimony given by said witness upon said hearing.

I further certify that I am neither of counsel nor of kin to any of the parties, nor am I in anywise interested in the result of said cause.

I further certify that I am duly licensed by the Alabama Board of Court Reporting as a Certified Court Reporter as evidenced by the ACCR number following my name found below.



KATHLEEN F. CAVAZOS, RPR, ACCR302

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# Exhibit 3

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### TALK POINTS FOR LIKELY ISSUES, No. 1

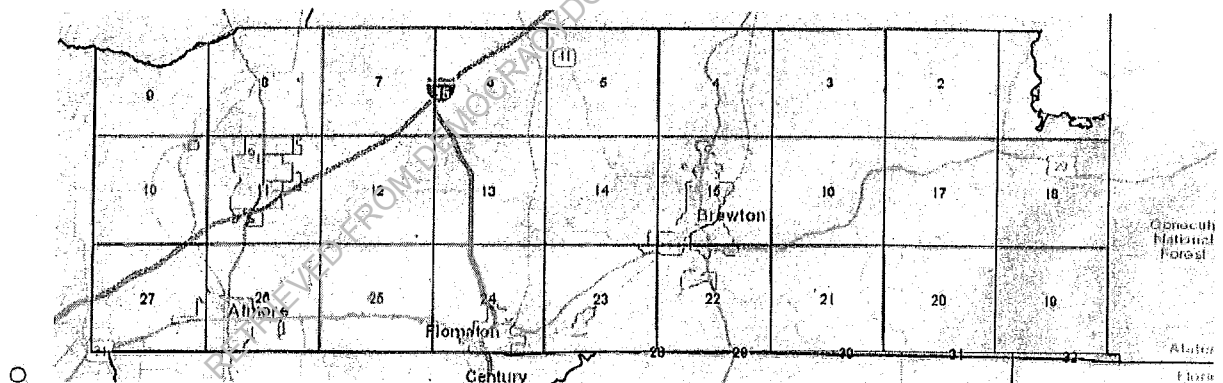
- The Barry Moore Congressional Plan

- Sen. Will Barfoot (SD25, Crenshaw, Elmore, and Montgomery) and Rep. Mike Holmes (HD31, Elmore) are sponsoring an alternative Congressional Plan for Congressman Barry Moore.
- This plan, called "The Preferred Congressional Plan for Alabama," originally differs from the Committee's plan in several respects, but Rep. Holmes will offer an improved version called the "Holmes Congressional Plan 1," that is identical to the Committee's plan **except** that takes a county split that the Committee's plan has in Moore's district, CD2, and transfers it to Terri Sewell's district, CD7.
- In the Committee's plan, Moore has a sliver of east Escambia County populated by 739 people. In Moore's plan, that county split is moved to Monroe County, where it gives Sewell an additional 739 voters.
- Under the Committee's plan, Moore has 2 county splits and Sewell has 3. Under Moore's plan, he has only 1 county split and Sewell has 4 – more than any other Member of Congress.
- Moore's only stated argument for relocating the split is that with Escambia County, his district has the most counties of all districts: 16. The unstated argument, of course, is that Sewell is a Democrat and too bad if she gets dumped on.
- The problem, of course, is that Sewell is not only a Democrat, she's Black, and this may look like race discrimination to a federal court. In fact, the number of splits in Terri Sewell's district was the first



objection brought up by Black Committee members when the Reapportionment Committee met Tuesday.

- Bill Harris, Moore's District Director explained why Moore did not want the Escambia County split: it's an additional county that Moore has to service and each additional county takes more work for Moore and his staff, and he already has 15 counties. But this same argument works for Sewell. Each new county split is more work for her, no less than Moore, and she already has 3 splits. No other Member has more than 2.
- Also, the part of Escambia County given to Moore has no incorporated cities, and a great deal of it is in the Conecuh National Forest:



- The burden of representing this sparsely populated, unorganized area of Escambia County is a light one. There is no civic group or city council, *etc.*, that has to be courted.
- There's no doubt that adding another county split to Sewell's district – especially if done in committee or on the floor – will be argued as racially discriminatory by plaintiffs attacking the Moore Plan if the Legislature adopts it in favor of the Committee Plan.



- We can't say if that claim will be successful. It depends in large part on how skillfully it is argued, but clearly, if the Legislature adopts the Moore Plan instead of the Committee Plan, it puts an unnecessary lighting rod on CD7 that is sure to draw attention from the three-judge court or the Supreme Court, and will give them one more reason to see the plan as racially biased. Should that happen, we'll be having a special session to correct the plan, and possibly new elections.

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### TALK POINTS FOR LIKELY ISSUES, No. 3

- The League of Women Voter's Plan
- The League of Women Voter's Plan is a whole-county plan. It does not split any county. But it has a lot of problems.
- The plan puts two incumbents in the same district, CD3. Rep. Mike Rogers lives in Calhoun County, and Rep. Gary Palmer lives in Shelby County. Both counties are in CD3. This violates section II(j)(i), which says: "Contest between incumbent shall be avoided whenever possible."
- Section 2 of the Voting Rights Act requires the Legislature to draw a majority-Black district when it's possible to do so, generally speaking, and the Reapportionment Committee's Congressional Plan demonstrates that it's possible to draw one. In the Committee's plan, CD7 is majority Black and has a strong Black Voting Age Population, or "BVAP" of 54.1%. The LWV's plan has no majority-Black district. Instead, it has only two districts – CD6 and CD7 - with high BVAPs compared to the other Congressional Districts. Thus the LWV Plan violates Section 2 of the Voting Rights Act.
- CD6 consists of 4 whole counties: Jefferson, Bibb, Hale, and Perry. Terri Sewell lives in this district. The BVAP for CD6 is 40.44%, which is well below a majority.
- CD7 is made up of 18 counties: Bullock, Butler, Choctaw, Clarke, Conecuh, Crenshaw, Dallas, Greene, Lowndes, Macon, Marengo, Monroe, Montgomery, Pickens, Sumter, Tuscaloosa, Washington, and Wilcox. Eighteen counties is far more than any other districts has.
  - CD1 has only 4,

- CD2 has 12,
- CD3 has 11,
- CD4 has 12,
- CD 5 has 6, and , as I've mentioned,
- CD 6 has only 4.
- The BVAP for CD7 is only 45.82% - better than CD6 but still less than a majority. And unlike CD6, in which Representative Terri Sewell resides, there is no incumbent in CD7. It seems unlikely that a Black Democrat candidate without the strength of incumbency will carry a district that is only 45.82% BVAP. It seems more than likely that CD7 is not a Black district at all.
- CD7 violates the race-neutral criteria in the Reapportionment Committee's Redistricting Guidelines in several ways:
  - Guideline II(h) says: "Districts will be composed of contiguous and reasonably compact geography." CD7 is contiguous, but it is not reasonably compact. It starts in Tuscaloosa and executes a huge curve south and then east, ending in Macon and Bullock Counties, just short of the Georgia line.
  - Guideline II(j)(iv) says: "The Legislature shall try to minimize the number of counties in each district." It's apparent that no attempt was made to minimize the number of counties in CD7. To the contrary, the LWV *maximized* the number of counties in CD7 in order to get as many Black persons in the districts as possible.

- Guideline II(j)(iv) says: “The Legislature shall try to preserve the cores of existing districts.” CD 7 as drawn by the LWV does not do that. Existing CD7 has 10 whole counties and 4 split counties. The LWV plan adds to CD7 7 completely new counties – Bullock, Butler, Conecuh, Crenshaw, Macon, Monroe, and Washington – and removes 3 counties – Hale, Jefferson, which is the population core of the existing CD7, and Perry. So, the LWV’s CD7 does not preserve the core of the existing CD7.
- The LWV Plan does not preserve the core of existing CD2. At present, CD 2 has 14 whole counties and part of another, Montgomery. The whole counties are: Autauga, Barbour, Bullock, Butler, Crenshaw, Coffee, Conecuh, Covington, Dale, Elmore, Geneva, Henry, Houston, and Pike. The LWV’s proposed CD2 loses 7 of these counties – Autauga, Bullock, Butler, Crenshaw, Conecuh, Elmore, and Montgomery. It retains only 7 of its current counties – Barbour, Covington, Coffee, Dale, Geneva, Henry, Houston, and Pike. And it picks up an additional 5 completely new counties – Chambers, Elmore, Lee, Russell, and Tallapoosa. The LWV’s CD2 does not preserve the core of the existing district.
- The LWV plan also does not preserve the core of CD3. Presently, CD 3 has 11 whole counties – Calhoun, Chambers, Clay, Cleburne, Lee, Macon, Randolph, Russell, St. Clair, Talladega, and Tallapoosa – and parts of two other counties – Cherokee and Montgomery. But as drawn by the LVW, CD# has 11 whole counties, of which only 6 are in the present CD6. These are Calhoun, Cherokee, Clay, Cleburne, Randolph, and Talladega. CD 3 gains 5 entirely new counties – Autauga, Chilton, Coosa, Etowah, and Shelby, and loses 7 that it currently includes – Lee, Chambers, Macon, Montgomery, Russell,

St. Clair, and Tallapoosa. The LWV's CD3 does not preserve the core of the existing district.

○

- CD6 and CD7 are both racial gerrymanders. A district is racially gerrymandered when a substantial number of people have been included in it, or excluded from it, because of race. There is no way these districts were drawn race-blind. In fact, CD6 and CD7 are drawn as they are *because of race*. Not only that, but in order to draw these districts, as we've just seen the LWV trampled on or subordinated the Legislature's race-neutral criteria.
- Drawing districts to have a Black population majority might be OK if it were done in order to comply with Section 2 of the Voting Rights Act and there were a strong basis in evidence to support it. But the Voting Rights Act does not apply to districts like CD6 and CD7 that are below 50% BVAP. CD6 and CD7 are not majority-Black districts; they are what are called "influence districts," and the Voting Rights Act does not apply to them. It necessarily follow that CD6 and CD7 violate the Equal Protection Clause, because they classify voters by race without a compelling state interest in doing so.
- The LWV Plan violates the Guidelines, and the law, in another way. Guideline II(b) says: "Congressional districts shall have minimal population deviation." The Committee's plan complies with this requirement. Six of the Committee's Congressional Districts has the same population, and the other Congressional District has one additional person. But instead of minimal deviation, the LWV Plan has a total deviation of 2.47%. That would be OK if it were any type of plan *except* a Congressional plan, but Congressional plans must have zero deviation. 2.47% is well in excess of what the Guidelines and Supreme Court case law allow. This deviation will not pass muster in federal court.

- The LWV is aware of the problem caused by their plan's excessive total deviation. And they will make the argument that this excessive total deviation is allowed by a case the Supreme Court decided in 2012 called *Tennant v. Jefferson County [West Virginia] Commission*. The Tarrant case is very specific to the facts the Court was considering in that case, and that case does not apply to Alabama. The LWV argues in the complaint they filed in federal court that their plan's excessive total deviation "can be justified as a remedy of the racial gerrymander preserved in the 2011 plan and by Alabama's historic policy of preserving whole counties." This is just an argument, and it's one that have not been tested in federal court. We believe it's wrong, and that in Alabama, congressional plan must have minimal deviation.

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#### TALK POINTS FOR LIKELY ISSUES, No. 4

- The Faulkner Congressional District Plan No. 1
  - The Faulkner Congressional Plan No. 1 changes the Committee's Plan in Jefferson County only.
  - The Faulkner Plan takes Homewood out of CD7, which is represented by Terri Sewell, and put it in CD6, represented by Gary Palmer.
  - If this plan is passed, it will be sued as violating the Voting Right Act. In response to such a lawsuit, the State might argue that taking Homewood from CD7 and putting it in CD6 is politically motivated, but there is a strong possibility that a court would the change view it as racially motivated. If so, it's a fair conclusion that the court would find that the reassignment of Homewood was a race-conscious change made without the necessary "strong basis in evidence." This would lead to a holding that the plan violates the Voting Rights Act and the Equal Protection Clause.
  - In addition, the Faulkner Plan increases CD7's BVAP from 54.22% to 57.58%. This increase in Black BVAP is likely to draw an allegation that more Black residents have been put into CD7 than are necessary, which is called "packing," and which violates the Voting Rights Act and the Equal Protection Clause.

### **The Jabo Waggoner Substitute Plan**

Q: Why was it OK to have Homewood in CD6 and the Centerpoint precincts in CD7 in 2010 but now it's not OK?

A: Two factors are involved. First, in three cases after the 2010 Census, the Supreme Court required that districts be drawn race-blind, and so the Congressional Plan was. Second, there was a need to add 53,000+ people to CD7, and most of them had to come from Jefferson County, given that many of the other counties in CD7 lost population under the 2020 Census. Together, these factors led to the inclusion of population-dense Homewood into CD7. In addition, it was necessary to give the CD7 incursion into Jefferson County more of an East-West shape, rather than a North South shape, in order to prevent claims that this part of Jefferson County was a racial gerrymander. This is a consequence of the fact that Section 5 is no longer enforceable, and explains why what was OK in 2010 and was approved by the Justice Department then is not OK in 2020, and would not be approved by the Justice Department today. Consequently, when these changes were made, the tip of the 2010 incursion – the Centerpoint Precincts – were not needed and were put into C6.

Q: Why can't they just be switched back?

A: The two Homewood Precincts are majority white. The four Centerpoint-area precincts are majority black. Switching black and white precincts at this point, after the plan was drawn race-blind, would be a race-conscious action that would violate Section 2 of the Voting Rights Act unless it were done in fulfillment of a "compelling state interest." Under the Voting Rights Act, the State has no compelling interest in making these race-conscious reassignments.



**Hassell Senate Plan No. 1 Compared  
with  
McClendon Senate Plan No. 1**

**Pairing Incumbents in the Same Districts**

The Hassell Plan pairs 8 incumbent Senators in 4 districts:

- 14 – Pairs Senators Chambless and Weaver
- 27 – Pairs Senators Price and Watley
- 17 – Pairs Senators Reed and Shellnut
- 8 – Pairs Senators Butler and Givhan

The McClendon Plan, which the Senate has passed, does not pair any incumbents.

**County and Precincts Splits**

The Hassell Plan splits 31 counties and 320 precincts.

The McClendon Plan splits 19 counties and 13 precincts.

The McClendon Plan does a much better job of respecting communities of interest and keeping counties whole.

**Significantly Changes Shapes of Senate Districts**

A cursory look at the Hassell Plan shows that it makes major changes to Senatorial Districts, from top to bottom of the State. Just a few examples:

McClendon's SDs 4, 5, and 6 are largely combined into Hassell SD 2.

The Jefferson County Districts are more or less redrawn

SD 34 goes from being part of Mobile County to including parts of Clarke, Choctaw, and Mobile Counties and all of Washington County

Many more changes are apparent merely by looking at the two maps. The McClendon Plan is based on repeated meetings with Senators over the past 2 and a half months; working with Senators to give them what they wanted or to work out compromises. There's no indication that Hassell met with anyone, or has Senatorial buy-in to his plan. If the House starts changing Senate Districts that Senators have agreed to, it can only expect that the Senate will do likewise to House Districts.

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## Committee Draft Congressional Plan

### Talking Points

1. In developing this plan, all Congressional Representatives were met with in person and then subsequently over the phone or on Microsoft Teams until their concerns had been addressed. An exception is Representative Mo Brooks, who is running for another office. He did not want to meet in person and sent a staff member in his stead. All Representatives had input into this plan.
2. This plan meets our Committee Guidelines.
  - a. It complies with Section II of the Voting Rights Act and the Equal Protection Clause.
  - b. There is minimal population deviation between the districts. Six of the districts are at ideal population -- 717,754 and the 2<sup>nd</sup> District is one person over.
  - c. It respects counties to the extent possible given the requirement for equal population.
  - d. It does not require any incumbents to run against each other.
  - e. All districts are contiguous and reasonably compact.
  - f. It respects communities of interest.
  - g. It preserves the cores of existing districts.
3. It splits a minimum number of counties and VTDs (or precincts) -- 6 counties are split and 7 VTDs are split to get to zero deviation. An improvement over current law which splits 7 counties. Splits are:
  - Lauderdale County between districts 4 and 5
  - Tuscaloosa County between districts 4 and 7
  - Jefferson County between districts 6 and 7
  - Chilton County between districts 3 and 6
  - Montgomery County between districts 2 and 7
  - Escambia County between districts 1 and 2
4. This plan contains one majority-black district with a BVAP of 54.22%.

### Hatcher Congressional Plan No. 1

- This plan purports to have two majority-Black districts. These are CDs 2 and 7. CD7 has a BVAP of 52.55%, but CD2's BVAP is only 50.05%. That means CD2 is a majority-Black district by only .05% . This is not a functional majority, and given the margin of error in the Census data, it may not even be a majority-Black district at all. By comparison, the Reapportionment Committee's plan, which the House has passed, has one majority-Black district with a strong BVAP of 54.22. So the Hatcher Congressional Plan reduces the BVAP of CD7 in order to draw a district, CD2, as only marginally majority-Black. Reducing the BVAP of CD7 to create a majority-Black district that may not in fact be majority-Black is likely to draw a "cracking" lawsuit in violation of the Voting Rights Act.
- The Hatcher Congressional Plan No. 1 splits 13 counties. The Reapportionment Committee's plan has only 6 county splits.
- The Hatcher Congressional Plan No. 1 puts two pairs of incumbents in the same district. CD1 contains the residences of both Rep. Carl and Rep. Moore. In addition, it puts Rep. Sewell and Rep. Palmer both in CD6.

**Walker, Dorman**

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**From:** Walker, Dorman  
**Sent:** Monday, November 1, 2021 2:50 PM  
**To:** Donna Overton Loftin (donna.overton@alsenate.gov)  
**Cc:** Randolph Hinaman (sharh1@comcast.net)  
**Subject:** FW: Coleman plan

**From:** Walker, Dorman <DWALKER@balch.com>  
**Sent:** Monday, November 1, 2021 2:33 PM  
**To:** Rep. Chris Pringle (chris.pringle@alhouse.gov) <chris.pringle@alhouse.gov>  
**Cc:** Randolph Hinaman (sharh1@comcast.net) <sharh1@comcast.net>  
**Subject:** Coleman plan

1. The finger into Jefferson County is a racial gerrymander. It's a lot like what was in the 2010 plan, which also was a racial gerrymander but was protected by the non-retrogression standard of Section 5. Section 5 is no longer in effect, it is necessary to correct the CD7-Jefferson County racial gerrymander. The Committee's plan does that. The Coleman plan does not do that, and I believe that there's a strong risk that a federal Court will look at CD7 in the Coleman plan and say redraw that district.
2. Congressional plans require minimal deviation from ideal population. So do the Guidelines. The Coleman plan does not meet minimum deviation: CD1 has +7 people, CD4 has +42, CD6 has -71, and CD7 has +22. These deviations from ideal population are not constitutional in a Congressional plan.
3. The Black Voting Age Population of CD7 is 61.07, which is more than it needs for that district to perform as a majority Black district. That level of BVAP will lead to a packing charge in federal court.



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# Exhibit 4

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**REAPPORTIONMENT COMMITTEE REDISTRICTING GUIDELINES**

May 5, 2021

**I. POPULATION**

The total Alabama state population, and the population of defined subunits thereof, as reported by the 2020 Census, shall be the permissible data base used for the development, evaluation, and analysis of proposed redistricting plans. It is the intention of this provision to exclude from use any census data, for the purpose of determining compliance with the one person, one vote requirement, other than that provided by the United States Census Bureau.

**II. CRITERIA FOR REDISTRICTING**

a. Districts shall comply with the United States Constitution, including the requirement that they equalize total population.

b. Congressional districts shall have minimal population deviation.

c. Legislative and state board of education districts shall be drawn to achieve substantial equality of population among the districts and shall not exceed an overall population deviation range of  $\pm 5\%$ .

d. A redistricting plan considered by the Reapportionment Committee shall comply with the one person, one vote principle of the Equal Protection Clause of the 14th Amendment of the United States Constitution.

e. The Reapportionment Committee shall not approve a redistricting plan that does not comply with these population requirements.

f. Districts shall be drawn in compliance with the Voting Rights Act of 1965, as amended. A redistricting plan shall have neither the purpose nor the effect of diluting minority voting strength, and shall comply with Section 2 of the Voting Rights Act and the United States Constitution.

g. No district will be drawn in a manner that subordinates race-neutral districting criteria to considerations of race, color, or membership in a language-minority group, except that race, color, or membership in a language-minority group may predominate over race-neutral districting criteria to comply with Section 2 of the Voting Rights Act, provided there is a strong basis in evidence in support of such a race-based choice. A strong basis in evidence exists when there is good reason to believe that race must be used in order to satisfy the Voting Rights Act.

1 h. Districts will be composed of contiguous and reasonably compact  
2 geography.

3 i. The following requirements of the Alabama Constitution shall be complied  
4 with:

5 (i) Sovereignty resides in the people of Alabama, and all districts should be  
6 drawn to reflect the democratic will of all the people concerning how their  
7 governments should be restructured.

8 (ii) Districts shall be drawn on the basis of total population, except that voting  
9 age population may be considered, as necessary to comply with Section 2 of the  
10 Voting Rights Act or other federal or state law.

11 (iii) The number of Alabama Senate districts is set by statute at 35 and, under  
12 the Alabama Constitution, may not exceed 35.

13 (iv) The number of Alabama Senate districts shall be not less than one-fourth or  
14 more than one-third of the number of House districts.

15 (v) The number of Alabama House districts is set by statute at 105 and, under  
16 the Alabama Constitution, may not exceed 106.

17 (vi) The number of Alabama House districts shall not be less than 67.

18 (vii) All districts will be single-member districts.

19 (viii) Every part of every district shall be contiguous with every other part of the  
20 district.

21 j. The following redistricting policies are embedded in the political values,  
22 traditions, customs, and usages of the State of Alabama and shall be observed to  
23 the extent that they do not violate or subordinate the foregoing policies prescribed  
24 by the Constitution and laws of the United States and of the State of Alabama:

25 (i) Contests between incumbents will be avoided whenever possible.

26 (ii) Contiguity by water is allowed, but point-to-point contiguity and long-lasso  
27 contiguity is not.

28 (iii) Districts shall respect communities of interest, neighborhoods, and political  
29 subdivisions to the extent practicable and in compliance with paragraphs a  
30 through i. A community of interest is defined as an area with recognized  
31 similarities of interests, including but not limited to ethnic, racial, economic, tribal,  
32 social, geographic, or historical identities. The term communities of interest may,  
33 in certain circumstances, include political subdivisions such as counties, voting



precincts, municipalities, tribal lands and reservations, or school districts. The discernment, weighing, and balancing of the varied factors that contribute to communities of interest is an intensely political process best carried out by elected representatives of the people.

(iv) The Legislature shall try to minimize the number of counties in each district.

(v) The Legislature shall try to preserve the cores of existing districts.

(vi) In establishing legislative districts, the Reapportionment Committee shall give due consideration to all the criteria herein. However, priority is to be given to the compelling State interests requiring equality of population among districts and compliance with the Voting Rights Act of 1965, as amended, should the requirements of those criteria conflict with any other criteria.

g. The criteria identified in paragraphs j(i)-(vi) are not listed in order of precedence, and in each instance where they conflict, the Legislature shall at its discretion determine which takes priority.

### **III. PLANS PRODUCED BY LEGISLATORS**

1. The confidentiality of any Legislator developing plans or portions thereof will be respected. The Reapportionment Office staff will not release any information on any Legislator's work without written permission of the Legislator developing the plan, subject to paragraph two below.

2. A proposed redistricting plan will become public information upon its introduction as a bill in the legislative process, or upon presentation for consideration by the Reapportionment Committee.

3. Access to the Legislative Reapportionment Office Computer System, census population data, and redistricting work maps will be available to all members of the Legislature upon request. Reapportionment Office staff will provide technical assistance to all Legislators who wish to develop proposals.

4. In accordance with Rule 23 of the Joint Rules of the Alabama Legislature "[a]ll amendments or revisions to redistricting plans, following introduction as a bill, shall be drafted by the Reapportionment Office." Amendments or revisions must be part of a whole plan. Partial plans are not allowed.

5. In accordance with Rule 24 of the Joint Rules of the Alabama Legislature, "[d]rafts of all redistricting plans which are for introduction at any session of the Legislature, and which are not prepared by the Reapportionment Office, shall be presented to the Reapportionment Office for review of proper form and for entry into the Legislative Data System at least ten (10) days prior to introduction."

#### **IV. REAPPORTIONMENT COMMITTEE MEETINGS AND PUBLIC HEARINGS**

1. All meetings of the Reapportionment Committee and its sub-committees will be open to the public and all plans presented at committee meetings will be made available to the public.

2. Minutes of all Reapportionment Committee meetings shall be taken and maintained as part of the public record. Copies of all minutes shall be made available to the public.

3. Transcripts of any public hearings shall be made and maintained as part of the public record, and shall be available to the public.

4. All interested persons are encouraged to appear before the Reapportionment Committee and to give their comments and input regarding legislative redistricting. Reasonable opportunity will be given to such persons, consistent with the criteria herein established, to present plans or amendments redistricting plans to the Reapportionment Committee, if desired, unless such plans or amendments fail to meet the minimal criteria herein established.

5. Notice of all Reapportionment Committee meetings will be posted on monitors throughout the Alabama State House, the Reapportionment Committee's website, and on the Secretary of State's website. Individual notice of Reapportionment Committee meetings will be sent by email to any citizen or organization who requests individual notice and provides the necessary information to the Reapportionment Committee staff. Persons or organizations who want to receive this information should contact the Reapportionment Office.

#### **V. PUBLIC ACCESS**

1. The Reapportionment Committee seeks active and informed public participation in all activities of the Committee and the widest range of public information and citizen input into its deliberations. Public access to the Reapportionment Office computer system is available every Friday from 8:30 a.m. to 4:30 p.m. Please contact the Reapportionment Office to schedule an appointment.

2. A redistricting plan may be presented to the Reapportionment Committee by any individual citizen or organization by written presentation at a public meeting or by submission in writing to the Committee. All plans submitted to the Reapportionment Committee will be made part of the public record and made available in the same manner as other public records of the Committee.

1 3. Any proposed redistricting plan drafted into legislation must be offered by a  
2 member of the Legislature for introduction into the legislative process.

3 4. A redistricting plan developed outside the Legislature or a redistricting plan  
4 developed without Reapportionment Office assistance which is to be presented for  
5 consideration by the Reapportionment Committee must:

6 a. Be clearly depicted on maps which follow 2020 Census geographic  
7 boundaries;

8 b. Be accompanied by a statistical sheet listing total population for each district  
9 and listing the census geography making up each proposed district;

10 c. Stand as a complete statewide plan for redistricting.

11 d. Comply with the guidelines adopted by the Reapportionment Committee.

12 5. Electronic Submissions

13 a. Electronic submissions of redistricting plans will be accepted by the  
14 Reapportionment Committee.

15 b. Plans submitted electronically must also be accompanied by the paper  
16 materials referenced in this section.

17 c. See the Appendix for the technical documentation for the electronic  
18 submission of redistricting plans.

19 6. Census Data and Redistricting Materials

20 a. Census population data and census maps will be made available through the  
21 Reapportionment Office at a cost determined by the Permanent Legislative  
22 Committee on Reapportionment.

23 b. Summary population data at the precinct level and a statewide work maps  
24 will be made available to the public through the Reapportionment Office at a cost  
25 determined by the Permanent Legislative Committee on Reapportionment.

26 c. All such fees shall be deposited in the state treasury to the credit of the  
27 general fund and shall be used to cover the expenses of the Legislature.

28 **Appendix.**

29 **ELECTRONIC SUBMISSION OF REDISTRICTING PLANS**

30 **REAPPORTIONMENT COMMITTEE - STATE OF ALABAMA**

The Legislative Reapportionment Computer System supports the electronic submission of redistricting plans. The electronic submission of these plans must be via email or a flash drive. The software used by the Reapportionment Office is Maptitude.

The electronic file should be in DOJ format (Block, district # or district #, Block). This should be a two column, comma delimited file containing the FIPS code for each block, and the district number. Maptitude has an automated plan import that creates a new plan from the block/district assignment list.

Web services that can be accessed directly with a URL and ArcView Shapefiles can be viewed as overlays. A new plan would have to be built using this overlay as a guide to assign units into a blank Maptitude plan. In order to analyze the plans with our attribute data, edit, and report on, a new plan will have to be built in Maptitude.

In order for plans to be analyzed with our attribute data, to be able to edit, report on, and produce maps in the most efficient, accurate and time saving procedure, electronic submissions are REQUIRED to be in DOJ format.

Example: (DOJ FORMAT BLOCK, DISTRICT #)

SSCCCTTTTTTBBBBDDDD

SS is the 2 digit state FIPS code

CCC is the 3 digit county FIPS code

TTTTTT is the 6 digit census tract code

BBBB is the 4 digit census block code

DDDD is the district number, right adjusted

### **Contact Information:**

Legislative Reapportionment Office

Room 317, State House

11 South Union Street

Montgomery, Alabama 36130

(334) 261-0706

1 For questions relating to reapportionment and redistricting, please contact:

2 Donna Overton Loftin, Supervisor

3 Legislative Reapportionment Office

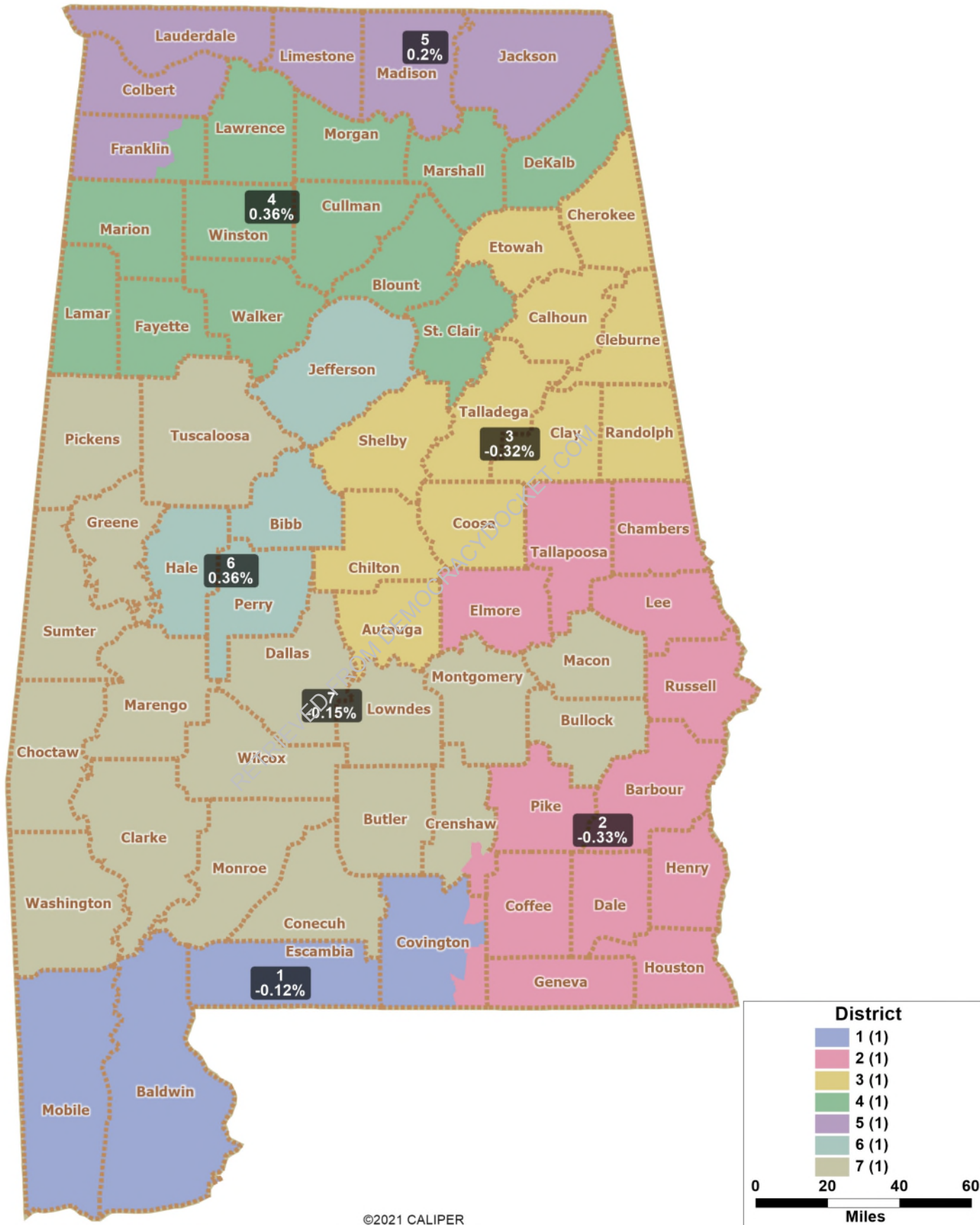
4 donna.overton@alsenate.gov

5 Please Note: The above e-mail address is to be used only for the purposes of  
6 obtaining information regarding redistricting. Political messages, including those  
7 relative to specific legislation or other political matters, cannot be answered or  
8 disseminated via this email to members of the Legislature. Members of the  
9 Permanent Legislative Committee on Reapportionment may be contacted through  
10 information contained on their Member pages of the Official Website of the  
11 Alabama Legislature, [legislature.state.al.us/aliswww/default.aspx](http://legislature.state.al.us/aliswww/default.aspx).

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# Exhibit 5

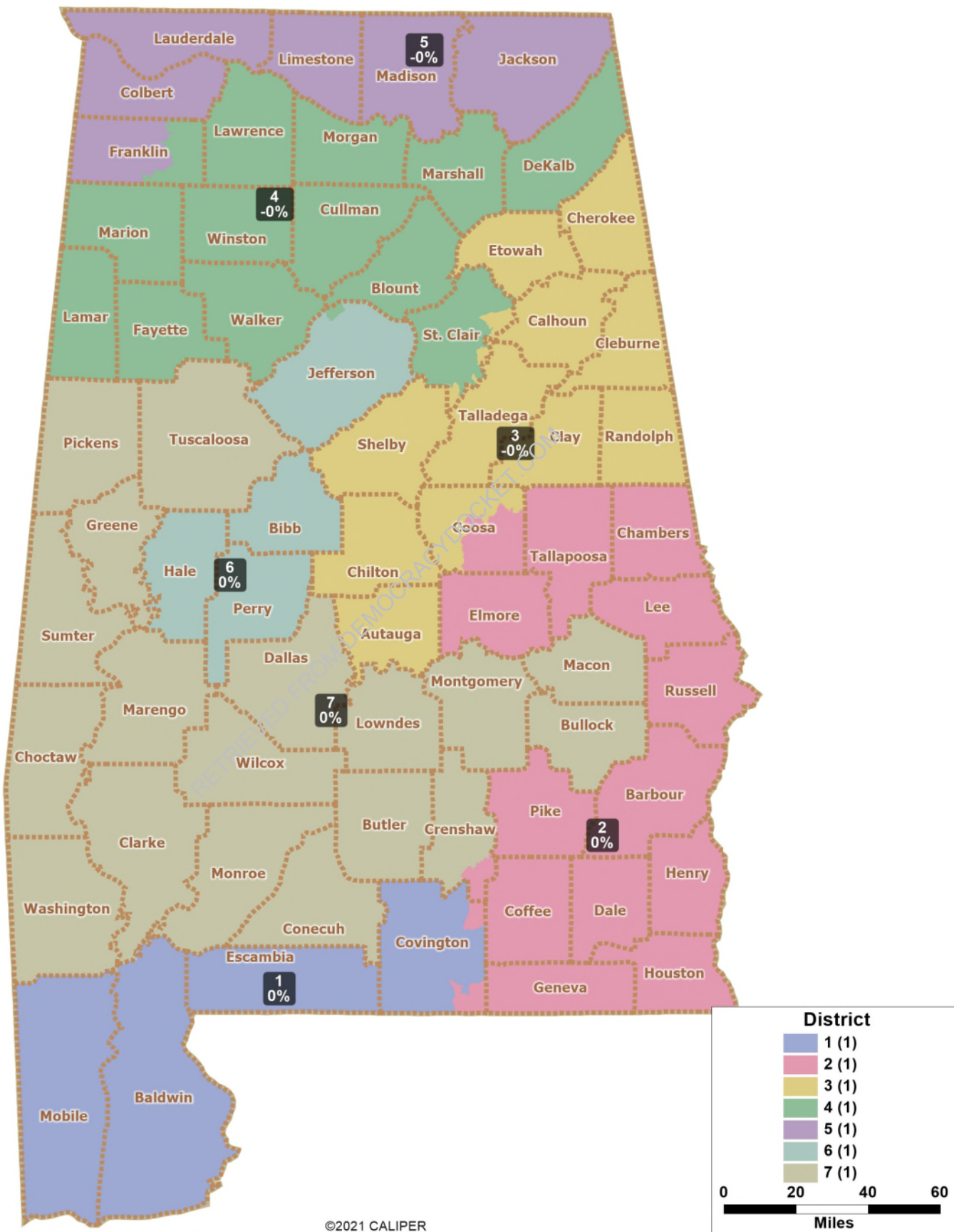
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# Exhibit 6

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# Exhibit 7

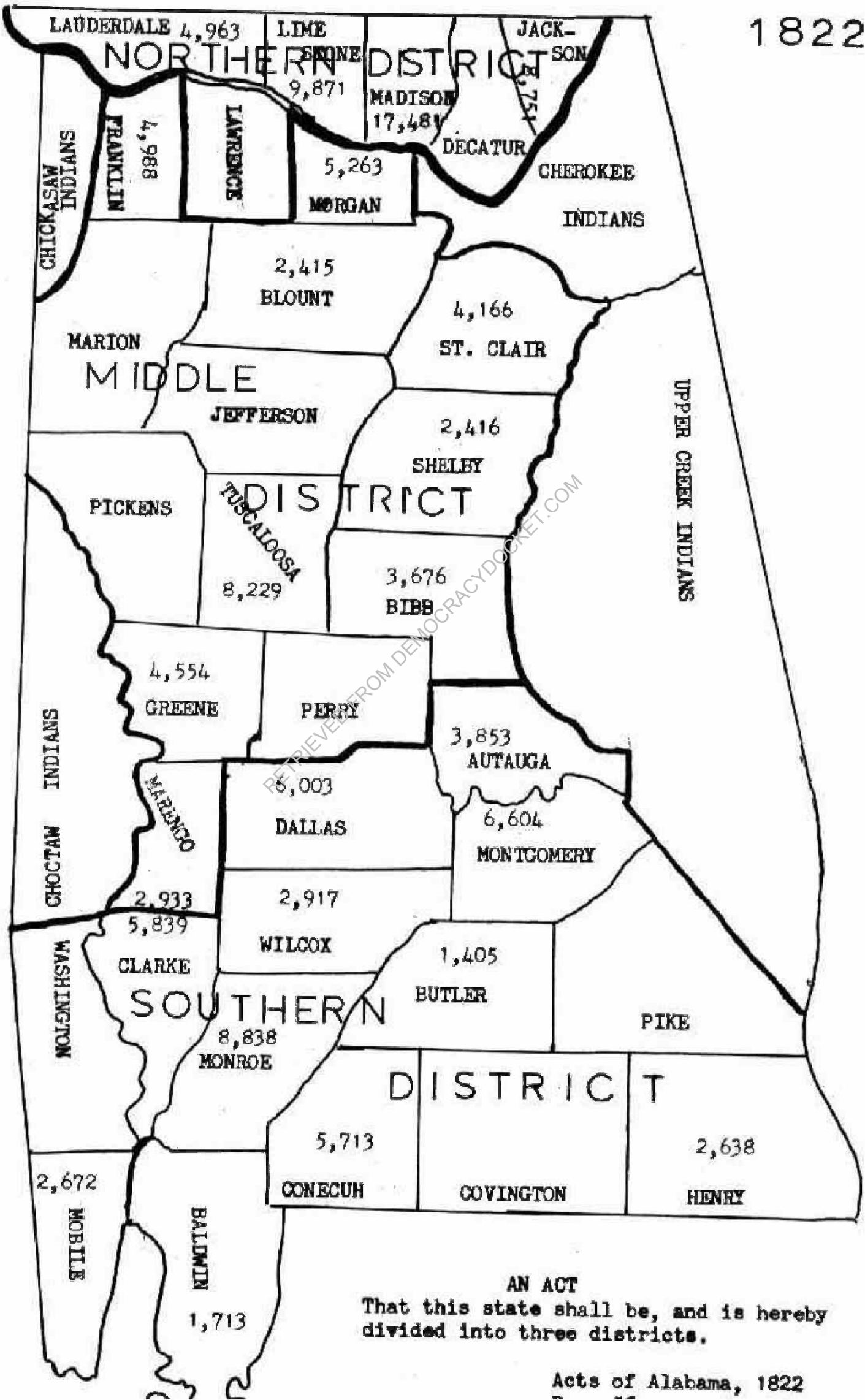
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# ALABAMA CONGRESSIONAL DISTRICTS 1822 - 1833

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ALABAMA CONGRESSIONAL DISTRICTS  
1822 -1833



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**Authority:**

The ADAH, Historical and Patriotic Series Number 17, *Alabama Congressional and Legislative Representation 1819 to 1960* (Montgomery: Walker Printing Co., 1961).

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[http://www.archives.alabama.gov/legislat/ala\\_maps/cd822\\_33.html](http://www.archives.alabama.gov/legislat/ala_maps/cd822_33.html)

Updated: February 11, 2010

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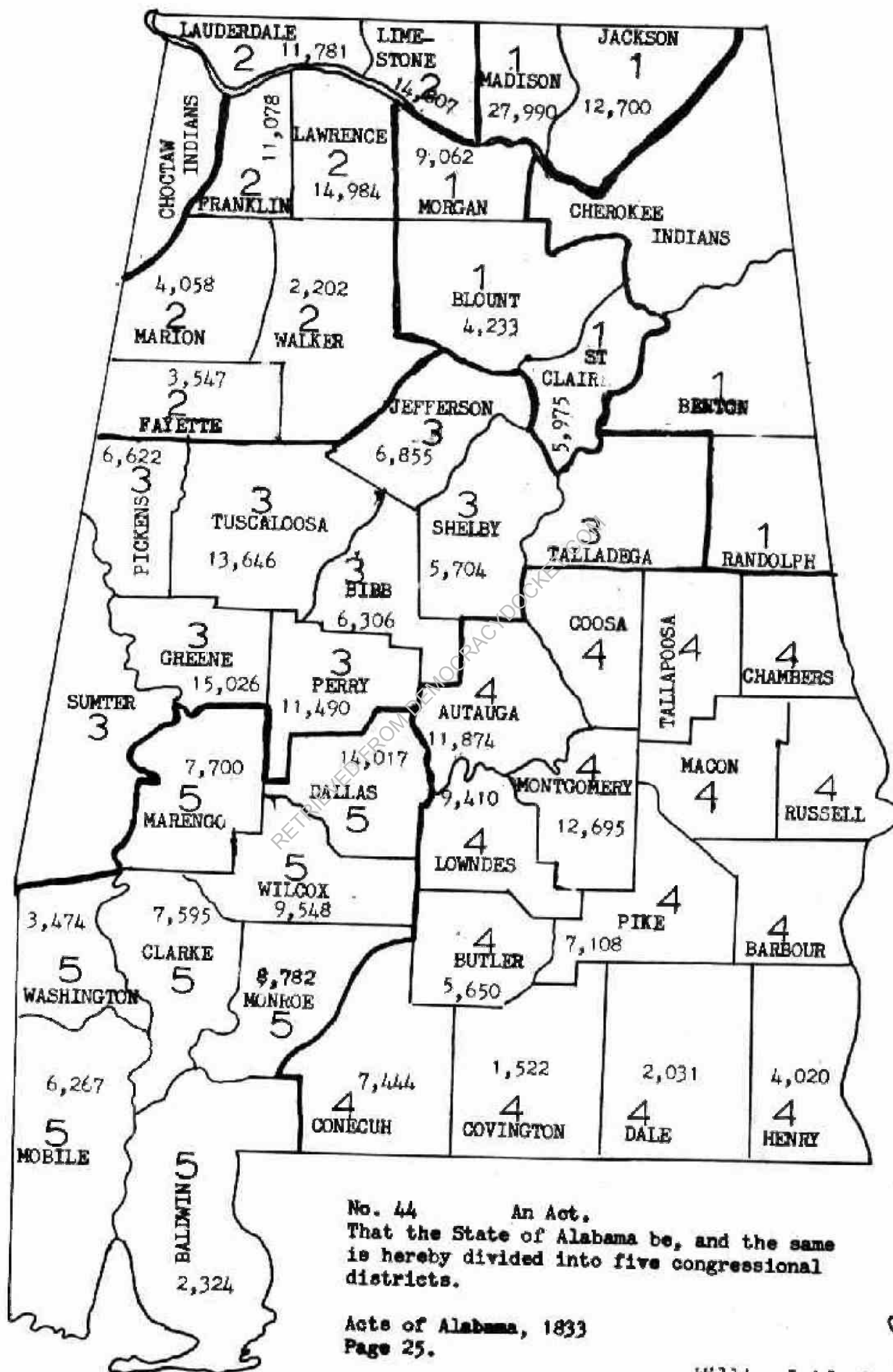
# ALABAMA CONGRESSIONAL DISTRICTS 1833 - 1843

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ALABAMA CONGRESSIONAL DISTRICTS  
1833 - 1843



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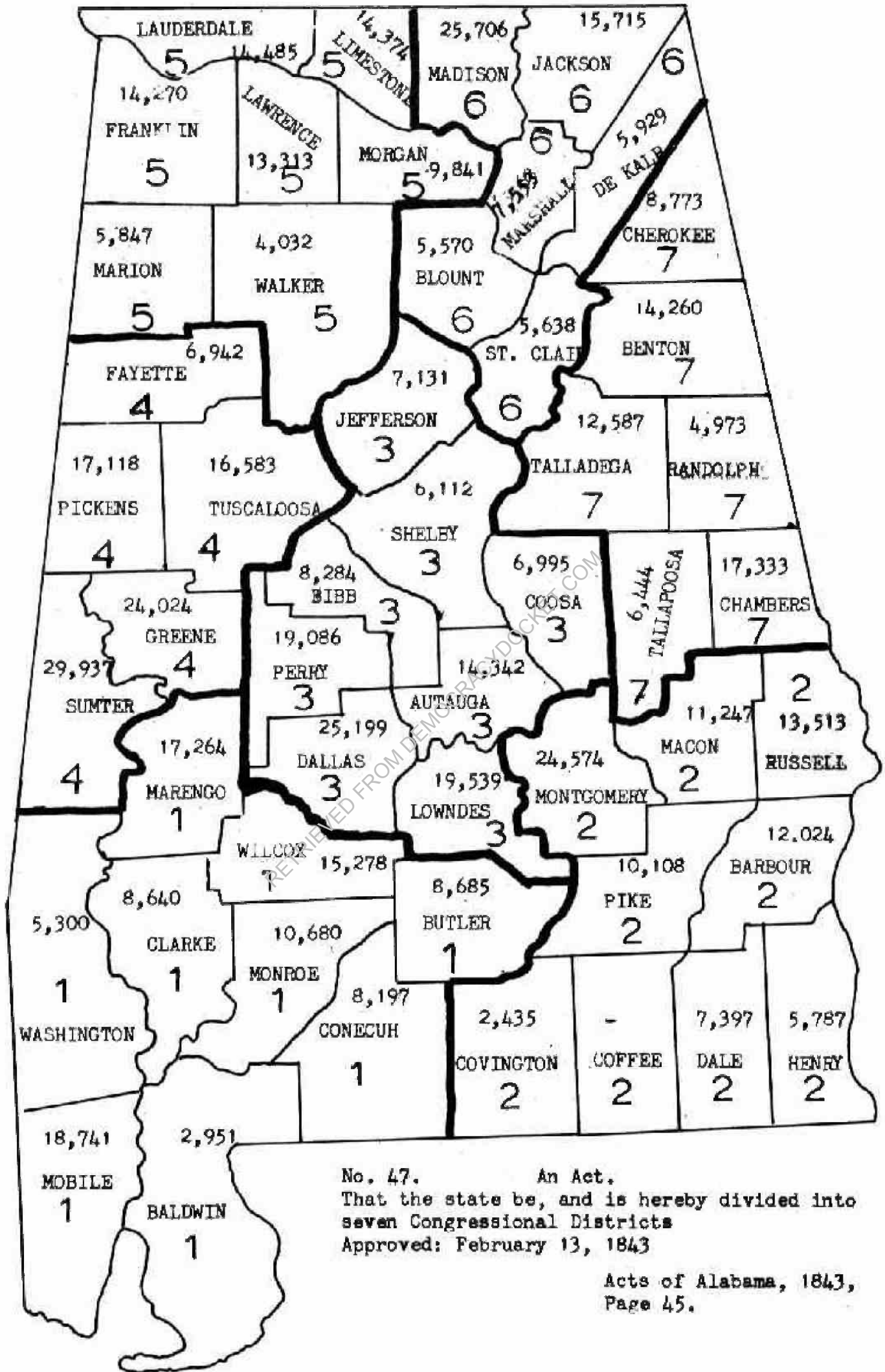


# ALABAMA CONGRESSIONAL DISTRICTS 1843 - 1852

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1843 - 1852



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# ALABAMA CONGRESSIONAL DISTRICTS

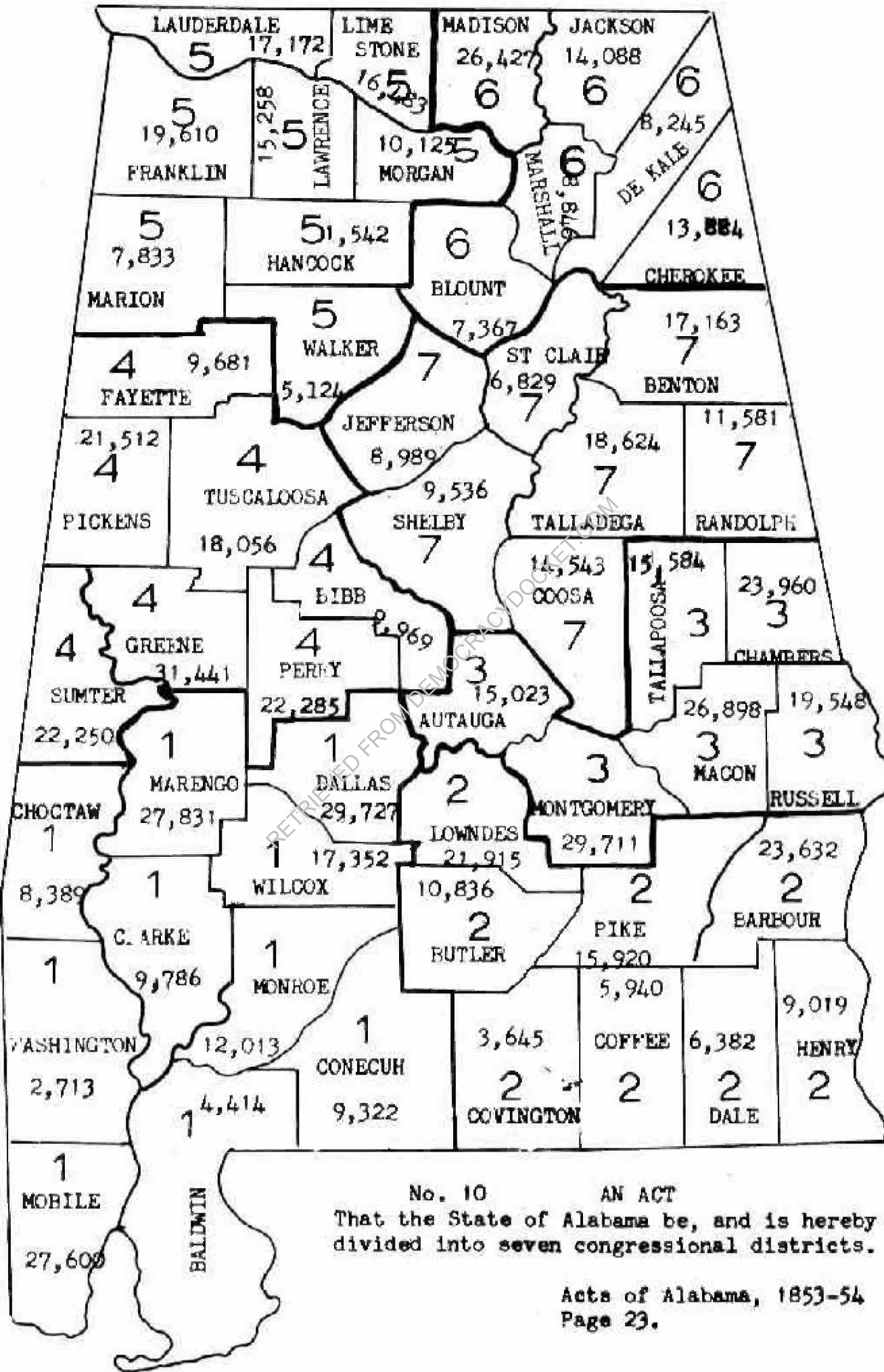
## 1854 - 1861

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ALABAMA CONGRESSIONAL DISTRICTS  
1854 -1861

1854



No. 10 AN ACT  
That the State of Alabama be, and is hereby  
divided into seven congressional districts.  
  
Acts of Alabama, 1853-54  
Page 23.

Authority:  
The ADAH, Historical and Patriotic Series Number 17, *Alabama Congressional and Legislative Representation 1819 to 1960* (Montgomery: Walker Printing Co.,1961).



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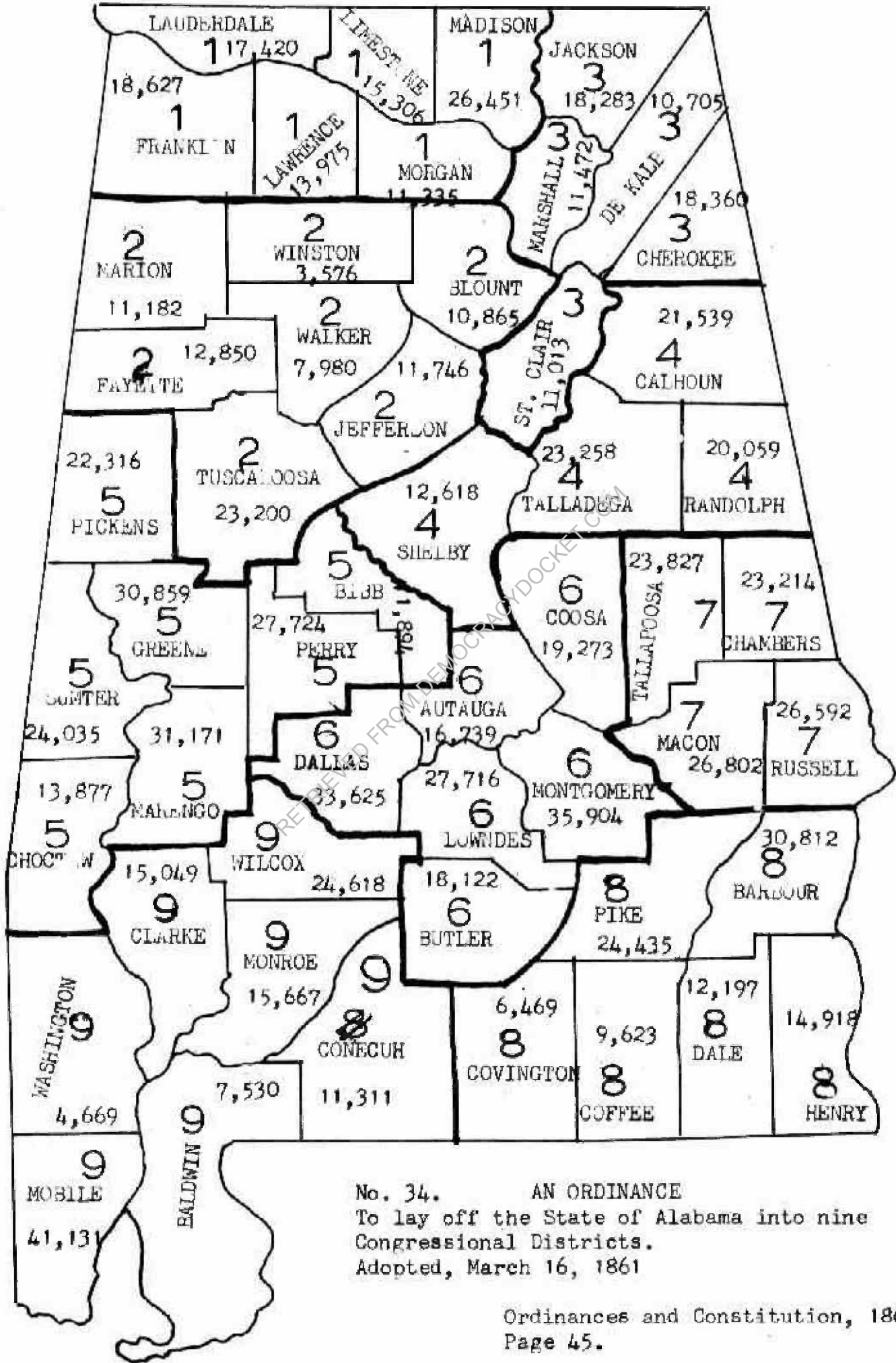
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# **ALABAMA CONGRESSIONAL DISTRICTS CONFEDERATE STATES OF AMERICA 1861 - 1865**

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ALABAMA CONGRESSIONAL DISTRICTS  
CONFEDERATE STATES OF AMERICA  
1861 - 1865



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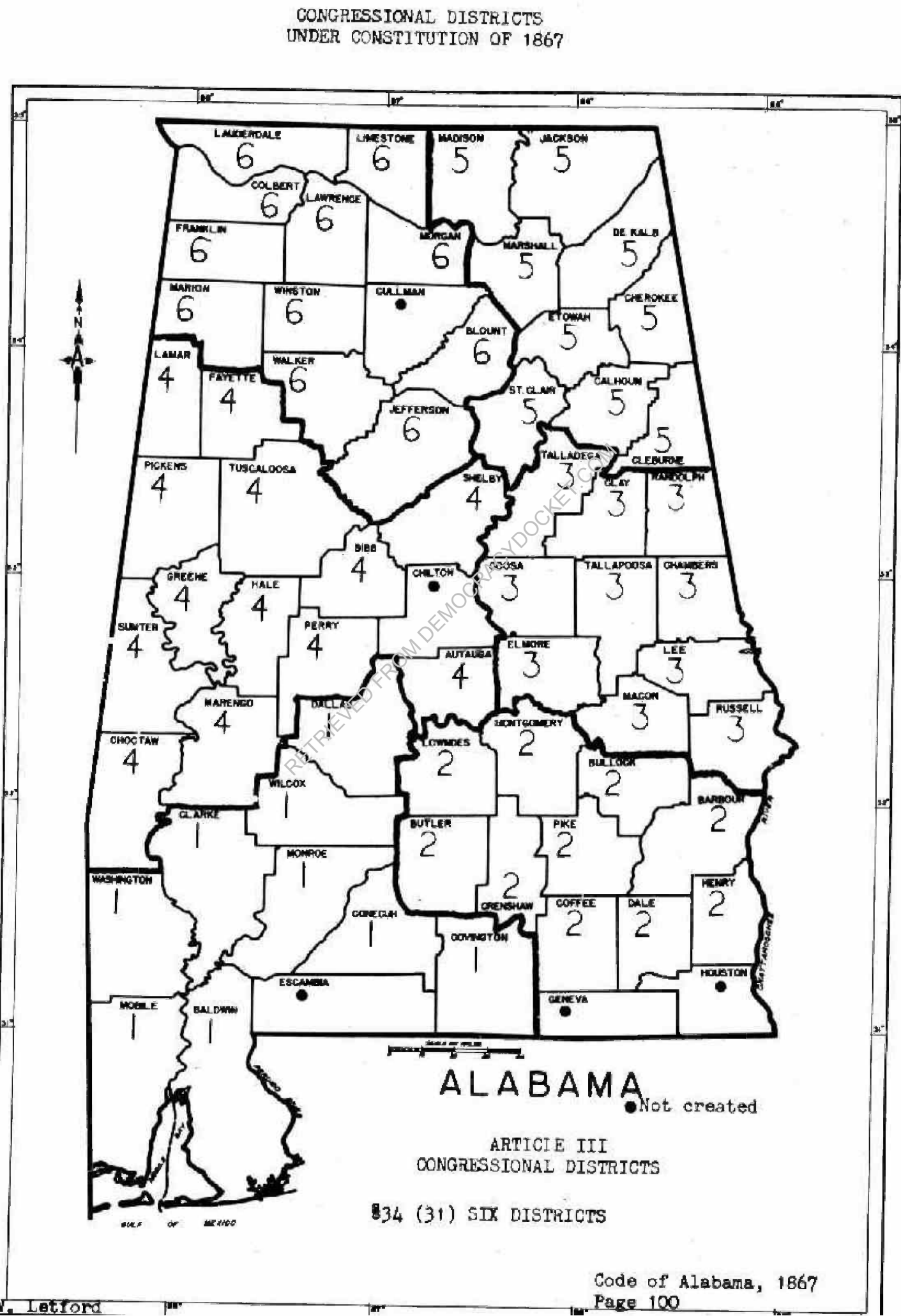
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# ALABAMA CONGRESSIONAL DISTRICTS UNDER CONSTITUTION OF 1867



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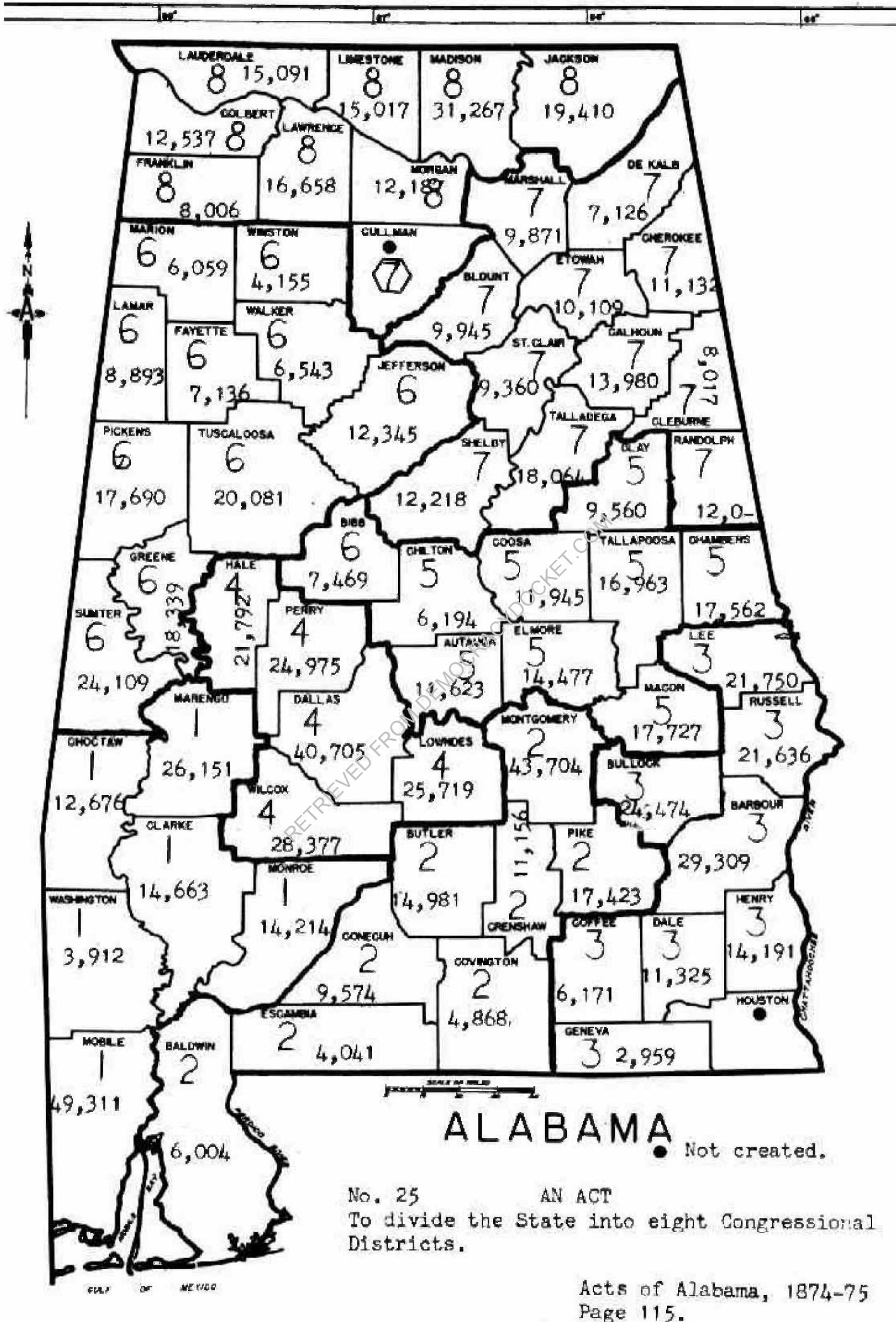
# ALABAMA CONGRESSIONAL DISTRICTS

## FEB. 13, 1875 - FEB. 13, 1891

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CONGRESSIONAL DISTRICTS  
FEB. 13, 1875 - Feb. 13, 1891



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[http://www.asc.edu/legislat/archives/ala\\_maps/cd875\\_91.html](http://www.asc.edu/legislat/archives/ala_maps/cd875_91.html)

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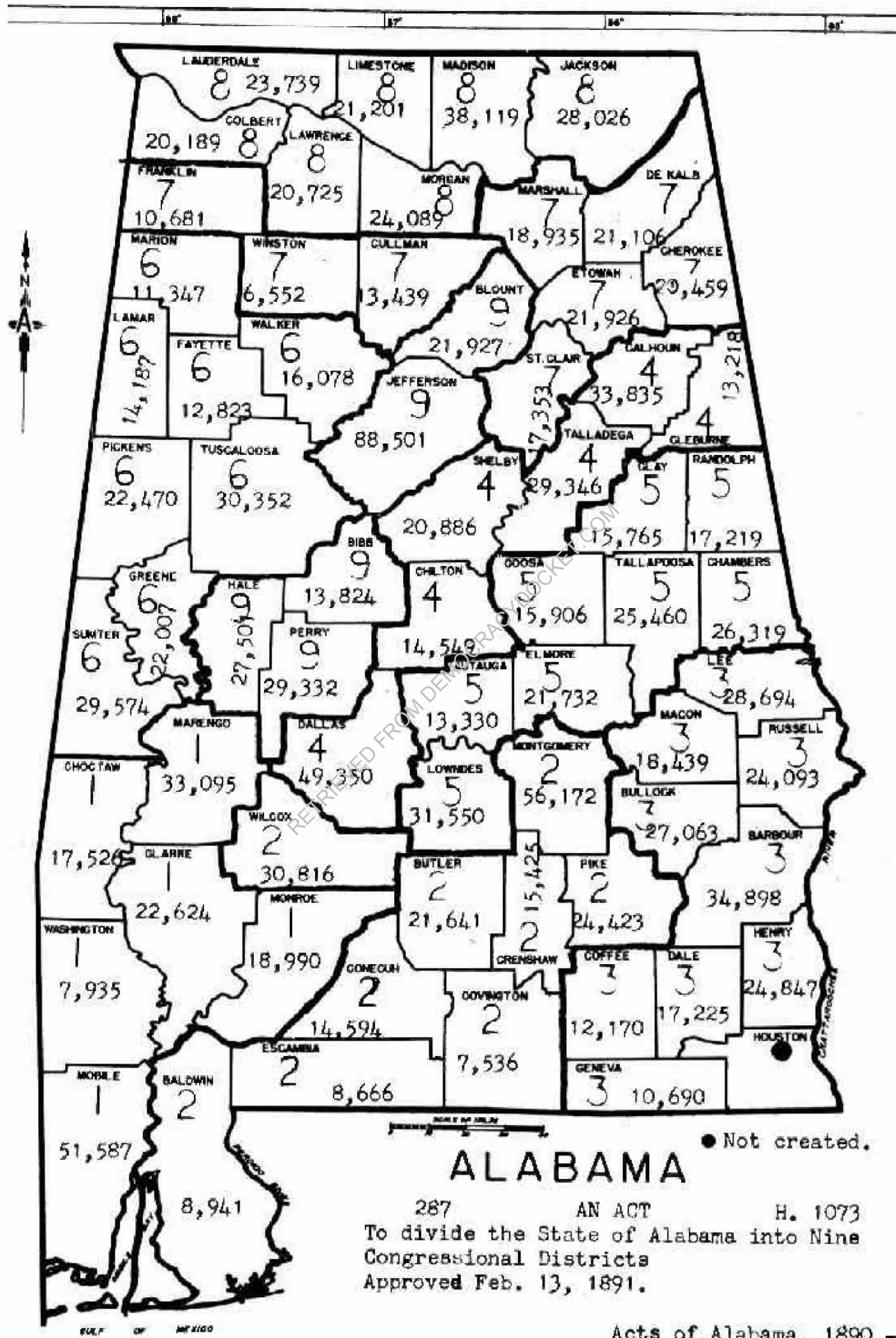
# ALABAMA CONGRESSIONAL DISTRICTS

## FEB. 13, 1891 - FEB. 14, 1901

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CONGRESSIONAL DISTRICTS  
Feb. 13, 1891 - Feb. 14, 1901





*Representation 1819 to 1960* (Montgomery: Walker Printing Co., 1961).

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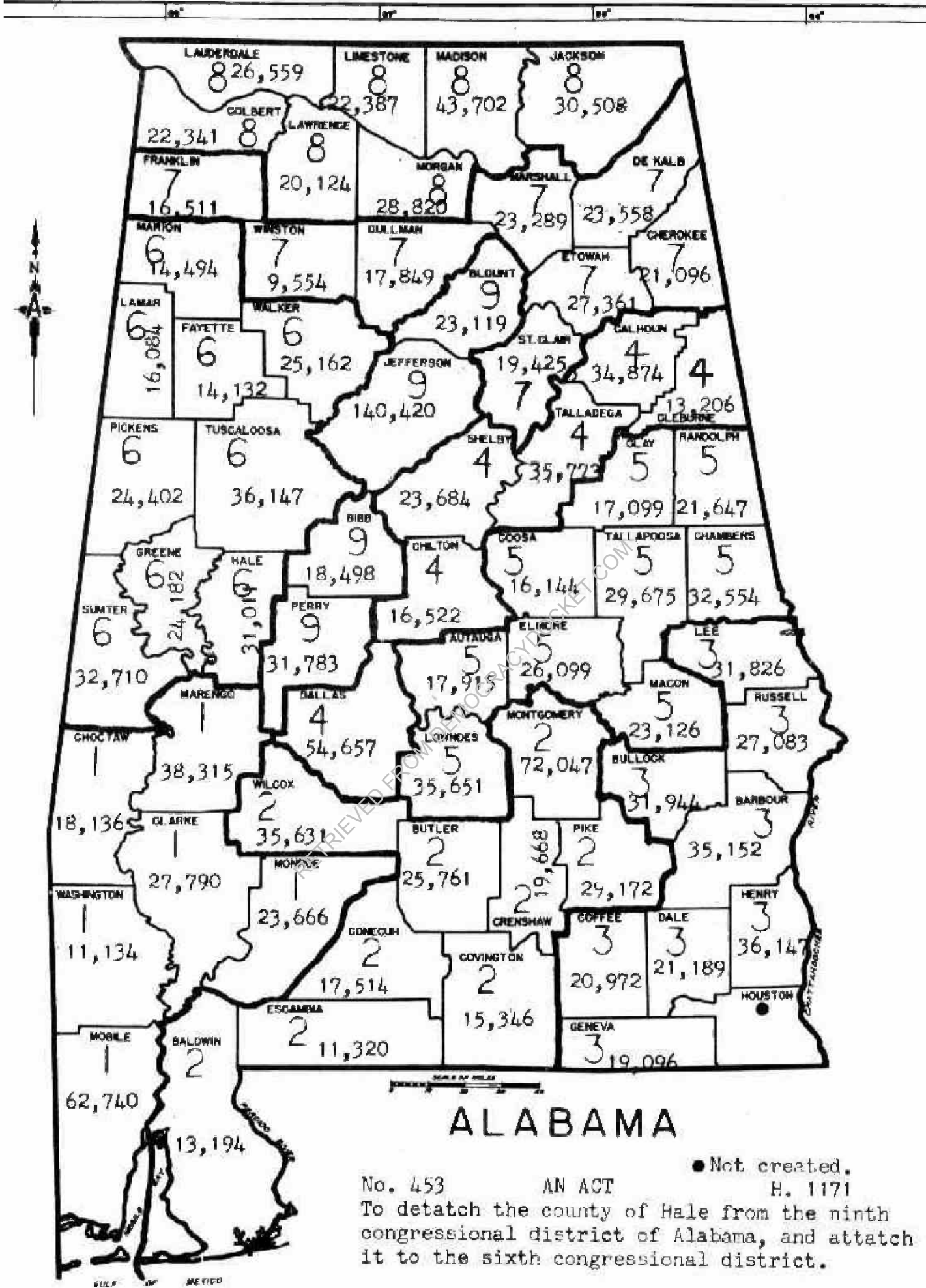
# ALABAMA CONGRESSIONAL DISTRICTS

## FEB. 14, 1901 - MAR. 4, 1917

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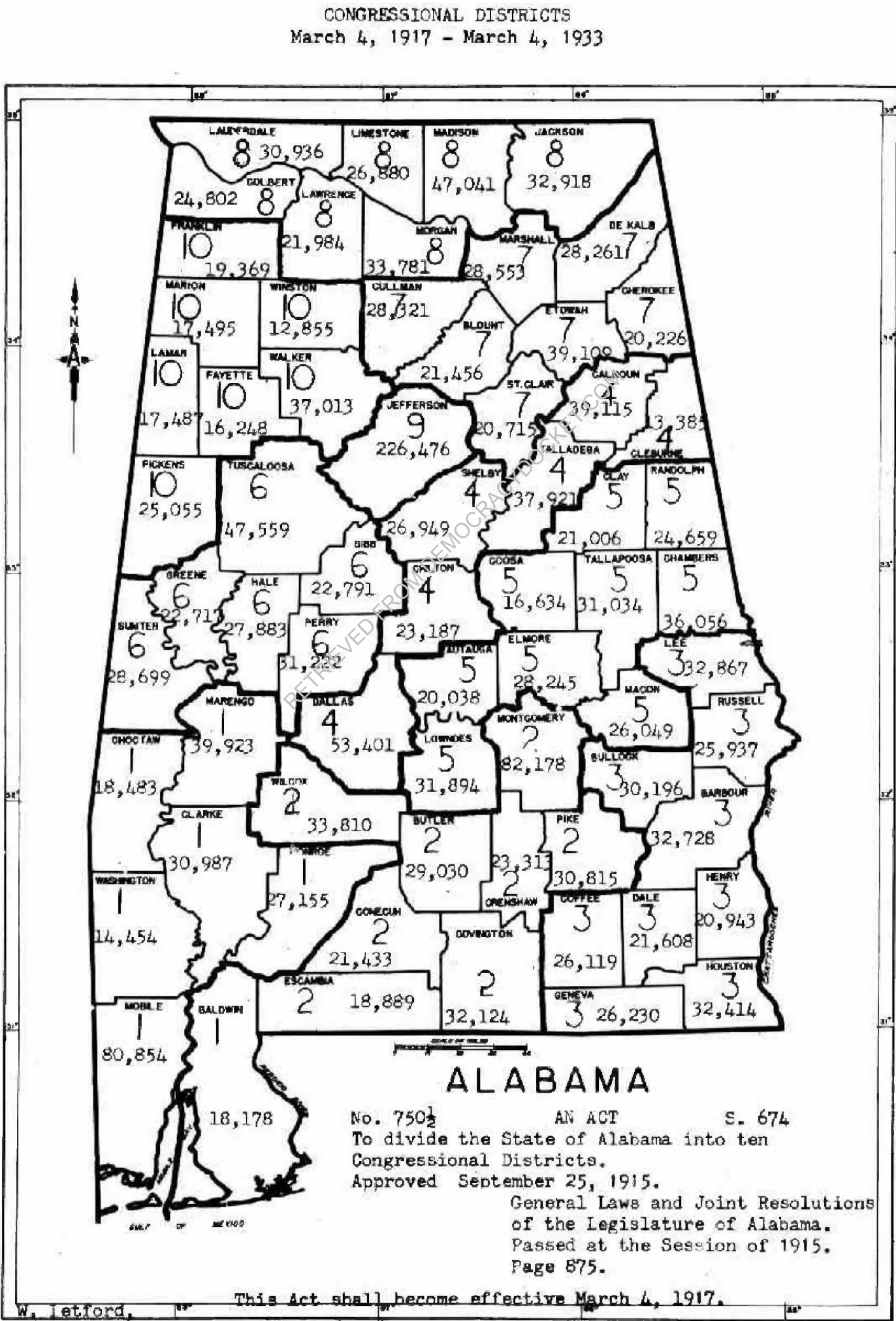
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# ALABAMA CONGRESSIONAL DISTRICTS

## MAR. 4, 1917 - MAR. 4, 1933



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# ALABAMA CONGRESSIONAL DISTRICTS

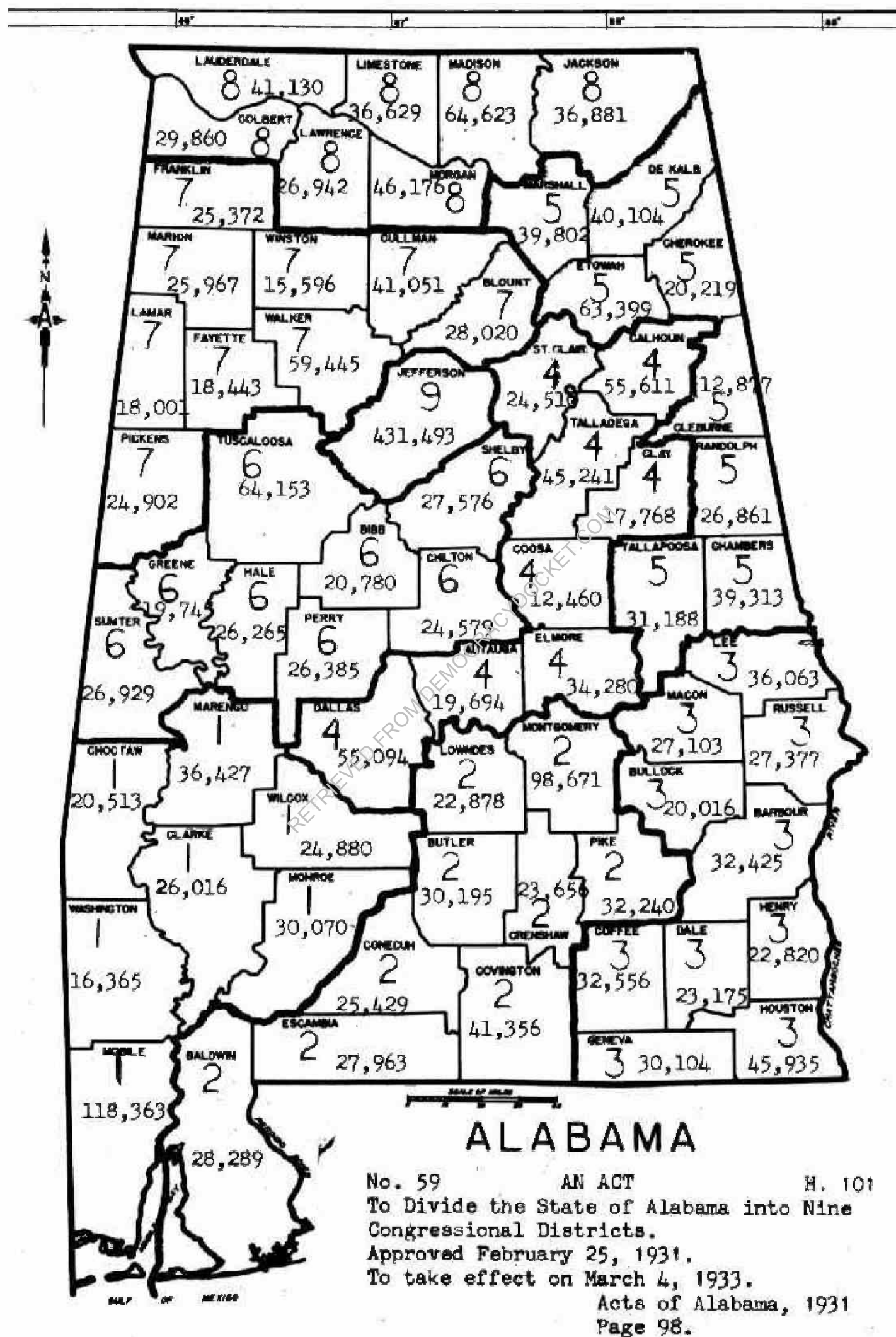
MARCH 4, 1933 -

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CONGRESSIONAL DISTRICTS  
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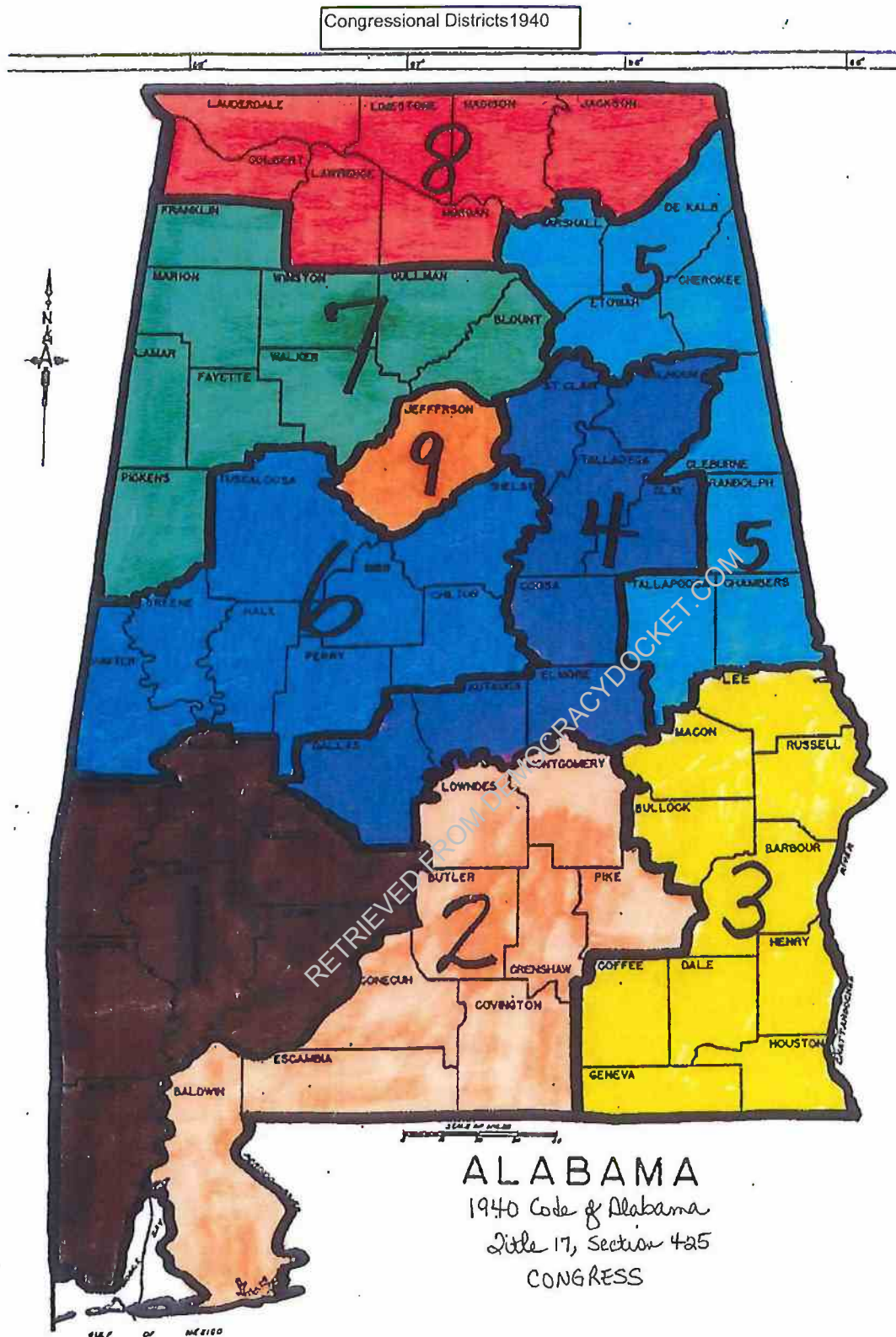
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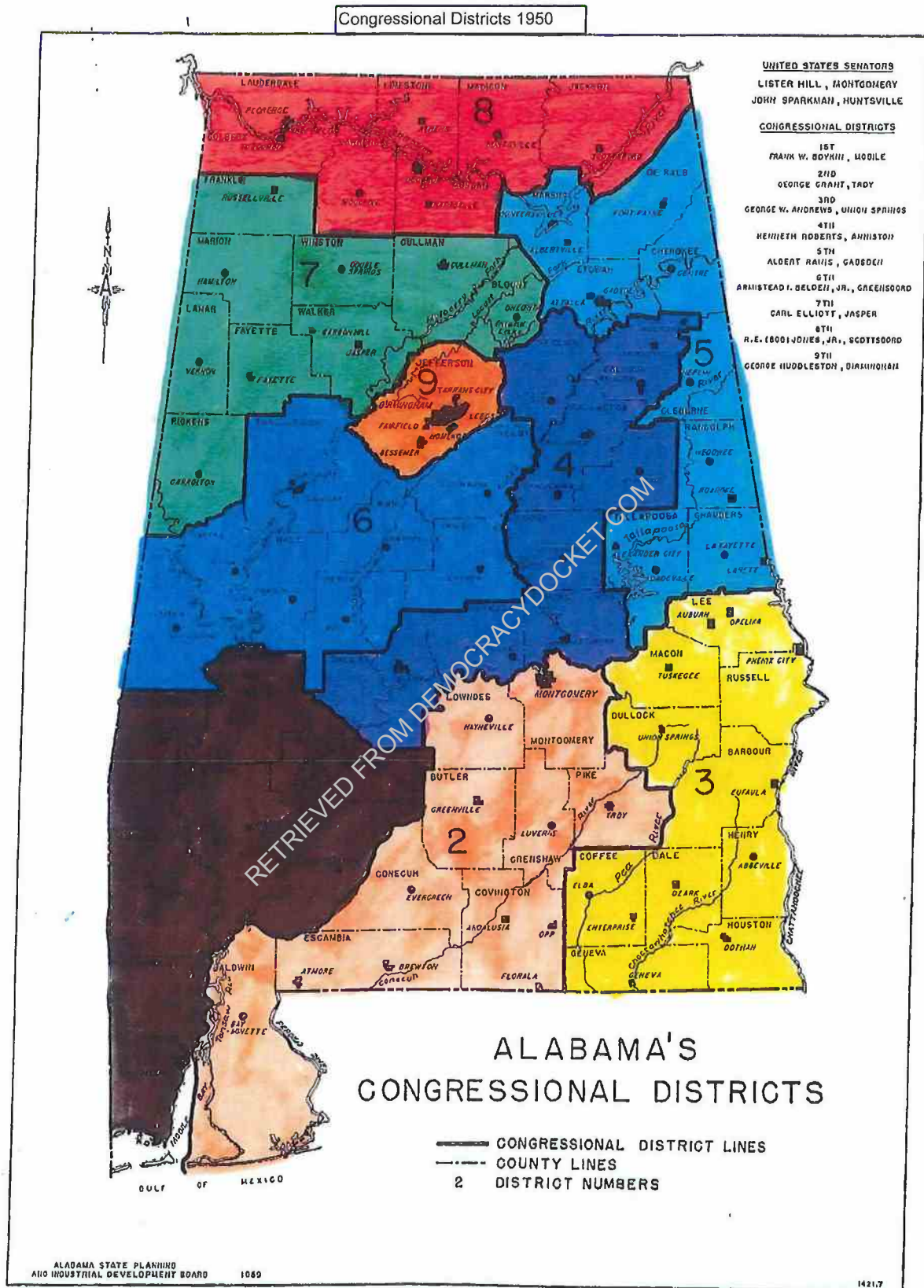


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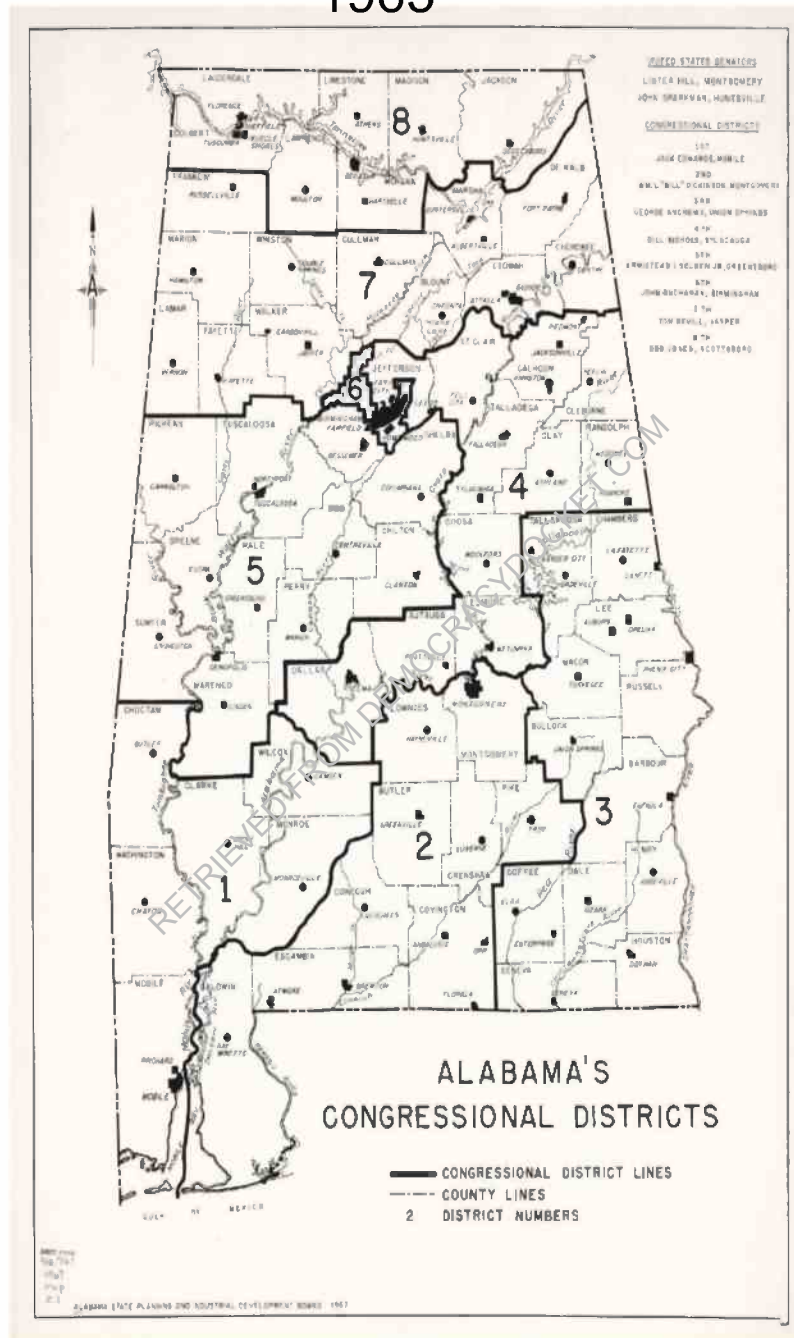


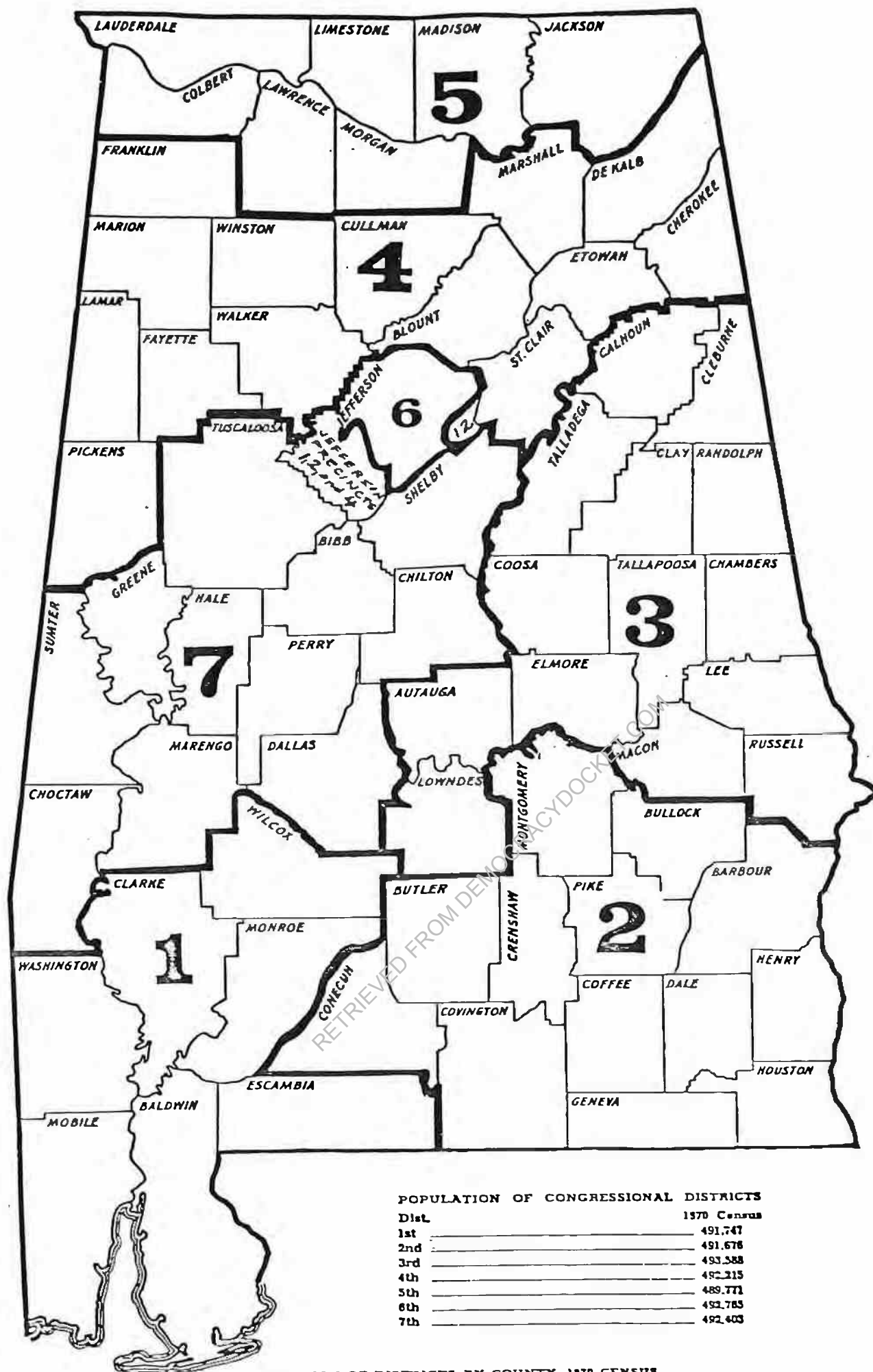






1965





Act No. 120, Third Special Session, 1871, Approved Jan. 19, 1972

1ST DISTRICT	2ND DISTRICT	3RD DISTRICT	4TH DISTRICT	5TH DISTRICT	7TH DISTRICT
Baldwin 59,382	Barbour 22,543	Autauga 24,460	Blount 26,853	Colbert 49,632	Bibb 13,812
Clarke 26,724	Bullock 11,824	Calhoun 103,092	Cherokee 15,608	Jackson 39,303	Chilton 25,180
Escambia 34,907	Butler 22,007	Chambers 36,356	Cullman 52,445	Lauderdale 68,111	Choctaw 18,589
Mobile 317,308	Coffee 34,872	Clay 12,636	DeKalb 41,981	Lawrence 27,281	Dallas 55,298
Monroe 20,883	Concuh 15,645	Cleburne 10,998	Etowah 94,144	Limestone 41,699	Greene 10,650
Washington 16,241	Covington 34,079	Coosa 10,662	Fayette 16,252	Madison 186,540	Hale 15,888
Wilcox 16,303	Crenshaw 13,188	Elmore 33,535	Franklin 23,933	Morgan 77,306	Marengo 23,819
	Dale 52,938	Lee 61,268	Lamar 14,335		Perry 15,388
	Geneva 21,924	Lowndes 12,896	Marion 23,788	Total 489,771	Shelby 38,037
	Henry 13,254	Macon 24,841	Marshall 54,211	Ronnie Flippo,	Sumter 16,974
	Houston 56,574	Randolph 18,331	Pickens 20,326	Congressman,	Tuscaloosa 116,029
	Montgomery 167,790	Russell 45,394	St. Clair 27,936	Florence	Jefferson
	Pike 25,038	Talladega 65,280	Walker 56,248		Precincts
		Tallapoosa 33,840	Winston 18,654		1, 2 & 4 144,741
Total 491,747	Total 491,676	Total 493,588	Jefferson	6TH DISTRICT	Total 492,403
(R) Jack Edwards,	(R) Wm. L. "Bill"	(D) Bill Nichols,	Prec. 13	Jefferson 492,785	(D) Richard C.
Congressman,	Dickinson,	Congressman,	(Leeds) 7,485	(R) Albert Lee	Shelby,
Mobile	Congressman,	Sylacauga	Total 492,215	Spith	Congressman,
	Montgomery		(D) Tom Beville,	Congressman,	Tuscaloosa
			Jasper	Birmingham	



STATE OF ALABAMA  
CONGRESSIONAL DISTRICTS 1980



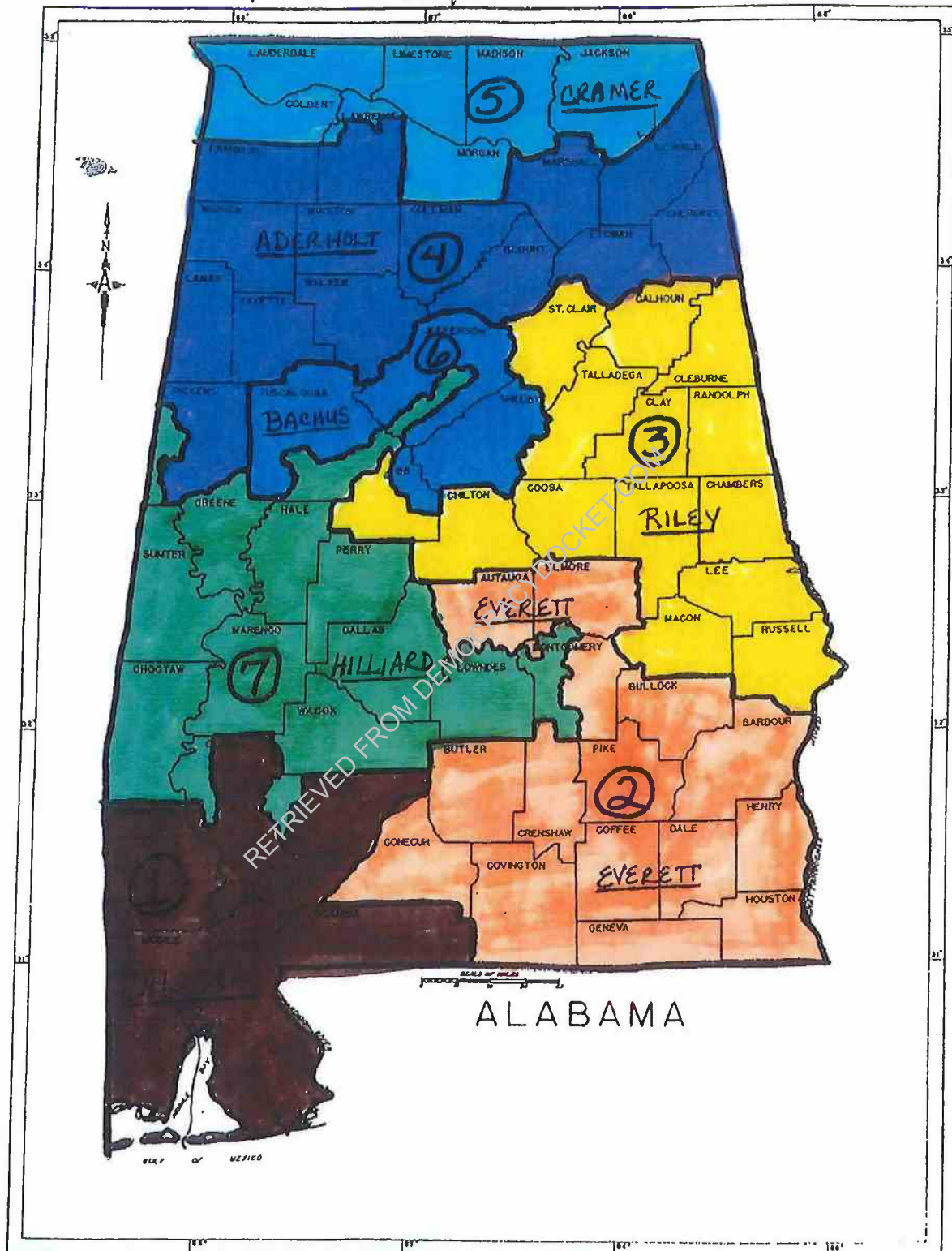
Reapportionment Office  
Alabama State House  
11 South Union, Room 811  
Montgomery, Alabama 36130  
(205) 242-7941

Ad. 81-929

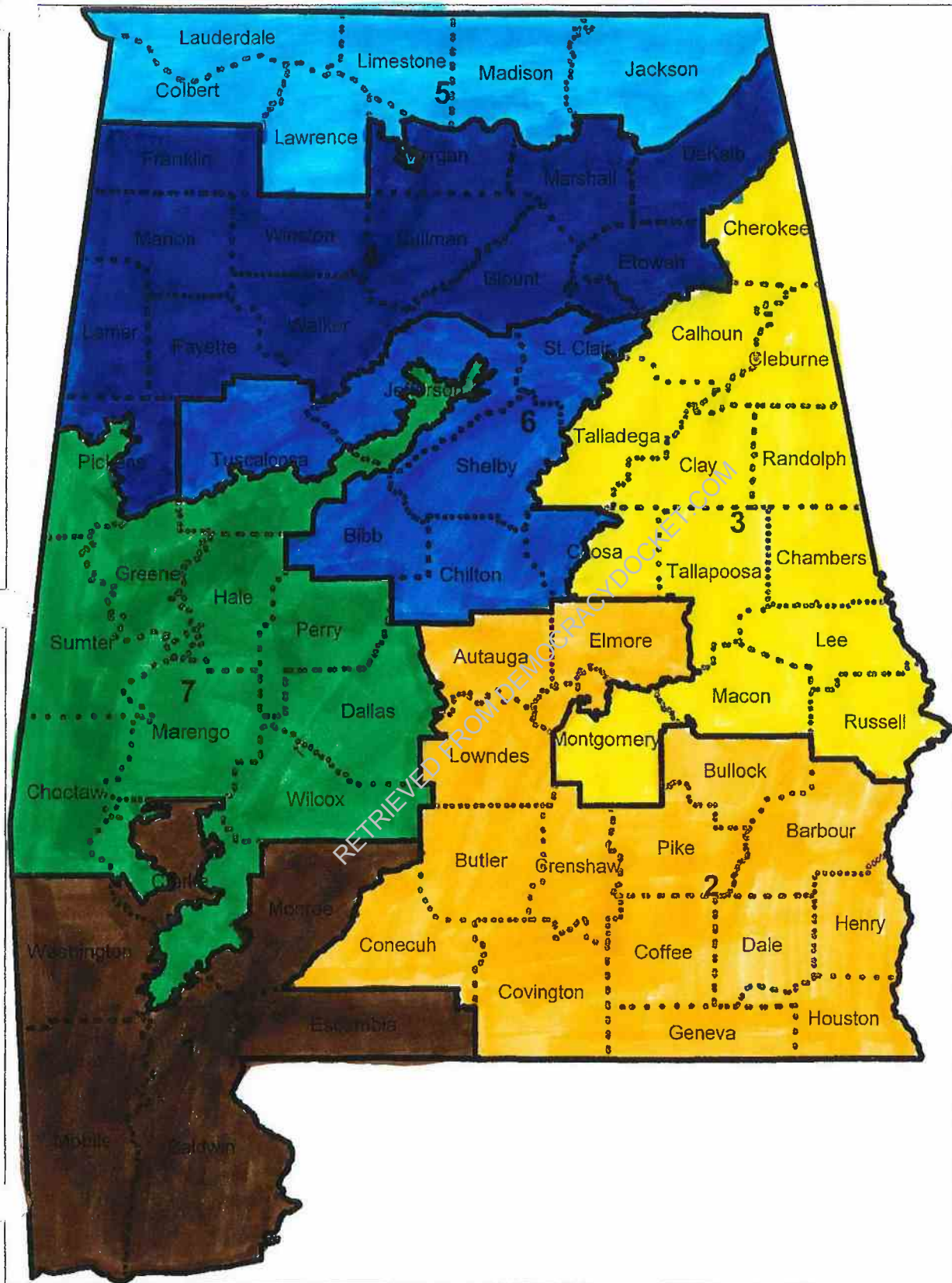




1992 Congressional



## 2002 Congressional Districts



2002 Congressional Districts 1-30-02  
1/31/02 11:32 AM



# 2011 Congressional Districts

