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**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**LEAGUE OF UNITED LATIN  
AMERICAN CITIZENS, et al.,  
Plaintiffs,**

**3:21-CV-00259-DCG-JES-JVB**

**v.**

**1:53 p.m. to 6:02 p.m.**

**GREG ABBOTT, IN HIS OFFICIAL  
CAPACITY AS GOVERNOR OF THE  
STATE OF TEXAS, et al.,  
Defendants.**

**OCTOBER 6, 2025**

**INJUNCTION HEARING  
BEFORE THE HONORABLE DAVID C. GUADERRAMA  
THE HONORABLE JERRY E. SMITH  
AND THE HONORABLE JEFFREY V. BROWN  
AFTERNOON SESSION, DAY 5 OF 9 DAYS**

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Proceedings reported by court reporter. Transcript  
 produced via computer-aided transcription.

Leticia D. Perez  
 525 Magoffin Avenue  
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13:53 1

**PROCEEDINGS**

JUDGE GUADERRAMA: Mr. Dunn, looks like we got it working?

MR. DUNN: Yes, sir. The staff reset the wireless video adapter and that's working now, so I'll resume. Volume 3 where we left off had 40 minutes and two seconds remaining.

JUDGE GUADERRAMA: Thank you, sir.

(Videotaped Trial Deposition of Dr. Murray.)

**RICHARD MURRAY, Ph.D.**

previously duly sworn by the Court Reporter, was examined and testified as follows:

**CONTINUED CROSS-EXAMINATION**

**BY MR. BRYANT:**

Q. We spoke a moment ago about President Trump's express desire, at least purported desire, to have more Republicans from Texas in Congress, which is a -- whatever you think of it, that's a -- you would agree that's a partisan motivation?

MR. BLEDSOE: Object. Mischaracterizes the testimony. That's not what he said.

Go ahead, Doctor.

A. It's more, in my judgment, a personal motivation.

Q. (BY MR. BRYANT) Well, he -- oh, fair enough.

If you were in the Texas Legislature and you heard President Trump's express wish and you wanted to do something at least to try to be responsive to it, would you try to draw

14:03 1 districts that would elect more Republicans to the House of  
2 Representatives?

3 MR. BLEDSOE: Object, calls for speculation.

4 A. It looks like that's exactly what happened.

5 Q. (BY MR. BRYANT) Okay. And so you conclude that exactly  
6 what happened in the Texas Legislature, in the Special Sessions  
7 in 2025, was that the legislators drew the districts to be  
8 responsive to President Trump's reported wish and to elect more  
9 Republicans?

10 MR. THOMPSON: Object to the form of the question, and  
11 also speculation.

12 A. I would agree.

13 Q. (BY MR. BRYANT) Okay. Now, I don't know whether you  
14 looked at the issue of whether or not the Texas Legislature and  
15 the Special Sessions in 2025 made an effort to draw districts,  
16 even in the heavily Hispanic parts of the State, that were more  
17 likely to elect Hispanic Republicans than previously. Did you  
18 take a look at that?

19 A. Not in depth, but I paid some attention, yes.

20 Q. Okay. And do you believe, based on the attention that you  
21 gave, that that was, in fact, one of the motivations of the  
22 Legislature, was to respect -- elect or to draw districts that  
23 would permit the election of more Hispanic Republicans?

24 MR. BLEDSOE: Object to the form of the question.

25 Calls for speculation on the part of the witness.

14:05 1 A. My impression is that was a very secondary consideration,  
2 given that the modifications of districts like Congressman  
3 Cuellar's were far less extensive, and arguably might actually  
4 have improved his opportunity to get reelected. There's no  
5 comparing that to what happened to Cuellar's relatively gentle  
6 treatment by this map, and what happened to, say, Sylvia Garcia  
7 in Houston, or Congressman Veasey in Dallas-Fort Worth, or the  
8 Al Green district.

9 So I think I make a pretty strong distinction between  
10 the Republican remap in the Rio Grande and what happened in the  
11 big metro areas.

12 Q. I understand that you might make that distinction. My  
13 question was simply whether or not you believe it was one of  
14 the considerations in the redistricting in the summer of 2025,  
15 was that Texas Legislature wanted to provide opportunities for  
16 more Hispanic Republicans to be elected to Congress.

17 MR. BLEDSOE: Object to form. Asked and answered.  
18 And, again, calls for speculation.

19 A. I really don't care to opine on that. It was secondary,  
20 and I think in the case of the Brownsville district, that would  
21 be a fair characterization. It wouldn't be with regard to the  
22 28th or the district in between, where there is already an  
23 incumbent Republican. And marginally, because sometimes  
24 redistricters make mistakes, that's one of the areas where this  
25 plan could, potentially, backfire. But I haven't done any in

14:07 1 depth analysis.

2 Q. (BY MR. BRYANT) And when you referred to your answer to  
3 the Brownsville district, is that a Congressional District that  
4 extends from the Brownsville area all the way up to part of  
5 Nueces County?

6 A. Well, it doesn't right now. It's mostly Brownsville, which  
7 is in Cameron County, and over into Hidalgo County. But the  
8 district, you know, dropped the Hidalgo portion and went north  
9 to get the now-needed population in Nueces County,  
10 Corpus Christi.

11 Q. Okay. I guess we may have some ambiguity in using the term  
12 "now," because the plan 2333 has been adopted, so, in a sense,  
13 that's now. But I really don't want to quibble about that. I  
14 just want to be sure we're getting real clear on the record as  
15 to what you're testifying about.

16 Is it correct that the -- what you referred to as the  
17 Brownsville district, under 2333, extends up the Gulf Coast to  
18 part of Nueces County?

19 A. Yes. The larger part of Nueces has now been placed in  
20 district -- the Brownsville district, in contrast to the  
21 existing map.

22 Q. And that is the district that you described as one that you  
23 would agree the Texas Legislature attempted to make it more  
24 easily possible for a Hispanic Republican to be elected to  
25 Congress. Is that right?

14:09 1

A. A Republican.

2

THE REPORTER: Okay, hold on, Doctor. What was that objection, please?

3

4

MR. BLEDSOE: Mischaracterizes his testimony, and it calls for speculation.

5

6

THE REPORTER: Go ahead, Doctor.

7

Q. (BY MR. BRYANT) You can go ahead and answer.

8

A. My answer would be to make it more likely for a candidate supported by a Republican, irrespective of their personal, ethnic or racial identity to win in a district like this.

9

10

Q. Okay. Are you aware that the -- what you referred is to as the Brownsville district is majority Hispanic?

11

12

A. I am.

13

14

Q. Now, are you aware that in the 2024 election, at the presidential level, the Republican candidate earned

15

16

significantly more votes of Hispanics than historically was the case?

17

18

A. Well, in 2004, George W. Bush got almost the same level of support. So this is not an unprecedented performance by

19

20

President Trump. It's certainly better than his performance in 2016. And he improved on his numbers from 2020.

21

22

Q. Is it correct that President Trump received more than

23

24

50 percent of the Hispanic votes for president in Texas in

25

2024?

A. No. He got, in my estimation, probably around 44 percent

14:11 1 of the vote. That's historically, again, comparable to George  
2 W. Bush, but much better than normal Republican presidential  
3 performance.

4 Q. How did you determine that 44 percent number?

5 A. Well, we don't have good exit poll data from Texas. So  
6 everybody is using some combination of post-election analysis  
7 of turnout. I have looked closely at the Harris County data.  
8 In heavily Hispanic, that is defined as at least 75 percent of  
9 the Voting-Age Population, an average of almost 90 percent when  
10 you look at -- Trump got about 56 percent in Hispanic-dominated  
11 precincts. That's up about seven or 8 percent from his  
12 performance in 2020.

13 But the majority of Hispanic precincts voted for  
14 Democratic candidates -- Democratic candidate. And, of course,  
15 Harris was a particularly weak Democrat in Texas. Most local  
16 and Congressional Democratic candidates ran better than Harris,  
17 who was historically, again, a very weak-performing candidate  
18 in Texas.

19 Q. Okay. My question -- and I want to be sure that we were on  
20 the same wavelength about it -- was about the Hispanic vote  
21 statewide, not just Harris County. Did you understand that?

22 A. Yes.

23 Q. Okay. And is it correct that President Trump carried every  
24 county in the Rio Grande Valley in the presidential race in  
25 2024?

14:13 1 A. He carried almost all -- he might have lost a couple of the  
 2 ones not on the Rio Grande, but that are heavily -- of course,  
 3 El Paso was still a decidedly Democratic county. So the most  
 4 populous county on the border remained, by a large margin,  
 5 Democratic. But Republicans did much better, particularly in  
 6 some of the smaller counties, like Starr County, than was the  
 7 case in the bigger urban counties.

8 Q. And my question was about the Rio Grande Valley, not about  
 9 El Paso. But did George W. Bush, in any election, carry every  
 10 county in the Rio Grande Valley for president?

11 A. Not to my recollection, no.

12 Q. And did George W. Bush ever carry Webb County, which has  
 13 Laredo as its county seat?

14 A. I don't believe so.

15 Q. So, to what extent did you take into account in your  
 16 analysis that is reflected in Plaintiffs' Exhibit 2,  
 17 Plaintiffs' Exhibit 6, the fact that the Republican candidate  
 18 for president had received historically high level of votes in  
 19 the 2024 presidential election?

20 A. Well, he ran way behind George W. Bush in two -- total vote  
 21 in 2000 and 2004. Bush got around over 20 percent of the  
 22 engine in Texas. Trump got about 13 percent, up from  
 23 5.6 percent in 2020, but not nearly at the performance level of  
 24 George W. Bush.

25 Q. To what extent did you take into account President Trump's

14:15 1 performance in the 2024 election in your analysis that's in  
 2 Plaintiffs' Exhibit 2 and Plaintiffs' Exhibit 6, if any?

3 A. I was aware of it. I didn't -- wasn't Central to my  
 4 analysis. Congressional voting is, of course, quite different  
 5 than presidential voting.

6 Q. If I understood your testimony in direct -- on direct  
 7 correctly, you express the view, or the opinion, that  
 8 Representative Crenshaw was somehow accommodated in connection  
 9 with the special sessions in the summer of 2025. Is that  
 10 correct?

11 A. That's correct.

12 Q. And what was the source of your information to that effect?

13 A. I noted his unhappiness was reported in the press, that  
 14 particularly the important Kingwood area had been split 50/50  
 15 by the 2308 map, and then, when -- a few days later, a revised  
 16 2333 comes about, Kingwood was back together. And the  
 17 intrusion into Montgomery County, which, electorally, he's not  
 18 as strong as, had been reduced.

19 So it was surprising to see Kingwood split. It had  
 20 not been divided since the community was developed 50 --  
 21 40 years ago. And it surprised the Congressman as well, I  
 22 think. So he got that fixed.

23 Q. Well, you say that, but you haven't spoken to  
 24 Representative Crenshaw or anybody at his staff, have you?

25 A. I have not. Well, it maybe indirectly, because one of my

14:17 1 friends is -- son is a staffer for the -- so I may have had  
2 some second-hand information indirectly through, you know, a  
3 family member of a staffer. But that was not any systematic  
4 effort. That would just be a casual conversation.

5 Q. So is it fair to say that your testimony earlier that you  
6 described, that I summarized as Representative Crenshaw being  
7 accommodated by the Special Session Legislature was from press  
8 reports?

9 A. And by a long-time following of what's going on in  
10 Kingwood. Surprising to see it split. And whether the  
11 Congressman was Ted Poe or Crenshaw, almost certainly from  
12 knowing what I know about politicians, they would raise hell  
13 about this behind the scenes. And that's -- looks like to me  
14 when what happened, you know, it is what one would predict  
15 based on some kind of knowledge about how politicos operate.

16 Q. And what were the press reports that you relied on in your  
17 conclusions?

18 A. A number of Congress members were initially not at all  
19 enthusiastic about the remap to begin. They weren't pushing  
20 for it.

21 Q. My question is, what sources, what press sources, did you  
22 rely on?

23 MR. BLEDSOE: -- the question.

24 THE REPORTER: Okay. Repeat that.

25 MR. BLEDSOE: He stopped him from answering his

14:19 1 question. I realize you can say "nonresponsive" afterwards or  
2 something, but you should not cut the witness off before he's  
3 finished answering.

4 Q. (BY MR. BRYANT) And Dr. Murray, I'm happy for you to go  
5 ahead and say whatever you want to say in response to the  
6 question, but I want to make sure you understood what I asked,  
7 which was what was the source of the press reports you relied  
8 on in coming to your conclusions about Representative Crenshaw  
9 being accommodated?

10 A. In gathering information, like many people, I increasingly  
11 rely upon many online sources that some are, you know, more  
12 tied to traditional sources. But I follow pod casts and other  
13 sources. So we all have a much more diverse universe of  
14 information. And that's true about Texas. So -- and I read  
15 probably 20 different sources a day. You know, I only receive  
16 two newspapers, the Chronicle of Houston, and the New York  
17 Times, but I seek out many other sources, including the Texas  
18 Monthly online, Texas Tribune online, and versus other local  
19 sources that are online that are not print published.

20 Q. Okay. And did you happen to recall any of the sources you  
21 relied on, any of the specific sources you relied on, to  
22 conclude that Representative Crenshaw was accommodated by the  
23 Texas Legislature in the Special Session in the manner in which  
24 you've already testified?

25 A. No specific sources come to mind.

14:21 1 Q. Okay. I believe you testified on direct that you believe  
 2 that one of the districts, at least, in plan C2333 was, quote,  
 3 consistent with racial gerrymandering. Do you recall that  
 4 testimony?

5 A. Which district were you referring to?

6 Q. Well, I'm trying to -- I had hoped you'd tell me, because I  
 7 have it right next to your report. My notes have it next to  
 8 your report on Harris County, but I wondered if you recall  
 9 which district or districts you testified were consistent with  
 10 racial gerrymandering?

11 A. Well, in the Houston metropolitan area, this total  
 12 dismantling of District 9, in my opinion, an obviously Black  
 13 Opportunity District, and the merger of most of its voters into  
 14 18 is intentional discrimination. Here you had two Opportunity  
 15 Districts, one existing for 50 years and the second for 20, and  
 16 they're merged into one district.

17 And the voters in 9, a lot of them were shifted to  
 18 districts -- that ones that didn't go into 18 were shifted to  
 19 districts where they went from having the opportunity to elect,  
 20 to the 35 or 40 percent who were not moved to 18, were put in  
 21 districts where they have zero opportunity to elect a Congress  
 22 member.

23 So in the Houston area, what happened to 9 and 18?

24 Secondarily in Dallas, of course, you had the removal  
 25 of the Congressional District that included most of the Black

14:23 1 population in Tarrant County. That district was entirely moved  
 2 to Dallas County. So we're talking about Congressional  
 3 District 33. It's dismantling -- and again, it had given -- it  
 4 had been an effective district for Black voters having a real  
 5 opportunity to elect a Congress member. And the district  
 6 totally disappears. It's split four ways.

7 So the cracking of 33, the packing in of 9 and 18 are,  
 8 in my judgment, the most obvious examples of an intentional  
 9 effort to dilute the opportunity for Black voters. So those  
 10 are the lead specific cases that I would cite.

11 Q. Did you do any work or study prior to arriving at your  
 12 analyses that are in Plaintiffs' Exhibit 2 and Plaintiffs'  
 13 Exhibit 6 as to whether or not the Congressional Districts in  
 14 Plan C2333 were consistent with a Legislature that proceeded on  
 15 purely partisan motivation to maximize the number of Republican  
 16 districts that released -- districts that had a good chance to  
 17 be -- to elect Republicans to Congress?

18 A. I didn't approach it from that perspective. My perspective  
 19 was, what happens to the Black and Latino voters?

20 Q. Okay.

21 A. And that's --

22 Q. And so you're --

23 A. My starting point is a little bit different.

24 Q. Your expertise and your extensive career are based on  
 25 trying to analyze the racial effects and racial potential

14:26 1 motivation behind various governmental actions. Is that fair?

2 A. I'm less concerned about motivation and concerned about the  
3 effect.

4 Q. Okay. And therefore, you did not consider whether or not  
5 the intention of the Texas Legislature may have been purely  
6 partisan. Is that right?

7 A. I don't think life in most areas falls into purely one  
8 thing or another. Two things can be true simultaneously. You  
9 can be partisanally motivated, but also devastating to the  
10 political opportunity for Black and Latino voters at the same  
11 time.

12 Q. Do you have any reason to believe that the Texas  
13 Legislature, in enacting Plan C2333, was not acting for  
14 partisan purposes?

15 A. Again, that's not where I analyzed this plan. I'm  
16 analyzing it not in terms of the motivation of the map drawers,  
17 but what's the effect on the Black and Hispanic voters in Texas  
18 based on their recent history and success, or lack thereof, in  
19 electing Members of Congress that they prefer.

20 Q. So as you sit here today, is it fair to say that you have  
21 no reason to believe that the motivations of the Legislature in  
22 enacting Plan C2333 were not predominantly or wholly partisan?

23 MR. BLEDSOE: Objection, mischaracterizes --  
24 mischaracterizes the testimony of the witness.

25 A. I don't present myself as an expert on motivations of

14:28 1 political actors. My focus is more on voters and what their  
 2 opportunities are that are more measurable. I find it really  
 3 difficult to figure out what individuals' motivations are.  
 4 They're often complex, and -- but it's easier for me, as a  
 5 political scientist, to look at what happens when we have  
 6 elections. What are the real opportunities for voters aside  
 7 from the motivations of map drawers?

8 Q. (BY MR. BRYANT) I understand your answer. Let me just  
 9 make it as clear as I can.

10 Is it fair to say you don't have any opinions as to  
 11 the motive or intent of the Texas Legislature in enacting  
 12 Plan C2333?

13 MR. BLEDSOE: Objection, [inaudible].

14 A. My response is, given what they had to do in terms of  
 15 dismantling performing districts, they would be incredibly  
 16 insensitive to reality to not realize what they were doing was  
 17 intentionally discriminating against Black and Hispanic voters.  
 18 Maybe they were dense enough that it never occurred to them  
 19 what they were doing. But I don't expect that.

20 Q. (BY MR. BRYANT) Let's talk a little bit about your work on  
 21 Bexar and Travis County.

22 Now, we talked -- you talked in your direct about  
 23 District 35. Do you recall that?

24 A. I do.

25 Q. And that was the district that, turned 2021 map, stretched

14:29 1 from eastern Travis County down to part of Bexar County, right?

2 A. Correct.

3 Q. And the incumbent in that district is Representative  
4 Gregorio Casar. Is that right?

5 A. Yes.

6 Q. And as a result of the redistricting that was done by the  
7 Texas Legislature in the summer of 2025, do you expect that  
8 Representative Casar can be reelected in 2026, in some  
9 district?

10 MR. BLEDSOE: Object to the form. It calls for  
11 speculation on the part of the witness.

12 Q. (BY MR. BRYANT) I don't want you to speculate, but I do  
13 want you to apply your judgment and experience, as you have in  
14 other districts.

15 A. Well, from his public comments, he concluded he could not  
16 get reelected, or did not choose to even run, in the part of  
17 District 35 that was moved to a different district. 35 was  
18 moved entirely out of Travis County, his county of residence.

19 So he moved over to the remaining Democratic-dominated  
20 district, where the incumbent has indicated he will not seek  
21 re-election. But that is not a district that Latino voters  
22 have an opportunity to elect a candidate of their choice. It's  
23 a district dominated by Anglo voters. They may well choose to  
24 elect to replace their incumbent, long-term Congress member,  
25 with the new Congressman, but that re-election, unlike his

14:31 1 election initially in District 35, would not reflect the  
2 opportunity of Latino voters in district, whatever, 37, because  
3 they're not numerous enough to determine the outcome of the  
4 primary or the general election.

5 Q. Okay. If I understand your answer correctly, it's your  
6 understanding that Representative Casar has indicated an  
7 intention to run for re-election in 2026 in the mostly Travis  
8 County district now represented by Representative Lloyd  
9 Doggett. Is that right?

10 A. That's -- yes.

11 Q. And Representative Doggett was publicly expressed his  
12 intention not to run for re-election?

13 MR. BLEDSOE: Objection, mischaracterizes the media  
14 reports.

15 A. What I have read is that Doggett would like to run for  
16 re-election, but not if this map is used in 2026.

17 Q. (BY MR. BRYANT) Okay. In other words, he's announced that  
18 he will not run for re-election if the applicable districts are  
19 those in Plan C2333?

20 A. Yes.

21 Q. And is it likely that if the elections in 2026 proceed  
22 under Plan C2333, that Representative Casar, the Hispanic  
23 Congressman, will be elected to represent Congressional  
24 District 37, which was next door to 35?

25 MR. BLEDSOE: Object. The question calls for

14:33 1 speculation on the part of the witness.

2 A. I don't know who else will run in that district, so it's  
3 very speculative at this point. The electorate that determines  
4 who represents them in Congress in that district is progressive  
5 Whites, and they may swing to the Congressman from the adjacent  
6 district, or they may go with someone else. It's a new, brand  
7 new, situation, particularly with Congressman Doggett  
8 announcing that he would not run if the new boundaries remain  
9 in effect. So it's unknowable at this point.

10 Q. (BY MR. BRYANT) Based on all the 20 or more news sources  
11 that you regularly follow, are you aware of anyone who has  
12 announced or is publicly considering running in that Travis  
13 County-based district that Representative Doggett now  
14 represents who you believe would be a strong competition for  
15 Representative Casar?

16 A. I have no knowledge of such, no.

17 Q. Now, in discussing that Bexar and Travis County district in  
18 your report on direct, you testified about some new counties  
19 being added to Congressional District 35, and one of them that  
20 you referred to, I believe the only one, was Gonzales County.  
21 Do you recall that?

22 A. I think I mentioned Guadalupe, the Seguin area being added  
23 to the 35th, and two other counties. I'm not sure. Wilson,  
24 maybe. I would need to look at the -- my report here. Let's  
25 take... Yeah, Guadalupe, Wilson and Karnes, not Gonzales.

14:35 1

Q. Okay.

2

A. But Guadalupe, Wilson and Karnes were the counties that were shifted into the new 35th.

3

4

Q. Okay. Also in -- when we were discussing the 30th

5

Congressional District and the changes that were made to the

6

30th Congressional District in Plan C2333, you talked about the

7

downtown area of Dallas being taken out of that district. Do

8

you recall that?

9

A. I do.

10

Q. And do you recall that -- discussing the home office of

11

American Airlines in that connection?

12

MR. BLEDSOE: Objection, [inaudible].

13

THE REPORTER: Hold on, Doctor.

14

What was that objection?

15

MR. BLEDSOE: Mischaracterizes the testimony. It's not my recollection.

16

17

THE REPORTER: Go ahead, Doctor.

18

A. I may have been confusing the American Airlines arena. I

19

visited that once with Congresswoman Eddie Bernice Johnson.

20

Very proud of that facility being in her then-district. And

21

from my recollection of the geography, that would have been

22

moved out as part of the general downtown area that was

23

shifted.

24

Q. (BY MR. BRYANT) And so if you said to -- referred to the

25

home office of American Airlines, you were -- you know that's

14:37 1 not in Downtown Dallas?

2 A. Again, I think I was conflating visiting with the previous  
3 incumbent, the facility that was labeled for the airline. But  
4 again, you are correct; I have no specific knowledge of the  
5 home office of American Airlines, other than it's in the DFW  
6 area.

7 Q. If I understood your testimony about the 35th Congressional  
8 District changes between the 2021 map and Plan C 2333, you  
9 indicated that the chances of a -- of Hispanic voters electing  
10 their candidate of choice in that district has been  
11 significantly reduced by Plan C2333. Is that right?

12 A. That's right.

13 Q. And yet your report also says that the Hispanic population  
14 is slightly increased from 51.3 percent, according to the 2020  
15 Census, to 53.7 percent by Plan C2333. Is that also true?

16 A. Yes.

17 Q. If you need to take a second to review your report, that's  
18 fine.

19 A. No, that's consistent with my recollection.

20 Q. Okay. And so is it your -- is it your testimony that the  
21 Texas Legislature, by increasing the Hispanic population of  
22 that district, actually decreased the chances of Hispanic  
23 voters leg their candidate of choice?

24 A. Yes.

25 Q. I think you also have in your report regarding the lower

14:39 1 Rio Grande that in Congressional District 34 the Spanish  
2 Surname registered voter share dropped from 79.3 percent to  
3 64.5 percent in the 2024 general election. Do you believe that  
4 Hispanic voters in that district will not be able to elect  
5 their candidate of choice because of that reduction?  
6 A. They might. But it's less likely than under the  
7 preexisting district, because the addition of Nueces County,  
8 particularly excising the most heavily Latino part, brings in a  
9 large number of Anglo voters that are highly polarized against  
10 the candidate preferred by Hispanic voters. So you got not  
11 just a larger increase in Anglos, but these particular Anglos  
12 in the Corpus area are not generally supportive of the  
13 candidates preferred by Hispanic voters.  
14 Q. So is it your testimony that, even if under Plan C2333,  
15 Congressional District 34 has 64.5 percent of Spanish Surname  
16 registered voters, that there's a significant risk that  
17 Hispanic voters will not be able to elect their candidate of  
18 choice?  
19 A. That's my position, my opinion.  
20 Q. Do you know whether the Republican or the Democratic  
21 candidate for president carried Nueces County in 2024?  
22 A. The Republican candidate carried it. Not by a large  
23 margin, but modest, as I recall.  
24 Q. Dr. Murray, I pass the witness. Thank you very much for  
25 your testimony.

Leticia D. Perez  
525 Magoffin Avenue  
El Paso, Texas 79901

14:42 1

A. Thank you.

2

MR. BLEDSOE: Before I go to redirect, we're 3:00 in

3

the afternoon. I know the court reporter probably needs a

4

break. We want to take -- I know we need to at least have a

5

15-minute break, but do we want to take a longer break? I want

6

to hear from the court reporter and the videographer, too, in

7

terms of where they are, if that's okay.

8

THE VIDEOGRAPHER: I'm good either way.

9

THE REPORTER: 15 minutes is fine. Ten minutes,

10

15 minutes, is fine.

11

MR. BLEDSOE: Okay.

12

THE WITNESS: 15 minutes is fine with me.

13

MR. BLEDSOE: Okay.

14

MR. BRYANT: And me.

15

(Videotaped Deposition Volume 3 concluded.)

16

MR. DUNN: That concludes Volume 3. Volume 4.

17

JUDGE SMITH: Mr. Dunn, what was the date of this

18

testimony?

19

MR. DUNN: I don't have that information, Your Honor.

20

MR. BRYANT: September 29th, this past Monday.

21

JUDGE SMITH: Thank you.

22

MR. DUNN: Shall I continue?

23

JUDGE GUADERRAMA: Yes, sir.

24

(Videotaped Deposition played.)

25

THE VIDEOGRAPHER: All right. We are back on the

14:43 1 record, and the time is 3:16 p.m.

2 **REDIRECT EXAMINATION**

3 **BY MR. BLEDSOE:**

4 Q. Dr. Murray, are the opinions in your reports of both the  
5 August 22nd report, Exhibit 2, and the August 24th report,  
6 Exhibit 6, are those opinions all your opinions?

7 A. Yes.

8 Q. Okay. Did any attorney direct you to provide those  
9 opinions?

10 A. No.

11 Q. And the analysis that you undertook to reach those opinions  
12 or conclusions, were those analyses made completely based upon  
13 your judgment as a professional?

14 A. Yes.

15 Q. The -- the -- you were asked about the issue relating to  
16 opinions, and what I'd like to do that you may or may not have  
17 had in your report -- so if you grab Exhibit Number 2,  
18 Dr. Murray, please, I'd like to go over that with you. I'd  
19 like to look at the first page. And at the very top of the  
20 page, what do you say about the impact on Latino voters in that  
21 first paragraph?

22 A. "This plan, in my opinion, greatly reduces the opportunity  
23 for Hispanic voters in Texas to elect candidates of their  
24 choice. I base my opinion on the following cases."

25 Q. "And greatly reduce the opportunity of Hispanic voters to

14:45 1 elect candidates of choice." Is that evidence of  
2 discrimination?

3 A. In my opinion, yes.

4 Q. Let's turn over to page 2. And look at what you say  
5 "impact of Black voters." Look at that section. You talk  
6 about reducing Opportunity Districts from three to two, and you  
7 say the 9th disappears. And you say the 33rd was realigned.  
8 And then you talk about the reduced influence of Black voters  
9 in the 32nd.

10 Does that indicate, to you, discrimination?

11 MR. BRYANT: Objection, leading.

12 Q. (BY MR. BLEDSOE) How do you interpret the impact on Black  
13 voters in terms of whether or not there is evidence of  
14 discrimination or is not?

15 A. I think it clearly so indicates.

16 Q. Okay. And drop down to the very next one, in reference to  
17 the Ninth District, and go down to the fifth line under that  
18 one. And do you say that -- do you use the intentional  
19 discrimination term there? And do you describe something as  
20 being intentional discrimination in this 822 document?

21 A. Yes. I think the --

22 Q. The -- okay. I'm sorry. Just tell us, Doctor, what that  
23 is that you say is intentional discrimination here, and explain  
24 what's in there.

25 MR. BRYANT: Objection, vague.

14:47 1 A. Well, you know, Texas has used the Congressional District  
2 Number 9, I guess, for 150 years. But more recently, the Ninth  
3 District, as configured by the Legislature about 22 years ago,  
4 applied to a heavily minority area dominated by Black voters in  
5 south Harris County, Fort Bend, and, MO recently, in Brazoria  
6 County.

7 And that number, you know, again, was in existence for  
8 more than two decades. And the number continues, but now it's  
9 a dramatically different district with virtually none of the  
10 voters that, in the last 20 years, have been voting in the  
11 Ninth District, now placed in the new Ninth District.

12 So that doesn't happen accidentally. Usually in  
13 redistricting you keep the numbers pretty consistently with  
14 where they're at when you are not doing so, it's usually very  
15 intentional that you're -- you have some ulterior motive,  
16 rather than giving people the best opportunity to know what  
17 they're doing when they're going to the policy to vote for  
18 Congress.

19 Q. So Doctor, then, when you use this term "intentional  
20 discrimination," to describe what occurred with the 9th  
21 Congressional District, did you do that on your own  
22 determination?

23 A. Yes.

24 Q. Did your lawyer tell you to put that in there?

25 A. No lawyers told me to put that in.

14:48 1 Q. Was that pursuant to the request that was made to you to  
2 analyze C2333?

3 A. You know, my instructions were to generally analyze it in  
4 terms of the impact on Black and Latino voters, particularly in  
5 the Houston and Dallas-Fort Worth areas.

6 Q. And is that part of your general analysis?

7 A. Yes.

8 Q. So now if we take a look at the 18th description that's  
9 right underneath, and go over to the top of page 3. And I want  
10 to ask you to look at the first full sentence on page 3. Take  
11 a look at that sentence and the following sentence, and indicate  
12 to us if you indicate that something in reference to the  
13 reconfiguration of the 18th Congressional District is  
14 intentional discrimination?

15 A. In my judgment, yes.

16 Q. And what do you say in this report is intentional  
17 discrimination about the 18th?

18 MR. BRYANT: Objection. The document speaks for  
19 itself.

20 A. Well, again, for 50 years a well-defined, cohesive Black  
21 community, Acres Homes, has been in the 18th District. And,  
22 you know, that district was removed, along with independence  
23 Heights. But also a bunch of suburban growing areas, and it  
24 shifted into the 29th, which has always been nearby, but  
25 they've never been in. The 29th District was created in 1991,

14:50 1 I believe.

2 But, you know, these voters in these heavily Black  
3 precincts find themselves in a very different environment than  
4 anytime in their at least recent living experience.

5 Q. But, so in reference to your early responses on  
6 cross-examination, it's true, is it not, in looking back at  
7 this document, that you did conclude there was intentional  
8 discrimination against African Americans?

9 A. Yes.

10 MR. BRYANT: Objection, leading.

11 A. Yes, I did.

12 Q. (BY MR. BLEDSOE) Did you?

13 Okay. And so the -- turn over to the next page,  
14 page 4 of 4, and look at the Conclusion, the first paragraph.  
15 Look at the very last sentence in that paragraph. It says --  
16 after it says, "Over 90 percent of that growth has been due to  
17 minority population increases. Despite that fact, 33 would  
18 leave the State with fewer Black and Hispanic Opportunity  
19 Districts than existed 20 years ago."

20 Doctor, is that evidence of intentional  
21 discrimination?

22 A. Objection, leading. Yes.

23 Q. It is?

24 MR. BRYANT: Objection, leading.

25 Q. (BY MR. BLEDSOE) Doctor, you do a lot of questions about

14:52 1 partisanship and what the Governor might have said. Does the  
2 fact that the Governor or the president said is anything about  
3 gaining more seats, does that undermine or cause you to change  
4 your opinion about intentional discrimination that you've given  
5 us today?

6 A. No.

7 Q. And can you explain to us why you stand by your position of  
8 the map being intentionally discriminatory against Blacks and  
9 Browns?

10 A. Because to achieve the president's stated objective of five  
11 more seats from Texas, you have to very deliberately and  
12 aggressively dismantle existing minority districts, where they  
13 clearly had the opportunity to elect candidates of their  
14 choice. You have to split and fragment communities that have  
15 historically been placed in districts that gave them a  
16 meaningful opportunity to elect candidates of their choice.

17 So to carry out the directive, you have to engage in  
18 highly discriminatory actions, to the detriment of Latino and  
19 Black voters. And that's what happened.

20 Q. Are there districts that elect White Democrats that were  
21 not targeted that might have been targeted to achieve new  
22 seats?

23 MR. BRYANT: Objection, vague.

24 A. Yes.

25 Q. [Inaudible] selection of Congressional Districts and the

14:54 1 race of predominant voters and how that selection impacts your  
2 decision about this being intentional discrimination of African  
3 Americans and Latinos?

4 A. Well, you have two districts under the existing plan,  
5 District 7 in Houston, and District 37 in Travis County, that  
6 are dominated by White voters but have elected, lately,  
7 Democrats. Those two Democratic districts were not targeted by  
8 this redraw, as opposed to five districts that have substantial  
9 minority opportunity that were targeted.

10 So two White Democratic districts are passed over, not  
11 substantially changed, but you have huge changes in District 9,  
12 District 18, District 29, District 33 in Dallas, District 32,  
13 where there's significant minority impact.

14 So that's how you get your five new members.

15 Q. The -- so in reference to the -- the -- your testimony  
16 on -- about the racial gerrymandering, [inaudible] on  
17 cross-examination, can you tell us whether or not the -- your  
18 conclusions about those two items would be changed if it -- I  
19 think -- I think public counsel [inaudible] this to you. I  
20 don't know if it was clear. But would the -- top parts  
21 gerrymandering have a right to discriminate against African  
22 Americans and Latinos just because you're going to [inaudible]  
23 gerrymandering?

24 MR. BRYANT: Objection, calls for a legal opinion.

25 A. I'm not a lawyer, so I -- you know, that's for the legal

14:56 1 process to determine, but I'm concerned -- the factual pattern,  
2 in my opinion as a political scientist, indicates intentional  
3 discrimination. And from my understanding, that reaches the  
4 level of denial of Fourteenth Amendment rights to equal  
5 protection of the laws. You're being singled out if you're  
6 Black and Latino voters, as the primary way to deliver these  
7 five new seats. Can't get there without going through this  
8 process in a state where 55 percent of the population, and  
9 about 40 percent of the voting -- voters, are minorities.

10 To gain in a state where you have already 25 seats out  
11 of 38, to get to 30, you have to very aggressively attack  
12 districts where Black and Hispanic voters have historically and  
13 recently been able to elect candidates of their choice. And  
14 that's what this remap does.

15 Q. (BY MR. BLEDSOE) And in reference to Congresswoman  
16 Crockett, who we talked about earlier, is there a difference  
17 between being an incumbent in a district and a person having to  
18 run in a new district?

19 A. Again, incumbency is an enormous advantage in a  
20 Congressional election. Typically, by definition, you won the  
21 district. You've established a connection with voters. If you  
22 sever that connection, you're placed at a significant  
23 disadvantage going forward.

24 Q. And the -- and there's no incumbent in CD33. Is that  
25 correct?

14:58 1

MR. BRYANT: Objection, leading.

2 A. In CD33, I think Veasey is currently the incumbent. But  
 3 he's -- all of his constituency in Tarrant County was removed.  
 4 So, in a sense, you created a realistic vacancy.

5 Q. Doctor, in terms of, when you talk about the short time for  
 6 analysis, does that impact your confidence, the short time that  
 7 occurred to get this together? Does that undermine your  
 8 confidence in the analysis that you undertook?

9 A. No, because I've been working on these Congressional  
 10 Redistricting issues for years. And of course, we've had an  
 11 ongoing litigation with regard to the 2021 Redistricting and  
 12 the basic patterns of voting in Texas, historically and  
 13 recently, I'm familiar with. So I'm not starting de novo here.  
 14 I brought a lot of contextual knowledge to analyzing these new  
 15 maps.

16 Q. In looking at Exhibit 6, the August 24th opinion, and  
 17 Exhibit 2, the August 22nd opinion, can you tell me, Doctor,  
 18 if -- if there was any -- any different -- any of the opinions  
 19 from the A-22 report were changed in the A-24 report?

20 A. No.

21 Q. Okay. So how would you describe how the A-24 report  
 22 compares to the A-22 report?

23 A. Well, I added more time to do some investigation. And also  
 24 to, you know, think more about some of the issues raised. So,  
 25 as is often when you're revising drafts, you know, you're

15:01 1 moving forward using new information and further consideration  
 2 of the issues.

3 Q. In terms of the 18th Congressional District, the -- will  
 4 the -- or the persons who are voting in the 18th Congressional  
 5 District decidedly different, those who are voting in the  
 6 upcoming election this November, are they decidedly different  
 7 from the voters who will be voting in the election next year if  
 8 this map goes into effect?

9 A. Yes. The new 18th that's proposed here does not include  
 10 the majority of voters who are voting on November four in the  
 11 first round to fill the vacant seat. So those voters,  
 12 particularly after an intensive campaign and a lot of effort,  
 13 are going to say, "Oh, suddenly this is not relevant. I don't  
 14 live in this district anymore. I'm in a district, you know,  
 15 previously represented by one of three different Congress  
 16 members, most importantly Sylvia Garcia."

17 Q. So does that open up the --

18 MR. BRYANT: Objection, nonresponsive. Narrative  
 19 answer.

20 Q. (BY MR. BLEDSOE) Does that -- does the fact that the  
 21 18th -- that there's a difference in the voters in the 18th  
 22 currently and those that are proposed in C2333, does that  
 23 indeed -- does that have any impact on whether or not there  
 24 might be an incumbent opponent against Congressman green in an  
 25 election next year should he file for re-election?

15:03 1 A. Well, when this very drawn-out-process finally ends,  
2 somebody will be elected to finish up the last months of the  
3 term that Sylvester Turner originally won back in November of  
4 2024. But we won't know that for months.

5 Meantime, filing, if things go according to the  
6 regular schedule, people have to file in, you know -- what --  
7 early November, or at the latest December, before we know the  
8 results of the 20- -- the 18th District. So it creates, you  
9 know, an almost unprecedented situation. The early filing and  
10 closure, early primary, no incumbent for nearly a year in the  
11 existing 18th District.

12 And you know, inadvertently from the perspective of  
13 Congressman Green, if he chooses to run, although he is not  
14 technically the incumbent in the 18th District, for voters who  
15 are being represented now, he is their incumbent Congressman  
16 and they'll now find themselves in a numbered district. So  
17 it's an unprecedented situation. In my view, very unfair to  
18 voters, most of whom are Black and Latino.

19 Q. And so in reference to the 18th Congressional District and  
20 any election under C2333, is there a real possibility that, if  
21 Congressman Green decided to file there, that he would be  
22 running against someone who would be the incumbent in the 18th  
23 Congressional District?

24 A. That's a very likely situation. Possible. I mean, who  
25 knows? There are a dozen people running now for the seat, so

15:04 1 many that nobody, in my opinion, can win on November 4th. So,  
 2 you know, you've got this situation where you have to file, in  
 3 effect, on the calm. You don't know, you know -- we don't know  
 4 who the, quote, winner of this bobtail term is going to be.

5 Meantime, the regular election process is moving  
 6 forward at a very fast pace, keeping in mind that the effective  
 7 election is the March Democratic primary, which is now only,  
 8 you know, only six months away.

9 Q. Now, Doctor, in terms of the database that you use, did you  
 10 use the same databases when you did your -- when you -- your  
 11 report back in 2022 that was just involved in a previous  
 12 litigation tried earlier this year?

13 A. Yes.

14 Q. And the -- the State had indicated you were not one of the  
 15 experts that they needed additional information from, but if  
 16 you needed to share that information with the State about those  
 17 databases, would you be able to do that?

18 A. I don't remember specifically.

19 Q. I'm saying could you do that if --

20 A. Oh, yes. If requested, of course.

21 Q. The -- the -- in the Dhillon letter, the Dhillon letter,  
 22 does the Dhillon letter suggest changes for 9, 18, 32, and 33?

23 MR. BRYANT: Objection. The document speaks for  
 24 itself.

25 A. Yes.

15:07 1 Q. (BY MR. BLEDSOE) Okay. And did the ultimate plan that was  
2 adopted show substantial changes to those districts?

3 A. Huge changes in every case.

4 Q. And it's true -- or, well let me ask you this, Doctor. In  
5 terms of the actual opinion on intentional discrimination, do  
6 you stand by your opinions that you gave earlier today about  
7 the map and intentionally discriminating against African  
8 Americans?

9 A. I do.

10 Q. Okay. And does any reticence that you have to give an  
11 opinion about partisan motivations, does that undermine your  
12 opinion in any way?

13 A. No.

14 Q. And is it necessary for you to even have that analysis in  
15 order to reach such a conclusion and render such an opinion?

16 A. From my perspective, no. I'm focused on effects, not the  
17 purported intentions.

18 Q. And I will pass the witness.

19 MR. BRYANT: Thank you. Just a few more questions,  
20 Dr. Murray, and then we can call it a day.

21 **RE-CROSS-EXAMINATION**

22 **BY MR. BRYANT:**

23 Q. I believe that you testified on redirect that these  
24 significant changes that you perceive were made in some Texas  
25 districts by Plan C2333 were so significant that they indicate

15:09 1 to you some ulterior motive. Is that right?

2 A. They indicate to me a very sophisticated, deliberate effort  
3 to reduce the political opportunity for Latino and Black  
4 voters. I would -- that would be how I would characterize it.

5 Q. I think you testified earlier that it indicated to you that  
6 the significance of the changes, the size of the changes, was  
7 such that it indicated that the people who made them had an  
8 ulterior motive. Did you use that phrase?

9 A. Perhaps more eloquently, I -- should have said to do what  
10 they were trying to do, you had to dismantle. And that had to  
11 be intentional. These aren't people that just got -- fell off  
12 a turnip truck. You had to dismantle these performing  
13 districts for Blacks and Latinos.

14 They may well have, in some sense, thought, be nice if  
15 we could do this without doing this, but you can't in Texas.  
16 You already had in place a map that had been drawn by these  
17 same legislators, mostly, that protected White and Republican  
18 voting interests. In Texas, 25 out of 38 seats ain't bad in a  
19 state where your normal share of the two party vote is about  
20 55 percent.

21 So they were handed a tough problem and the only way  
22 they could solve it and find five more seats was to go very  
23 aggressively after these districts that had given Black and  
24 Latino voters, very recently, the opportunity to elect  
25 candidates of their choice. You had to.

15:11 1 Q. Okay. And if -- and when you say that --

2 MR. BLEDSOE: [inaudible], David.

3 Q. (BY MR. BRYANT) Yeah. Have you finished your answer?

4 A. I finished. I finished.

5 Q. Okay. So you said in that answer that they were given a  
6 tough problem, and I assume that the "they" that you're  
7 referring to the Texas Legislature, right?

8 A. That's correct.

9 Q. And what was the tough problem that they were given?

10 A. The problem is many of them had already gone through this  
11 process four years ago and had drawn an effective defensive map  
12 to protect the Republican advantage in the Congressional  
13 delegation.

14 Now they're faced, four years later, with a state that  
15 has added more than 2 million people, almost none of them net  
16 gain being Anglo. So almost all this growth is minority.

17 That you're asked to find five more seats. And you  
18 only have 13 to work with, since you've got the other 25.  
19 Well, the great majority of those seats have very substantial  
20 Black and Latino populations. So if you're going to get five  
21 out of that 13 and you take off the table the two districts  
22 where progressive Anglos are electing Democrats, you now have  
23 to find five out of 11. And that requires radical surgery.

24 You've got to get rid of a bunch of those people who  
25 vote who are persons of color. And that's what this map does,

15:12 1 it seems to me, in the bottom line. And you do it by the  
 2 traditional, long standing practice, pack as many as you can in  
 3 two or three districts, and crack the rest. More packing here  
 4 than cracking.

5 But, you know, that means you've got to take districts  
 6 way out of Dallas, Fort Worth and Houston to the boundaries of  
 7 Louisiana or, you know, Oklahoma, to defeat the opportunity for  
 8 Black and Latino voters in these major metropolitan areas.

9 Q. Okay. So, if I understood your answer correctly, the  
 10 problem that you believe the Legislature had that was a tough  
 11 problem was the -- was problem of getting five more Republican  
 12 seats in the U.S. Congress from Texas. Is that right?

13 MR. BLEDSOE: I object. That mischaracterizes his  
 14 testimony. Not what he said. A lot more than that.

15 A. Well, you've got to protect the 25 existing members but  
 16 find an additional five. And of the 13 seats that are  
 17 available, 11 of those are very heavily minority. So you've  
 18 got to do something to those minority voters that diminishes  
 19 their opportunity to keep doing what they've been doing. That  
 20 is, electing candidates of their choice lately who haven't been  
 21 Republicans. So -- so it's a tough problem.

22 Q. (BY MR. BRYANT) So is it fair to say that, in your view,  
 23 it was an inevitable by product of trying to get five more  
 24 Republican Congressional seats, that you would have to make  
 25 some big changes to existing districts that included very

15:14 1 significant minority populations?

2 A. Absolutely.

3 MR. BLEDSOE: [Inaudible] testimony.

4 Q. (BY MR. BRYANT) And in your previous answer, you said  
5 something about take off the Table 2 districts that elected  
6 progressive Democrats. Do you believe that?

7 A. I do.

8 MR. BLEDSOE: Objection, [inaudible] testimony.

9 Q. (BY MR. BRYANT) Who, if anyone, took off the table the  
10 possibility of changing the two districts that elect  
11 progressive Democrats in trying to achieve the goals of the  
12 2025 Texas Legislature?

13 MR. BLEDSOE: Again, mischaracterizes his testimony.

14 A. I didn't understand the first part of your question.

15 Q. (BY MR. BRYANT) Okay. I understood in your previous  
16 answer that you were saying taking off -- taking off the  
17 Table 2 districts where progressive Democrats, Anglo Democrats,  
18 were elected, that you then had to make big changes in  
19 minority-heavy districts. Is that right?

20 A. That's correct.

21 Q. And my question is whether you know of anybody who said, in  
22 achieving -- trying to achieve the goal of five more Republican  
23 seats, you have to take off the Table 2 districts that have  
24 elected Anglo Democrats.

25 A. I don't know what anybody said. People say all kinds of

15:16 1 things. But the fact is, those two districts were  
2 substantially unaltered, and, in fact, in Houston, the Seventh  
3 district was made safer for the White incumbent.  
4 Q. And isn't it true that the other districts you're referring  
5 to is the 37?  
6 A. That's correct.  
7 Q. And isn't it likely that it's going to end up electing a  
8 Hispanic candidate, Gregorio Casar, to that district?  
9 MR. BLEDSOE: Objection, form.  
10 A. Whoever is elected will be the choice fundamentally of  
11 White progressive voters. They may well elect a White  
12 progressive or Mr. Casar. You know, that's their -- but  
13 they're making the effective choice, not Latino voters, not  
14 Black voters.  
15 Q. (BY MR. BRYANT) But again, you can't, today, suggest any  
16 Anglo Democrat who is likely to get elected in District 37, can  
17 you?  
18 A. As of today, I don't know who's likely to run or not run.  
19 So no, I cannot.  
20 MR. BRYANT: Okay. I pass the witness. Thank you  
21 very much.  
22 MR. BLEDSOE: No -- no further questions here, doc.  
23 Thank you very much. Appreciate your time, of the court  
24 reporter, the videographer, thank you guys.  
25 (Videotaped Deposition concluded.)

15:17 1 MR. DUNN: That concludes the deposition.

2 JUDGE GUADERRAMA: I'm sorry, Mr. Dunn. Plaintiffs  
3 are resting now. Is that --

4 MR. DUNN: I think some people need to talk about  
5 exhibits, but --

6 JUDGE GUADERRAMA: All right. So Mr. Fox, you have  
7 something about exhibits?

8 JUDGE SMITH: First, could we just talk about what we  
9 just heard, the testimony from Dr. Murray? I'm sorry. I'm  
10 trying to figure out what's going on here that, so everybody  
11 please help me.

12 It's kind of an unusual sequence. I'm not a trial  
13 judge. Maybe this happens all the time, but I'm trying to  
14 figure it out, so help me. And this is what I know, or what I  
15 recall. But I hope both sides will feel free to correct me or  
16 fill in the blanks.

17 So Dr. Murray was asked to provide a report, and he  
18 sent -- he provided a report dated July 22nd, which was  
19 Exhibit 2 that we heard about?

20 JUDGE BROWN: August.

21 JUDGE SMITH: Excuse me, August 22nd, and apparently  
22 that was sent to Defendants, or received by Defendants, on  
23 August 26th.

24 But in the mean -- that's what the transcript says.  
25 I'm just -- well, let me finish. And in the meantime, there

15:19 1 was a document dated August 24th that sometimes is called --  
2 it's called a report. The first one is called a draft  
3 sometimes and a report at other times.

4 And when this testimony began that we started watching  
5 on Saturday, it appears that there was some degree of  
6 confusion, or maybe I was just the only one who was confused,  
7 about maybe the lawyers had one version, the August 22nd  
8 version, and maybe Dr. Murray had the August 26 version, or  
9 maybe it was the other way around.

10 And I'm not sure what was provided to the Defendants  
11 and when anything was provided to Defendants, and I'm not sure  
12 what's the operative report from Dr. Murray, or maybe it was  
13 both.

14 And then I'm also remembering, from what happened on  
15 Saturday, that when there was obviously a difference between  
16 August -- Exhibit 2 and Exhibit 6, that Dr. Murray was asked  
17 about that and he said, "Well, yes, I may have made some typo  
18 changes, and maybe some word changes," and that was it.

19 And then the transcript goes on for at least, by my  
20 count, 24 pages, going through the changes that occurred that  
21 are evident on their face between August 22nd and August 24th,  
22 including, it appears to me, some major changes, including the  
23 whole question of intentional discrimination. Dr. Murray said  
24 he was never -- and I can read from the transcript, but that he  
25 was never asked to opine on intentional discrimination.

15:21 1 He also said that, after the -- he issued the  
2 August 22nd draft, or report, that he consulted with  
3 Mr. Bledsoe and then, presumably, that caused the change for  
4 the August 24th version.

5 So I'm just trying to figure out what happened. I  
6 mean, Dr. Murray's a pretty sharp guy, and I don't quite  
7 understand how it occurred that he writes a report and then  
8 talks to Mr. Bledsoe and then revises the report in ways that  
9 are not only substantial but critical to the ultimate question  
10 in the litigation without having remembered any of that that  
11 occurred, by my count, off the top of my head, five weeks  
12 before he testified on September 29th.

13 Now again, I mean, I can -- you know, I can read from  
14 any of his transcripts if anyone -- if there's any disparity in  
15 what went on, and we can go through all the details of all the  
16 changes that were made. But I'll stop there for now and see  
17 whether either or both sides can clear at least me up. And if  
18 I'm hopelessly confused or don't understand, again, feel free  
19 to tell me that that's the case.

20 JUDGE BROWN: I am a trial judge and it seemed a  
21 little odd to me, too, the way that all came down, for what  
22 it's worth.

23 MR. KERCHER: In light of the fact, Your Honor, that  
24 there is Mr. Bledsoe's witness, I'll let him answer first and  
25 then the State will respond.

15:23 1 MR. BLEDSOE: Thank you, Your Honor. I think  
2 Your Honor has analyzed it pretty accurately. What actually  
3 happened was this. The report on the 22nd was submitted, along  
4 with the filing on the 26th. The report on the 24th is clearly  
5 a better report.

6 I have -- Dr. Murray, I did ask him if there were any  
7 changes of opinions and that we just saw here. So no opinions  
8 changed.

9 What happened was that he had more examples, or more  
10 reasoning, to reach the same conclusions. And so I looked  
11 through it in depth. I've had co-counsel look at it. I've  
12 even gone AI. And everything is the same. And so what we did  
13 here, Your Honor, was, we tendered the one on the 22nd and the  
14 one on the 24th so the Court can see it, but we're -- but if  
15 allowed, we're perfectly willing to go forth with the one on  
16 the 22nd because there are no problems with what's in the -- in  
17 the report on the 22nd.

18 What I did on redirect, Your Honor, was, there was a  
19 question in reference to whether or not you ever came to any  
20 conclusions of intentional discrimination in your 8-22 report?  
21 And Dr. Murray, I think, mistakenly indicated that there was  
22 not.

23 So I went through the report with him. There were  
24 three expressed references of intentional discrimination and  
25 two more that he said were evidentiary towards intentional

15:25 1 discrimination to make it clear that it wasn't something that  
2 happened between the 22nd and the 24th.

3 But if one looks at the report, you can see that the  
4 one on the 24th is better. It doesn't undermine our claims at  
5 all. So, clearly, that had to be a mistake. In fact, if  
6 you -- and so what I think happened, Your Honor, is that,  
7 inadvertently, that one on the 22nd was filed. But I did  
8 not -- you can tell by my questioning during this, that I was  
9 not aware of the 24th report, or hadn't gone over it.

10 So I was operating at the 22nd report was the actual  
11 report. But there is no substantive difference between them at  
12 all. They're 100 percent consistent. And I went through each  
13 one of the issues. The first one was what it said in reference  
14 to Hispanic voters. It's the same.

15 Then I went through the assessment in reference to  
16 what it said about Black voters. And it came out to be the  
17 same. Then I went through the changes in the different areas,  
18 Houston, Dallas, and Bexar. They were the same.

19 So those changes were elucidating, informative, and  
20 all that. But if you notice, if you look at what he was saying  
21 that he added, none of that was inconsistent with, or  
22 conflicted with, anything that was said in the first report.

23 So we think that the report -- but we will say this,  
24 that we think that, indeed, the State had an opportunity to  
25 review the second report. They did examine him more on the

15:27 1 second report than on the first report. So we don't think  
2 there was any -- there was no surprise and nothing was done  
3 intentionally in regards to that.

4 But Dr. Murray's report, we think, clearly supports  
5 the opinions that he -- that he uttered. But the logistics  
6 were the 22nd, the 24th. And the 26th, if you recall, that was  
7 the filing day. And so that was the day that we filed to try  
8 to make sure that we had our motion filed before the  
9 August 27th hearing. So that's the day that it was filed, on  
10 the 26th, to make sure that that would be there on that date.

11 But I don't think there's any surprise in it,  
12 Your Honor, at all. And the conclusions are all well reasoned.  
13 They're very similar. And I would encourage Your Honor to look  
14 at those because you won't see any substantive differences.

15 JUDGE SMITH: So Dr. Murray did say that he had  
16 consulted with you, presumably between the August 22nd and the  
17 August 24th writings. I mean, it doesn't make sense to me that  
18 he would have consulted with you about typos.

19 So I mean, did you -- did you suggest to him that he  
20 make these -- these changes, these many changes that are 24  
21 pages worth of transcript?

22 MR. BLEDSOE: I'm pretty sure that Dr. Murray would  
23 always say what he recalled. And if Dr. Murray recalls that we  
24 talked in that time period, then we probably talked in that  
25 time period.

15:29 1 But what he said was he didn't take my instruction  
 2 from anything. I would never venture to tell Dr. Murray what  
 3 opinion to reach. He's got much more integrity than that, and  
 4 he's got to defend them on the stand.

5 But, Your Honor, what I would also say is let's go  
 6 back to what I said earlier. If you look at what was in the  
 7 August 22nd report, it's consistent with the August 24th. So  
 8 there was nothing for me to have him to add. He just better  
 9 reasoned. So if I said anything, it must have been to add more  
 10 reasoning, support. But --

11 JUDGE SMITH: Well --

12 MR. BLEDSOE: There was not additional reasoning in  
 13 there.

14 JUDGE SMITH: Let's take a look at what he testified  
 15 to last Monday, the 29th.

16 MR. BLEDSOE: Okay.

17 JUDGE GUADERRAMA: And is it true that in the  
 18 August 22nd draft, which was provided to the Defendants on  
 19 August 26th, you expressed no opinions about whether or not the  
 20 C2333 map was or was not intentionally discriminatory on the  
 21 basis of race?

22 And then there was an objection to form.

23 His answer: I think that's a fair characterization.

24 And then --

25 MR. BLEDSOE: Your Honor -- we just went over that,

15:30 1 Your Honor.

2 JUDGE SMITH: And on the next page -- and my question  
3 was -- I guess I'll start it another way. I probably mean to  
4 state it another way. Did anyone ever ask you to express a  
5 view on whether or not 2333 is or is not intentionally  
6 discriminatory against minorities, voters in Texas?

7 Answer is: Not to my recollection.

8 And a few lines later: So is it fair to say that in  
9 the general assignment -- that general assignment did not  
10 include expressing an opinion about whether or not the map was  
11 or was not intentionally discriminatory against minority voters  
12 in Texas, but basically to give your opinion about the impact  
13 or the effect of the map on minority voters in Texas?

14 Answer: That is correct.

15 MR. BLEDSOE: But, Your Honor, I would again take you  
16 back -- two things. If you ask someone to analyze the map or  
17 its impact on minority voters, clearly a subset of that is  
18 discrimination, in my opinion.

19 Number two, again, he was mistaken about not having  
20 stated that the map reflected intentional discrimination in his  
21 first report. On the August 22nd report, he says it expressly  
22 more than once, that this is an example of intentional  
23 discrimination. So Dr. Murray was mistaken when he said that.  
24 The report speaks for itself.

25 MR. KERCHER: I can give the Court's position of the

15:32 1 State on Dr. Murray's reports. I would refer to both the  
2 transcript and my colleague, Mr. Bryant, who took the  
3 deposition, on the best understanding of what he understood was  
4 transcribed.

5 I will start by saying I don't believe there is any  
6 malice here on the part of Plaintiffs' Counsel, but it is a  
7 part of a pattern that we have seen in the hearing about timely  
8 disclosure of expert information.

9 Had this -- because this came up during this unusual  
10 trial deposition procedure, which happened just two days before  
11 the hearing started, our response to it has been, perhaps,  
12 something different than it might otherwise have been had this  
13 all played out during an ordinary discovery phase. We may well  
14 have moved to strike the report, strike any testimony from  
15 Dr. Murray.

16 As it is, the deposition, the trial deposition taken  
17 capably by Mr. Bryant, one, I think, demonstrates to the  
18 Court the problems with Dr. Murray's two reports. They are  
19 inconsistent. The testimony about what he was asked to do with  
20 is inconsistent.

21 Furthermore, within the last seven months, during the  
22 re-cross of Dr. Murray, Dr. Murray admits that racial effects  
23 are an unavoidable part of a partisan gerrymander. That part  
24 of the record, I think, is going to be important as this Court  
25 considers whether or not Plaintiffs had disaggregated, had met

15:33 1 their burden to disaggregate partisan from race as a result of  
2 both the Court getting a full dose of information sufficient to  
3 provide what to give weight to the reports of Dr. Murray, we  
4 have not moved to strike those, and also as a result of the  
5 important testimony that Dr. Murray provided that undermines  
6 Plaintiffs' case, we have not moved to strike or otherwise  
7 prevent his testimony in the hearing.

8 MR. BLEDSOE: I'm not sure if I need to respond, but  
9 we think his report has integrity, that his testimony has  
10 integrity. And even the issue just mentioned by Mr. Kercher is  
11 explained in the testimony. I mean, makes it very clear that  
12 there were two districts off the table, and this is about what  
13 was going to be done to five districts.

14 So there was clearly an option not to do what they  
15 did, and he explains that on the video.

16 JUDGE SMITH: So State has no objection to receiving  
17 that testimony. And what about all of the -- seems like scores  
18 of objections made during the testimony that we just consider  
19 those for weight rather than admissibility, or what?

20 MR. KERCHER: I think that's probably the most  
21 efficient way to do it. I think the Court -- if there had  
22 been -- had there been more time, I think we might have looked  
23 for ways to splice this video down and to make this more rapid.  
24 Just not been -- as Mark Twain said, we didn't have time to  
25 make it short.

15:35 1                   And so we do not object to the Court's acceptance of  
 2 the testimony, particularly in light of some of the very  
 3 damaging testimony provided by Dr. Murray.

4                   JUDGE GUADERRAMA: Seems like I remember at least one  
 5 or two occasions where Mr. Bryant objected to some of the  
 6 evidence because it hadn't been disclosed and moved to exclude  
 7 it. But maybe I'm misremembering that. The one or two times.

8                   I'm sorry. Do you remember that, or am I just  
 9 misremembering that, Mr. Bryant?

10                  MR. KERCHER: Your Honor, I think our position is the  
 11 Court can rule on that objection, that motion -- Motion to  
 12 Exclude, insofar as the Court deems it necessary to rely on  
 13 those reports.

14                  JUDGE GUADERRAMA: Mr. Bledsoe, did you have  
 15 something --

16                  MR. BLEDSOE: Your Honor, I was just trying to hear  
 17 exactly what you were saying.

18                  JUDGE GUADERRAMA: Sorry. I'll speak louder.

19                  MR. BLEDSOE: Obviously we oppose a Motion to Exclude.  
 20 Objections were duly made on the record.

21                  JUDGE GUADERRAMA: I think his objection was, it  
 22 hadn't been previously disclosed up until that --

23                  MR. BLEDSOE: That's -- the 24th. That's true. The  
 24 24th report had not been previously disclosed.

25                  JUDGE GUADERRAMA: All right.

15:36 1 MR. BRYANT: Your Honor, I did make, on the record, at  
2 trial deposition, the objection that the August 24th deposition  
3 had never been produced to Defendants. May not have been  
4 produced to Mr. Bledsoe, either. But we just found out about  
5 it on cross-examination in the middle of trial -- trial  
6 deposition.

7 The other objection I made at the beginning of the  
8 trial deposition was that the Court has -- the Court recently  
9 ruled, but had previously ruled, that the Intervenor only had  
10 standing to challenge the districts in which Representative  
11 Crockett and Representative Green live, which are 18 and 33.

12 But as the Court heard, questions were -- elicited  
13 testimony, and the reports were about districts all over the  
14 State, including Bexar County, Travis County, all of that. We  
15 move to exclude because it's something that intervenors don't  
16 have standing to bring up.

17 JUDGE GUADERRAMA: I think we've addressed that on two  
18 separate occasions already, and so this would be the third.

19 MR. KERCHER: He's talked me into it, Your Honor, we  
20 move to exclude the 24th report.

21 MR. BLEDSOE: Your Honor, I think Dr. Murray testified  
22 and other experts have testified, even Moon Duchin today, in  
23 reference to the interconnection and different areas in  
24 particular that you can't analyze one without the other.

25 And when 60-something percent of one district goes to

15:38 1 another district, you have to analyze all those and what  
2 happened in that area. So the whole idea of analyzing,  
3 determining what happened to minority voters, in a particular  
4 area like what happened with 9, 18, and 29, we can see very  
5 clearly there is an absolute need to be able to examine all of  
6 those.

7 And that's what Dr. Murray has indicated. He's  
8 looking for things that are supportive for his analysis. You  
9 don't ask someone to go and conduct an analysis in a vacuum.  
10 You look and find other things.

11 We're not -- this Court has made it very clear, and I  
12 apologize for trying to raise the three districts at the  
13 beginning, but in analyzing and proving our case in reference  
14 to the two districts, we have a right to go after, the other  
15 matters are evidentiary. You can't -- and Dr. Murray said it.  
16 You can't just do one without the other. And the same thing  
17 statewide. If there's a bias against Black or Latino voters  
18 that we find in Travis County, that's relevant to the overall  
19 theme in the map, and especially when you're talking about the  
20 theory of 11 out of 13.

21 When you take the two White districts off the top so  
22 it becomes -- what can you take out of 11? So that's all  
23 relevant, Your Honor, and we're not trying to prove any of  
24 those districts.

25 JUDGE GUADERRAMA: All right. So does that --

15:39 1 Plaintiff resting?

2 JUDGE SMITH: So we have a Motion to Exclude.

3 JUDGE GUADERRAMA: But we'll take that up, I think,  
4 when we -- so we can read the record and see exactly what those  
5 points are.

6 JUDGE SMITH: Okay.

7 MS. COHAN: Thank you, Your Honors. I think we just  
8 have a few housekeeping matters related to the exhibits.

9 JUDGE GUADERRAMA: About exhibits?

10 MS. COHAN: And I believe I may not be the only  
11 Plaintiff. For Plaintiff Texas NAACP, we previously entered  
12 into evidence Exhibit 208 and 219 through --

13 JUDGE GUADERRAMA: Let me --

14 MS. COHAN: Oh, sorry.

15 JUDGE GUADERRAMA: 208 and 219?

16 MS. COHAN: Yes. We previously admitted Exhibit 208  
17 and then 219 through 223.

18 JUDGE GUADERRAMA: So I've already admitted those into  
19 evidence?

20 MS. COHAN: Yes, they should be -- is that consistent  
21 with your record, Ali?

22 MS. THORBURN: It's consistent that you've used them.

23 MS. COHAN: Okay. I thought we had moved them into  
24 evidence. But if not, I will now say, so we would like to move  
25 the exhibits that were marked for this hearing, which is

15:41 1 Plaintiff Texas NAACP 174 PI through 223 PI.

2 And I understand that the practice has been thus far  
3 that Plaintiffs have moved exhibits into evidence subject to  
4 any objections from the State, and I believe Ms. -- thank  
5 you -- Thorburn, has -- she indicated she had one objection to  
6 our exhibits. And so I will pass the baton.

7 JUDGE GUADERRAMA: All right.

8 MS. THORBURN: Yes, Your Honor. We have one objection  
9 to NAACP 183. It is marked their description as Exhibit C.

10 What it is is a tweet from Harmeet Dhillon. We're  
11 objecting to that as hearsay because Harmeet Dhillon is not a  
12 party opponent and there is no other hearsay exception which  
13 applies.

14 JUDGE GUADERRAMA: And that's a tweet on --

15 MS. THORBURN: It is a tweet, it's NAACP 183. The  
16 description is Exhibit C. And when you open the exhibit and  
17 look at it, it is a tweet.

18 JUDGE GUADERRAMA: So she's saying it's exhibit --  
19 well, your Exhibit 183 is Exhibit C. And Exhibit C is a tweet  
20 from Ms. Dhillon. She's saying she's not a party opponent, so  
21 United States is not a party.

22 And so she can't figure out what other exception would  
23 cover the hearsay.

24 MS. COHAN: And I do actually believe that that tweet  
25 has previously been admitted as Brooks 323. So to the extent

15:42 1 that it's already in the record, I don't -- I believe the  
 2 objection has been waived.

3 JUDGE GUADERRAMA: If it's in the record it's in the  
 4 record.

5 MS. THORBURN: We will withdraw --

6 JUDGE GUADERRAMA: She's objecting to this one on  
 7 hearsay, unless you have an, we'll sustain it.

8 MS. THORBURN: We'll withdraw, right.

9 JUDGE GUADERRAMA: All right. So I can admit, then,  
 10 NAACP Exhibits 174 through 223 without objection. Is that  
 11 correct, Ms. Thorburn? I can admit all those without  
 12 objection?

13 MS. THORBURN: Yes, Your Honor.

14 JUDGE GUADERRAMA: Thank you.

15 (Plaintiff NAACP Exhibits 174 through 223 admitted.)

16 MR. NOTZON: Robert Notzon for the Intervenors. I  
 17 wanted to move for admission the exhibits that we have  
 18 submitted. I filed a Third Amended Exhibit List last night,  
 19 corrected, after conversations with Ms. Thorburn. And I would  
 20 like to move for the admission subject to objections as per the  
 21 norm for this case, I guess.

22 They are Intervenors Exhibits 1 through 5, 7 through  
 23 9, 11 through 27, 31 through 40, and 43 through 55.

24 JUDGE GUADERRAMA: 43 through 55?

25 MR. NOTZON: Yes, Your Honor.

15:44 1 JUDGE GUADERRAMA: Ms. Thorburn, any objection to  
2 those exhibits?

3 MS. THORBURN: Your Honor, we object to Exhibit 2 to  
4 the extent the August 24th report is part of it as we've  
5 discussed. And we also have an objection to Exhibit 25.

6 JUDGE GUADERRAMA: What's the objection to 25?

7 MS. THORBURN: That a hearsay and authenticity  
8 objection because that's an email from Edward Jaax, and it  
9 contains a timeline from a Tariq Ahmed. And this has not been  
10 established as a hearsay exception. There's no exception that  
11 has been established in this timeline.

12 JUDGE GUADERRAMA: All right. So then let's go to  
13 Exhibits 1 through 5. Those will be admitted with the  
14 exception of 2, which is part of what we're taking under  
15 consideration of Dr. Murray's report.

16 (Intervenors Exhibits 1 and 3 through 5 admitted.)

17 JUDGE GUADERRAMA: There will be no objection to 7  
18 through 9. Those will be admitted.

19 (Intervenors Exhibits 7 through 9 admitted.)

20 JUDGE GUADERRAMA: No objections on 11 through 27,  
21 with the exception of 25. It's a hearsay objection.

22 Did you have any objections to 27 through 31? No,  
23 there is none there. 31 through 40, any objection to those?

24 MS. THORBURN: No objection to 31 through 40.

25 JUDGE GUADERRAMA: 31 through 40 will be admitted.

15:45 1

(Intervenors Exhibits 31 through 40 admitted.)

2

JUDGE GUADERRAMA: And then the last one is 43 to 55.

3

MS. THORBURN: No objection to 43 through 55.

4

JUDGE GUADERRAMA: Okay. So these are admitted as

5

well.

6

(Intervenors Exhibits 43 through 55 admitted.)

7

JUDGE GUADERRAMA: So then we have 25, the hearsay

8

objection to the email from Mr. Jaax.

9

MR. NOTZON: Your Honor, I believe we got those emails

10

from Representative Gervin-Hawkins, and that's that series of

11

emails about what was or was not happening in the House at that

12

time. And, but I don't see that we talked to her about it, so

13

I don't know that we have an authentication issue, either, so.

14

MS. THORBURN: I do agree there is an authentication

15

issue, because they didn't talk to her about that.

16

MR. NOTZON: Okay.

17

JUDGE GUADERRAMA: So I'll sustain the objection to

18

25. So 14 through 26 are admitted, with the exception of 25.

19

(Intervenors Exhibits 14 through 24 and 26 admitted.)

20

MR. NOTZON: Thank you.

21

JUDGE GUADERRAMA: Does that cover all your exhibits?

22

MR. NOTZON: I believe it does.

23

JUDGE GUADERRAMA: Anyone else? Mr. Fox?

24

MR. FOX: Ms. Perales, actually.

25

JUDGE GUADERRAMA: Let me get to LULAC, please. Give

15:46 1 me a second.

2 Yes, ma'am?

3 MS. PERALES: For the LULAC Plaintiffs, LULAC  
4 Plaintiffs would like to move into evidence their exhibits  
5 numbered 829 through 1381. And those should be the exhibits  
6 that are on -- all the way through the last number on our  
7 Amended Exhibit List.

8 JUDGE GUADERRAMA: Mm, did I mishear? Did I hear you  
9 ending at 1131 or 1031?

10 MS. PERALES: 1381.

11 JUDGE GUADERRAMA: Oh, sorry.

12 All right. Ms. Thorburn, that's all their exhibits on  
13 their new list, starting at 829 through 1381.

14 MS. THORBURN: We generally have no objections to  
15 their exhibits. However, I would like to note for the Court  
16 that there were a bunch of exhibits that were withdrawn. And  
17 so obviously the withdrawn exhibits would not be admitted. I  
18 can go through the numbers of the exhibits that were withdrawn  
19 if Your Honor would like. I'm sure Ms. Perales also has a list  
20 of those exhibits if you would prefer it.

21 JUDGE GUADERRAMA: I would appreciate it if you went  
22 through your list.

23 MS. THORBURN: I can do that.

24 MS. PERALES: Your Honor, I believe those are also  
25 marked on the Exhibit List filed with the Court. There will be

15:48 1 entries there showing withdrawn.

2 JUDGE GUADERRAMA: Just give me one second so I can  
3 check that. Just name one, one number.

4 MS. THORBURN: 979.

5 JUDGE GUADERRAMA: Yes, ma'am, it does show withdrawn.

6 MS. THORBURN: With that note, there are no  
7 objections.

8 JUDGE GUADERRAMA: All right. Exhibit LULAC  
9 Plaintiff's Exhibit 829 through 1081, with the exception of  
10 those that are marked "Withdrawn," are admitted.

11 (Plaintiff LULAC Exhibits 829 through 1381 admitted,  
12 except withdrawn exhibits.)

13 JUDGE GUADERRAMA: Those marked "Withdrawn" are  
14 withdrawn.

15 MS. PERALES: Thank you, Your Honor. I'd like to add  
16 one more note. Comporting with our rolling exhibits disclosure  
17 custom that we've developed in this case, Plaintiffs received  
18 from Defendants some exhibits over the lunch break that they  
19 have explained to us that they plan to use with the examination  
20 of Mr. Adam Kincaid.

21 Mr. Kincaid is presented as a lay witness. Often map  
22 drawers are presented as experts with disclosures, but here we  
23 are. He is a lay witness, and we have received his exhibits.  
24 I've responded to the State by asking if they can provide some  
25 information about these exhibits. For example, the method or

15:50 1 methodology that was used to produce them. They are maps.

2 And in light of the current situation, I would simply  
3 like to say that LULAC Plaintiffs may develop additional  
4 exhibits that we would seek to move, either following the  
5 examination of Mr. Kincaid or around that time.

6 And then of course we would be showing them to you --  
7 and by that I mean to our friends at the State. I just wanted  
8 to let the Court know that there might be more exhibits coming  
9 from us.

10 MS. THORBURN: I do have one slight clarification. We  
11 did provide these exhibits a courtesy copy of the JPEG versions  
12 over the lunch break, but we did provide LULAC Plaintiffs, and  
13 all of our friends on the other side, with these exhibits as  
14 soon as I was able to stamp them yesterday.

15 MS. PERALES: And Your Honor, we're not casting any  
16 aspersions at all. We understand everybody has been working to  
17 their fullest. I believe that they were put on the list  
18 yesterday. We may not have been aware of their availability in  
19 the Dropbox until sometime between yesterday evening and when  
20 we got the lunchtime email informing us that they were in the  
21 Dropbox.

22 But again, everybody is working very hard, and I'm not  
23 complaining about any of that, but merely saying that, as we  
24 learn more about these new maps from Mr. Kincaid, we may have  
25 exhibits as well to add.

15:51 1 MR. KERCHER: We'll continue to confer with  
2 Plaintiffs' Counsel about discs and exhibits if they need to  
3 move some in as part of a remote case. We can have that  
4 conversation as it becomes necessary.

5 JUDGE GUADERRAMA: All right.

6 MS. PERALES: Thank you, Your Honor.

7 JUDGE GUADERRAMA: Thank you, Ms. Perales.

8 Mr. Fox?

9 MR. FOX: Thank you, Your Honor. For the Gonzales  
10 Plaintiffs of course we have already in evidence, I believe --  
11 Gonzales --

12 JUDGE GUADERRAMA: Just give me one small --

13 MR. FOX: Sorry. Of course.

14 JUDGE GUADERRAMA: Okay. Yes, sir, I'm ready.

15 MR. FOX: I believe we have in evidence already  
16 Gonzales Plaintiffs Exhibit 39.

17 (Sotto voce discussion off the record.)

18 MR. FOX: There's only one additional exhibit on the  
19 new Exhibit List.

20 JUDGE GUADERRAMA: Okay. So let me tell you what I  
21 have, and then you tell me. I have you up to Exhibit 62.

22 MR. FOX: Yes. We do have an Exhibit 63 he on the new  
23 list. Already in evidence, I believe, are 39 and 61. We would  
24 like to move into evidence Exhibits 1 through 38 and exhibits  
25 41 through 63. So we'd be skipping Exhibit 40, which we have

15:53 1

withdrawn.

2

JUDGE GUADERRAMA: Okay. So 1 through 48?

3

MR. FOX: 1 through 38.

4

JUDGE GUADERRAMA: 38. Any objection to those,

5

Ms. Thorburn?

6

MS. THORBURN: No, Your Honor.

7

JUDGE GUADERRAMA: Okay. Gonzales Exhibits 1 through

8

38 admitted.

9

(Plaintiff Gonzales Exhibits 17 through 38 admitted.)

10

JUDGE GUADERRAMA: What else?

11

MR. FOX: And then 41 through 60.

12

JUDGE GUADERRAMA: So you're skipping 40?

13

MR. FOX: We are skipping 40.

14

JUDGE GUADERRAMA: Okay. So 41 through 60,

15

Ms. Thorburn?

16

MS. THORBURN: No objection.

17

JUDGE GUADERRAMA: Okay. So 61's in evidence. 62,

18

63?

19

MR. FOX: And then Exhibit 63, as well, we are moving

20

in.

21

JUDGE GUADERRAMA: Ms. Thorburn, any objection to

22

Exhibit 63?

23

MS. THORBURN: No objection to 63.

24

JUDGE GUADERRAMA: 63 will be admitted.

25

(Plaintiff Gonzales Exhibit 63 admitted.)

15:53 1 JUDGE GUADERRAMA: 41 through 60 are admitted as well.

2 (Plaintiff Gonzales Exhibits 41 through 60 admitted.)

3 MR. FOX: And -- and, sorry, perhaps I was -- I  
4 misspoke, because my colleague has told me this. Our Exhibit  
5 List starts at 17, because the others were from the prior  
6 trial.

7 JUDGE GUADERRAMA: Okay. So your Exhibit List does  
8 start at 17. So are we saying now 17 through 38?

9 MR. FOX: Correct. I apologize for misspeaking.

10 JUDGE GUADERRAMA: All right. So then those are  
11 admitted. And so 1 through 16, do they exist somewhere in our  
12 case?

13 MR. FOX: They -- some number of those. I don't have  
14 it in front of me, were admitted at the trial. I don't believe  
15 they all were. Frankly, we have added to this list, the ones  
16 we care about.

17 JUDGE GUADERRAMA: Were they admitted as Gonzales  
18 Exhibits 1 through -- like that, it wasn't the Demonstrative  
19 Exhibits?

20 MR. FOX: Correct. Correct. Any that were admitted  
21 as Gonzales Exhibit 1, 2, 3.

22 JUDGE GUADERRAMA: All right.

23 MR. FOX: I believe I owe the State a -- I'm told 1  
24 through 12 were admitted at trial. Thank you, Mr. Medina.

25 I believe we owe the State a copy stamped of Gonzales

15:55 1 Exhibit 63. They have an unstamped copy. We will get them a  
2 stamped copy quickly.

3 MR. KERCHER: Oh.

4 JUDGE GUADERRAMA: What is 63?

5 MR. FOX: The special master report in the Alabama  
6 case that we used on the -- on the redirect of Mr. Ely.

7 JUDGE GUADERRAMA: All right. Thank you.

8 MR. FOX: Thank you, Your Honor.

9 JUDGE GUADERRAMA: Thank you, Ms. Thorburn.

10 MR. McCAFFITY: Because I feel left out, I just want  
11 to make it clear on the record that the Mexican American  
12 Legislative Caucus, consistent with the Exhibit List we filed  
13 pre-trial, we're working with Counsel for MALC and  
14 coordinating -- I'm sorry, Counsel for Brooks and LULAC, and  
15 are adopting their exhibits. So instead of stamping a  
16 duplicate set of the same exhibits, we're just gonna refer to  
17 those.

18 So we'll ride or die with the admission of the  
19 exhibits for MALC. And in the interest of work smarter, make  
20 Chad work harder, that's what we're doing.

21 MR. DUNN: I believe all of our exhibits have been  
22 admitted, but just to make sure the Court's records reflect  
23 that, Brooks 253 to 517.

24 JUDGE GUADERRAMA: Okay. Hold on. Hold on.

25 MR. DUNN: And inclusive therein are some purposefully

15:56 1 omitted exhibits on the Exhibit List.

2 JUDGE GUADERRAMA: I mean, we admitted a bunch  
3 already, right?

4 MR. DUNN: That's my recollection the first day, yes,  
5 Your Honor.

6 JUDGE GUADERRAMA: There is a gap here. Maybe I just  
7 didn't get it. 285 -- those are -- shows omitted. So that's  
8 why there's a gap. All the rest seem to be admitted.

9 Ms. Thorburn, what's your memory?

10 MS. THORBURN: Yes, Your Honor, they are already  
11 admitted, but just for the record, we would like to proffer an  
12 objection to 279, 280, and 281 as hearsay and relevance because  
13 they're transcripts from a 2012 hearing. I understand that  
14 they are already admitted, but we just wanted to --

15 JUDGE GUADERRAMA: All right. 79 through 80 --

16 MS. THORBURN: Correct, Your Honor. It's 279.

17 JUDGE GUADERRAMA: Oh, 279. Sorry. Let me go there.  
18 I thought it was 79. 279. Okay. That's a transcript. That's  
19 a trial transcript.

20 MS. THORBURN: Yes, Your Honor. It is a trial  
21 transcript, but not from this trial.

22 JUDGE GUADERRAMA: Oh, okay.

23 MR. DUNN: Those are from proceedings on the 2011 map,  
24 both some Section 5 proceedings and some San Antonio Section 2  
25 proceedings.

15:57 1

JUDGE GUADERRAMA: Okay. So 279 through?

2

MS. THORBURN: 279, 280 and 281. Those are just three transcripts from the 2011/2012 trial.

3

4

MR. DUNN: Should I respond to the objection, or let --

5

6

JUDGE GUADERRAMA: Well, she's saying, "Look, it's already in evidence. We got that, but here's our objection."

7

8

MR. DUNN: Okay.

9

JUDGE GUADERRAMA: You know, she's doing her job.

10

MR. DUNN: Okay. No worries.

11

JUDGE GUADERRAMA: All right. So are Plaintiffs all rested up now and we're ready for the State?

12

13

MR. DUNN: The Brooks Plaintiffs rest.

14

JUDGE GUADERRAMA: Mr. Quesada is signaling from the bench, and --

15

16

MR. QUESADA: MALC rests, Your Honor.

17

JUDGE GUADERRAMA: Okay.

18

MS. PERALES: LULAC Plaintiffs rest, Your Honor.

19

JUDGE GUADERRAMA: All right.

20

MR. ROLLINS-BOYD: Texas NAACP rests, Your Honor.

21

MR. BLEDSOE: Intervenors rest, Your Honor.

22

MR. FOX: Gonzales Plaintiffs rest as well, Your Honor. Thank you.

23

24

JUDGE GUADERRAMA: Okay. So, well, let's go ahead and recess to 4:15 and then we're ready to go. You have some

25

15:58 1 witnesses here that will take us through?

2 MR. KERCHER: Your Honor, we've got a couple of  
3 witnesses for the Court, and I think we'll carry on to the end  
4 of the day, regardless of when we stop. We will begin tomorrow  
5 with Mr. Kincaid.

6 JUDGE GUADERRAMA: Thank you. And I appreciate you  
7 filling the gap. Thank you.

8 All right. We're in recess.

9 (Recess.)

10 MR. KERCHER: Your Honor, the State calls its first  
11 witness. We wanted to address with the Court whether or not  
12 there would be closing argument. It would depend, of course,  
13 at least in part, on cross-examination. My best guess is there  
14 will likely be some time left over based on the amount of time  
15 the Court has allocated for the hearing.

16 It is State Defendants' view that if we can have some  
17 time for closing argument, we hope that will be beneficial for  
18 the Court. My understanding is that at least some of  
19 Plaintiffs' Counsel may have a differing view. It's not  
20 something that we have decided -- we had discussed. We're not  
21 asking for a decision yet, but want to -- in light of the fact  
22 that we now have more information about how long we're going to  
23 go to raise that for the Court's consideration and to be  
24 thinking about it as we move through our evidence.

25 THE COURT: All right.

16:17 1 JUDGE SMITH: I mean, we had talked about, among  
2 ourselves, that it would probably be a good idea to have some  
3 degree of closing argument with some degree of dialogue with  
4 the Court for questions that we might have.

5 In terms of timing, as I understand it, I think the  
6 judges are pretty well committed, like through midday on  
7 Friday. But we've always given as much time as needed, so you  
8 have -- you know, we're not gonna cut anybody off. And I  
9 assume there will be a rebuttal case, too, so we're here for  
10 whatever's needed and I hope everyone understands that we're  
11 flexible.

12 MR. KERCHER: Understood. Thank you.

13 MS. PERALES: Thank you, Your Honor. I've spoken to  
14 Mr. Kercher and with Plaintiffs, and on the Plaintiffs' side we  
15 agree that an opportunity to sort of pull things together would  
16 be great. In thinking about whether it makes sense to do that  
17 verbally, perhaps without the record cites that we'd be  
18 interested in including, versus doing something short, written,  
19 and fast. I think the sentiment of the group is leaning  
20 towards something written but due very quickly.

21 JUDGE SMITH: We had really talked about doing both.  
22 That's kind of tentative. But when I say both, I mean, you  
23 know, like ten pages or something in writing. Not some great  
24 big tome. But to summarize, if we had a substantial time for  
25 oral presentation with a back and forth with the Court, which,

16:18 1 as you know, I like a lot.

2 MS. PERALES: Yes, Your Honor. Personal experience  
3 with that, yes, Your Honor.

4 So I'm more than happy to confer with Plaintiffs'  
5 side, but I know there is an interest on this side with  
6 something written and I will confer with them regarding the  
7 opportunity. There are six of us, so we would need -- if we're  
8 not going to divide an hour and then ten minutes for each of  
9 us, we might be thinking we might -- it would depend on how  
10 much time is left at the end.

11 Thank you.

12 MR. KERCHER: Nobody wants to hear from me for an  
13 hour, anyway. We had been operating under the assumption that  
14 the Court will likely want something in writing as well, so  
15 we're trying to do a draft and be prepared for both.

16 JUDGE SMITH: We also don't want to impose make work.  
17 I understand that everyone has plenty to do, so we're trying to  
18 strike the right balance, but...

19 MS. PERALES: We would never consider it make work,  
20 Your Honor. Any opportunity to present our case is one  
21 that's -- that we're eager to accept.

22 MR. DUNN: And I would just say we are working on,  
23 actually, some sort of findings of fact that we can file within  
24 days after this trial is over. I don't expect that you would  
25 get in 90 days, but it would at least highlight, with actual

16:20 1 citation, the key evidence that we think the Court ought to  
2 focus on.

3 Speaking for the Brooks Plaintiffs, obviously,  
4 whatever the Court asks -- as I say, we serve at your  
5 direction -- but we would object to any closings that cause any  
6 delay whatsoever.

7 JUDGE SMITH: Because of what? I couldn't hear you.

8 MR. DUNN: That cause any delay whatsoever. They can  
9 be on Friday and they can be completed then and the Court can  
10 take the case, and if that's what the Court wants us to do,  
11 we're obviously ready to do that. But not have it roll over  
12 into another week or get reset a week or two weeks later.

13 JUDGE BROWN: I think what we're talking about is this  
14 week.

15 MR. DUNN: Okay.

16 MR. KERCHER: That's our understanding as well. If  
17 this goes over into next week, I will not survive my marriage,  
18 so...

19 (Laughter.)

20 JUDGE GUADERRAMA: All right. Who's your next  
21 witness -- or your first witness?

22 MR. WASSDORF: Your Honor, State Defendants call  
23 Senator Phil King to the stand.

24 I would like to preview something for Your Honors.  
25 Senator King rearranged his schedule to come out here today.

16:21 1 Since Plaintiffs were ending their case early, we have  
2 conferred with Plaintiffs on the timing of his anticipated  
3 testimony, and it does not appear that he will finish today.  
4 And I just wanted to inform the Court that the earliest he  
5 would be able to get back out here will be Thursday, and we  
6 will make that happen.

7 But I just wanted to inform the Court that he would  
8 not be the first witness following Mr. Kincaid's testimony.

9 JUDGE GUADERRAMA: Gotcha.

10 (Witness present.)

11 Good afternoon, Senator. Raise your right hand, sir,  
12 to receive the oath.

13 (Witness sworn.)

14 THE COURT: Thank you, sir. Have a seat, please.

15 JUDGE GUADERRAMA: Mr. Wassdorf?

16 **SENATOR PHILLIP STEPHEN KING,**  
17 duly sworn by the Court, was examined and testified as follows:

18 **DIRECT EXAMINATION**

19 **BY MR. WASSDORF:**

20 Q. Good afternoon, Senator King. Would you please state your  
21 full name for the record?

22 A. Phillip Stephen King.

23 Q. What is your current role on the Texas Legislature?

24 A. I am in the Texas Senate.

25 Q. And what -- how long have you served in the Legislature?