

Nos. 21-1086 & 21-1087

In the Supreme Court of the United States

JOHN H. MERRILL, ET AL.,

Appellants,

v.

EVAN MILLIGAN, ET AL.,

Appellees.

JOHN H. MERRILL, ET AL.,

Petitioners,

v.

MARCUS CASTER, ET AL.,

Respondents.

ON APPEAL FROM AND WRIT OF CERTIORARI TO
THE NORTHERN DISTRICT OF ALABAMA

**BRIEF OF COASTAL ALABAMA PARTNERSHIP
AS *AMICUS CURIAE* IN SUPPORT OF APPELLANTS**

John C. Neiman, Jr.

Counsel of Record

H. William Bloom, III

Jordan A. LaPorta

MAYNARD COOPER & GALE, P.C.

1901 Sixth Ave. N, Ste. 1700

Birmingham, AL 35203

(205) 254-1228

jneiman@maynardcooper.com

May 2, 2022

Counsel for Amicus Curiae

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
INTEREST OF <i>AMICUS CURIAE</i>	1
SUMMARY OF ARGUMENT	5
ARGUMENT	7
A. Alabama’s Gulf Coast has a long history as a unique community of interest	9
B. Alabama’s Gulf Coast continues to stand as a unique community of interest	13
C. Appellees’ maps would fracture the Gulf Coast and merge part of it with the Wiregrass’s divergent community	17
D. Section 2 does not require this fracturing of the Gulf Coast community	23
CONCLUSION	26

TABLE OF AUTHORITIES

Cases

<i>Abrams v. Johnson</i> , 521 U.S. 74 (1997).....	7
<i>Brnovich v. Democratic Nat’l Comm.</i> , 141 S. Ct. 2321 (2021).....	8, 24, 26
<i>Bush v. Vera</i> , 517 U.S. 952 (1996).....	25
<i>Georgia v. Ashcroft</i> , 539 U.S. 461 (2003).....	25
<i>League of United Latin Am. Citizens</i> <i>(“LULAC”) v. Perry</i> , 548 U.S. 399 (2006).....	7, 21, 25, 26
<i>Miller v. Johnson</i> , 515 U.S. 900 (1995).....	8
<i>Shaw v. Hunt</i> , 517 U.S. 899 (1996).....	25
<i>Shaw v. Reno</i> , 509 U.S. 630 (1993).....	8
<i>Thornburg v. Gingles</i> , 478 U.S. 30 (1986).....	7
<i>Wesch v. Hunt</i> , 785 F. Supp. 1491 (S.D. Ala. 1992)	9

Constitutional Provisions

Archibald, R., <i>What’s fueling growth in Alabama’s</i> <i>fastest growing counties?</i> ,	
---	--

AL.com (May 11, 2021)	16
Baker, J. & Hanson, T., <i>Economic Impact of the 2010 Oil Spill on Coastal Alabama Marine-Based Industries,</i> National Oceanic and Atmospheric Administration (May 2012)	19
Boissoneault, L., <i>Why an Alabama Town Has a Monument Honoring the Most Destructive Pest in American History,</i> Smithsonian Magazine (May 31, 2017)	20
Braund, K., <i>“Hog Wild” and ‘Nuts: Billy Boll Weevil Comes to the Alabama Wiregrass,</i> 63 Agric. Hist. 15 (1989).....	17
Brown, V., <i>Mardi Gras: Mobile, Ala., offers a family-friendly alternative to New Orleans,</i> Washington Post (Feb. 10, 2022).....	16
Carl, J., <i>Carl: Federal strings make future uncertain for red snapper anglers,</i> Yellowhammer News (Oct. 25, 2021)	18

Coughlan, J., <i>Gulf Coast Unemployment Trends, 2000 to 2010: Hurricanes, Recessions, Oil Spills,</i> Monthly Lab. Rev. (Aug. 2012)	19
Groom, W., <i>Forrest Gump</i> (Simon & Schuster 2002).....	14
Key, V.O. Jr., <i>Southern Politics in State and Nation</i> (7th ed. 2011)	10
Kiernan, J., <i>2020 Mardi Gras Facts – Booze, Floats, Money & More,</i> WalletHub (Feb. 18, 2020).....	16
Middlebrooks, H., <i>As planting is ongoing, Wiregrass peanut farmers looking for strong 2022 crop,</i> Dothan Eagle (Apr. 13, 2022)	19
Pickett, A., <i>History of Alabama</i> (River Cty. Pub. ed., 2003)	11, 12
Rogers, W. et al., <i>Alabama: The History of a Deep South State</i> (1994).....	9, 10, 12

Sharp, J., <i>Redistricting Alabama: How South Alabama could be split up due to Baldwin County's growth,</i> AL.com (Sept. 21, 2021)	23
Staff Reports, <i>M1 Support Services wins award from Army Aviation association,</i> Dothan Eagle (Nov. 20, 2021)	20
Thomason, M. <i>Mobile: The New History of Alabama's First City</i> (2001).....	9
Winkler, D. & Gordon, B., <i>The Effect of the BP Oil Spill on Volume and Selling Prices of Oceanfront Condominiums,</i> 89 Land Econ. 614 (2013).....	19
 <u>Rules of Procedure</u>	
Airbus, https://www.airbus.com	15
Austal USA, https://usa.austal.com/	13
Baldwin County Board of Education, https://www.bcbe.org/	16

Bayou La Batre Area Chamber, https://www.bayoulabatreareachamber.org/	14
Bon Secour Fisheries, https://bonsecourfisheries.com	14
Coastal Alabama Partnership, http://coastalalabama.org/	1, 26
Florida Memory: State Library and Archives of Florida, https://www.floridamemory.com/	10
Gulf Shores & Orange Beach Tourism, https://www.gulfshores.com	14
Library of Congress, https://www.loc.gov/	12
Mississippi State University Coastal Research & Extension Center, http://coastal.msstate.edu	14
Mobile County Public Schools, https://content.schoolinsites.com	16
National Peanut Festival, https://www.nationalpeanutfestival.com	20
OntheWorldMap.com, https://ontheworldmap.com/	22
U.S. Army, https://home.army.mil/	20
U.S. Census Bureau, https://www2.census.gov/	15, 21

INTEREST OF *AMICUS CURIAE**

Coastal Alabama Partnership is a nonprofit, development-focused organization founded in 2011 by community leaders in Mobile and Baldwin Counties, the two Alabama counties that border the Gulf of Mexico. *See Home*, Coastal Alabama Partnership, <http://coastalalabama.org/> (visited Apr. 30, 2022). These leaders came together to provide vision, direction, and action for the vibrant and rapidly growing area along Alabama's Gulf Coast:



See Overview, Coastal Alabama Partnership, <http://coastalalabama.org/overview/> (visited Apr. 30, 2022). The region's strides in recent times have been remarkable. With an economy that draws strength from the Gulf and Mobile Bay, and with a natural beauty and standard of living that has drawn many to move here, this area is one of the most rapidly growing parts of Alabama.

* No counsel for any party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than Coastal Alabama Partnership or its counsel made a monetary contribution to the brief's preparation or submission. The parties have filed blanket consent waivers with the Court consenting to the filing of all *amicus* briefs.

Because Coastal Alabama Partnership is focused on community development and growth—and not partisanship or elections—it is important to explain what the organization filing this brief is, and what it is not. Coastal Alabama is not a chamber of commerce or an economic-development commission, but it works with the municipalities in these counties to identify opportunities and bring them to fruition. It is not a tourism-development council, but one of its goals is to see tourism flourish. It is not a body of elected officials, but it is a resource to help them coordinate and implement a regional strategic plan. Coastal Alabama Partnership is, above all else, what its name suggests—a partnership between business leaders, community leaders, and political leaders, designed to get things done on Alabama's coast.

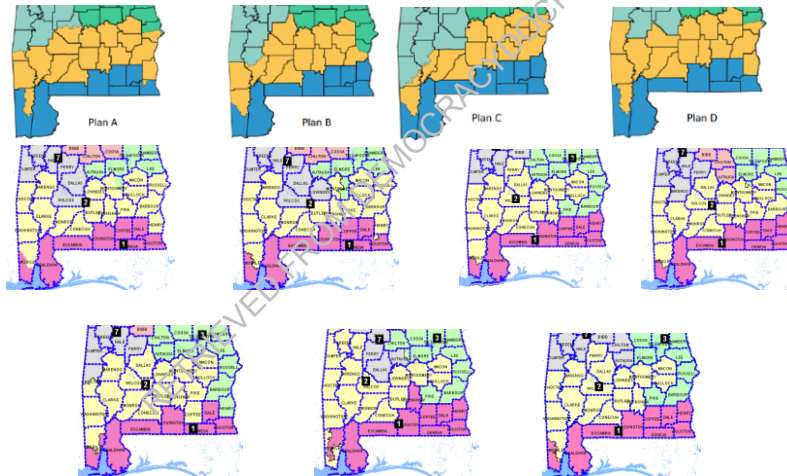
Focused as it is on the shared goals of economic and community growth, Coastal Alabama Partnership is not a partisan organization. It will say almost nothing in this brief about political parties or election campaigns. It will not seek to provide perspective on all the questions of race this case implicates, or to cast any doubt on the vital role of the Voting Rights Act. Nor does Coastal Alabama Partnership dispute that the federal court's drawing of Alabama's congressional map in 1993—which largely is the same map now in place with minor adjustments for subsequent population shifts—was consistent with this important statute.

But a new three-judge court has now ordered that map to be redrawn in a way that would unnecessarily undermine Coastal Alabama Partnership's goals, and on this new claim this organization can bring an important and unique perspective to bear. As the State's

opening brief explains, under the current map, all of Alabama's Gulf Coast community is within a single congressional district, AL-1, and thus served by a single representative who has focused on helping the coastal community thrive:



See Ala. Br. 18. Each of the maps proposed by Appellees would carve out an important slice of Mobile County—containing parts of the City of Mobile—and put it in a district separate from the rest of the coast:



See Ala. Br. 20; SJA99–109, 149. The removed parts of Mobile would be represented by a Member of Congress who also represents citizens from locations to the north. The remainder of the Gulf Coast would be represented by a Member whose constituents also live in areas far to the east.

Coastal Alabama Partnership is filing this brief to elaborate on how—as the State has suggested—those proposed maps would be detrimental to the goals this organization has sought to achieve. *See* Ala. Br. 21, 58–60. As explained in the pages that follow, Alabama’s two coastal counties very much form a community of interest whose people, history, economy, and culture are markedly distinct. The people of this community share those interests regardless of their partisan political affiliations or the color of their skin. Yet the district court’s order would cut this vital area in two. That reality, as discussed below, makes a difference to the merits question now before the Court.

RETRIEVED FROM DEMOCRACYDOCKET.COM

SUMMARY OF ARGUMENT

It is important, for groups focused on economic growth and cultural prosperity, that congressional districts reflect communities whose interests transcend partisan politics and race. This Court has rightly read Section 2 in a manner that is consistent with this principle, precluding courts from re-drawing districts on the basis of race in disregard of preexisting, non-racial communities of interest. The three-judge panel misapplied the statute when it required the Alabama Legislature to draw maps dividing the Alabama Gulf Coast's longstanding community of interest in two.

A. This community of interest pre-dates Alabama. Mobile was the first city founded in the territory that would become the State, and the coast's French-influenced culture has long made it distinct. Whether by the French, the Spanish, or the early United States, the land along the coast was grouped together—and separately from the parts of Alabama to the north. The region's focus on commerce, shipbuilding, and coastal-influenced industries created an economy and polity that historically was often at odds with the State's more agrarian, landlocked areas.

B. The coast remains unique. The shipbuilding, commercial fishing, and tourism associated with the beaches and bay make the Mobile and Baldwin economy unlike any other in Alabama. The still-palpable French heritage makes the region culturally distinct. Business is booming, and the population is growing rapidly.

C. The maps relied on by the district court would undermine the recent progress on the coast. The Mobile-Baldwin area has succeeded in no small part be-

cause the two counties have been represented by a single Member of Congress. Yet Appellees' maps would fuse much of the region with a landlocked, agrarian area in southeastern Alabama known as the Wiregrass, which has divergent economic and cultural interests. The coast needs a Representative focused on naval funding, commercial fishing, tourism, and hurricane mitigation. The Wiregrass needs a Representative focused on agricultural issues and Fort Rucker. It would not even be easy for a Representative to travel between the two regions. The maps relied on by the district court would compromise any Representative's ability to effectively serve the citizens in these disparate areas.

D. Section 2 serves a critical function in our State and country, but it cannot require this particular result. AL-1 looks as it does not because of any attempt to deny Alabama's citizens an equal opportunity to vote, but because the coast is a vital community of interest. The district court's decision would offend the principles underlying Section 2 by removing parts of the very heart of this community, the City of Mobile, due to its racial demographics, and by assuming that its residents have more in common with residents of far-flung and dissimilar parts of the State. This Court's jurisprudence bars that result, and instead calls for the courts to maintain this community of interest on Alabama's Gulf Coast.

ARGUMENT

To groups whose goal is to help their communities grow and thrive, it matters a great deal that congressional districts not be formed by random lines cutting across streets and neighborhoods. It is imperative that these districts reflect real, unique communities, which contain real, unique people, who have real, unique interests transcending partisan politics. Districts should afford these people a single Representative in Congress who has incentives to focus on the goals and values that unite these communities—and who will not be conflicted by obligations owed toward other communities that do not share the same aspirations. The Voting Rights Act respects these ideals, and the district court’s decision is wrong because of the way it would cut Alabama’s Gulf Coast community in two.

The State’s opening brief addresses the relevant Section 2 jurisprudence for these purposes and—in particular—the factors from *Thornburg v. Gingles*, 478 U.S. 30 (1986). The district court’s treatment of the Gulf Coast implicates the first *Gingles* factor: whether, in proposing a new congressional map for Alabama, Appellees have identified a second majority-minority district that is sufficiently “compact.” As this Court has explained, determining compactness for Section 2 purposes requires courts to account for “traditional districting principles such as maintaining communities of interest and traditional boundaries.” *League of United Latin Am. Citizens (“LULAC”) v. Perry*, 548 U.S. 399, 433 (2006) (citing *Abrams v. Johnson*, 521 U.S. 74, 92 (1997)).

These principles mean that a court cannot, in the name of creating additional majority-minority districts, ignore the non-race-related interests that bring entire neighborhoods, towns, cities, and counties—and, yes, coasts—together. As this Court has put it, “[t]he recognition of nonracial communities of interest reflects the principle that a State may not ‘assum[e] from a group of voters’ race that they ‘think alike, share the same political interests, and will prefer the same candidates at the polls.’” *LULAC*, 548 U.S. at 433 (quoting *Miller v. Johnson*, 515 U.S. 900, 920 (1995) (quoting, in turn, *Shaw v. Reno*, 509 U.S. 630, 647 (1993))). “Legitimate yet differing communities of interest,” this Court has mandated, “should not be disregarded in the interest of race.” *Id.* at 434. This Court’s recent jurisprudence outside the redistricting context suggests that if the “reason” the State drew its map as it did was to maintain longstanding communities of interest, the districts are “less likely to violate §2.” *Brnovich v. Democratic Nat’l Comm.*, 141 S. Ct. 2321, 2339–40 (2021).

The three-judge panel misapplied these principles when it considered how Appellees’ proposed districts would affect the community of interest on Alabama’s Gulf Coast. The court held the Legislature’s maps violative of Section 2 in part by finding that the State’s interests in maintaining this single community of interest in a single congressional district were “less compelling” than Appellees’ interests in creating new proposed districts. MSA180. In so doing, the three-judge court misapprehended the significance of Appellees’ premise that, to achieve their new districts, it is necessary to partition the coast. As explained below, the

basis for preserving this community in a single congressional district is deep and wide. The fact that Appellees would necessarily split this community in two means that they can show no Section 2 violation under the Legislature's map—and that it is their proposed districts, rather than the Legislature's, that are suspect. Previous courts already have rejected congressional maps that would have disunited Mobile County, in favor of plans that “better preserve[d] the communities of interests in” current Districts 1 and 2. *Wesch v. Hunt*, 785 F. Supp. 1491, 1497 (S.D. Ala. 1992). The district court should have done the same here.

A. Alabama's Gulf Coast has a long history as a unique community of interest

The community of interest on Alabama's Gulf Coast did not arise just yesterday—or in the 11 years since local leaders formed the organization that is filing this brief. The history runs much deeper than that.

This community existed, in fact, before there even was an Alabama. Well before the Old World knew the landscape that would become the rest of the State, it knew Mobile Bay. See W. Rogers et al., *Alabama: The History of a Deep South State* 18 (1994). European colonization began in earnest when the French staked their claim at Old Mobile in 1702 and then, in 1711, established the modern City of Mobile. *Id.* at 26, 28. The city served as the first capital of French Louisiana and remained under French control for 60 years. M. Thomason, *Mobile: The New History of Alabama's First City* 34 (2001). The French left a stamp that remains apparent today, founding Alabama's oldest city

and introducing the State's first Christian denomination. Rogers, *supra*, at 127, 133. Long after the French departed, the Alabama coastal Catholic community remained large and robust, and it has stayed that way since. See V.O. Key, Jr., *Southern Politics in State and Nation* 634 (7th ed. 2011).

After the French and Indian War, the Union Jack replaced the Fleur-De-Lis—but even then, the coast remained distinct. Rogers, *supra*, at 31. The British grafted this area into their “Fourteenth Colony,” West Florida, which stretched to the Mississippi River in the west. *Id.* at 32. Most of Alabama, on the other hand, remained under the control of Indian Tribes or Georgia's colonial government. *Id.* at 36.



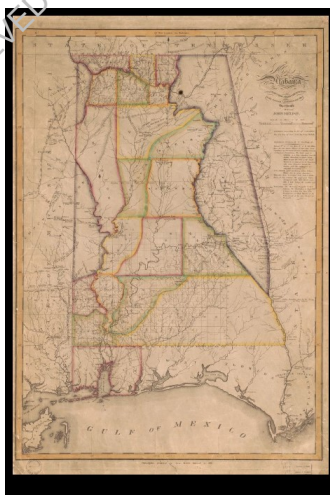
See *Map of West Florida*, Florida Memory: State Library and Archives of Florida, <https://www.floridamemory.com/items/show/35219> (visited Apr. 30, 2022).

The area maintained its character. Trade had been a focus of these Gulf Coast settlements from the beginning, and it blossomed under British rule. Rogers, *supra*, at 35. And while the British introduced several of their own institutions, such as the Anglican Church and the Common Law, even they acknowledged that

the firmly established Catholic Church should remain. *Id.* at 33. During the latter part of the American Revolution, control of Alabama's Gulf Coast changed hands again when the Spanish captured Mobile Bay, but not the rest of the territory that became Alabama. *Id.* at 36–37.

It was not until the War of 1812 that the coast became politically connected with the rest of present-day Alabama. The United States laid claim to the coast at that time, and it became part of the Mississippi Territory. A. Pickett, *History of Alabama* 516 (River Cty. Pub. ed., 2003). Congress then organized the Alabama Territory in 1818. *Id.* at 614.

Still, the coast remained discrete. Mobile and Baldwin Counties were two of the first seven counties formed in the territory. Pickett, *supra*, at 614. The territorial government expanded Mobile and Baldwin Counties concurrently, and they assumed roughly the shape they have today. Pickett, *supra*, at 616. Mobile and Baldwin—along with four other counties—formed the Southern Territorial Judicial District:



See Map of Alabama constructed from the surveys in the General Land Office and other documents. Improved to 1819, Libr. of Cong., <https://www.loc.gov/resource/g3970.ct007144/?r=-0.633,0.406,2.108,0.842,0> (visited Apr. 30, 2022). These counties then became part of the State of Alabama upon its admission to the Union in 1819. Pickett, *supra*, at 660.

In the years that followed, the coast continued to have unique interests vis-à-vis the rest of the State. Rogers, *supra*, at 133–34. By the Civil War, Mobile was Alabama’s largest city. *Id.* at 133. The region’s increasing commercialization and reliance on national and international trade frequently put it in conflict with the rest of the State. Gulf Coast residents pushed back against the populace’s general opposition to railroad finance and construction. *Id.* at 178–79. To help fund a railway from Mobile to Ohio, Mobilians approved a special “Railroad Tax,” which would have been a non-starter in the State’s more agrarian regions. *Id.* at 179. Mobile also emerged as a tourism hotspot. *Id.* at 133–34.

The distinctions between coastal and inland Alabama remained in the years following Reconstruction. World War II had a unique effect on the area. “Mobile perhaps profited from military growth more than any other Alabama city.” Rogers, *supra*, at 512. Companies on the coast produced warships at a breakneck pace. *Id.* at 512. The resulting jobs attracted people to Mobile and surrounding towns. According to the U.S. Census Bureau, approximately 89,000 people moved to Mobile County during the war years. *Id.* But when the war ended, so did the boom. *Id.* at 520. The Gulf Coast lost 40,000 jobs almost overnight, and 55,000 people left for opportunities elsewhere. *Id.*

B. Alabama's Gulf Coast continues to stand as a unique community of interest

Past is prologue, and the coast's economy and culture—which have experienced massive growth in recent decades—remain heavily influenced by the salt water at its southern edge. The resulting community of interest echoes the region's unique history and distinguishes its residents from the rest of Alabama's.

Shipbuilding in these parts, for instance, continues to be a proud and—for Alabama—distinctive tradition. As former AL-1 Representative Bradley Byrne testified in the district court, “you have people here who are like fifth, sixth generation ship builders.” JA812. An emphasis of Coastal Alabama Partnership's founding entities has been to help attract large employers who can harness this experience. Austal USA, an international ship manufacturer, is now headquartered in Mobile and currently employs 3,500 people. Austal USA, <https://usa.austal.com/> (visited Apr. 30, 2022). The facility specializes in manufacturing ships for the U.S. Navy. *Id.* Just this April, Austal opened a new steel shipbuilding facility in Mobile to augment its existing aluminum production capabilities. *Austal USA Celebrates Opening of Steel Facility*, Austal USA, Apr. 12, 2022, <https://usa.austal.com/news/Steel-Line-Start-Event>. This new expansion will bring more jobs and was made possible by financing “provided in part by a Defense Production Act (DPA) Title III Agreement between the U.S. Department of Defense, in support of the U.S. Navy shipbuilding industrial base, and Austal USA.” *Id.*

The tourism industry likewise continues to flourish in ways that differentiate Alabama's coast from parts of the State to the north and east. Vacationers

come to both sides of Mobile Bay. According to the Alabama Tourism Department, 6 million people visited in 2020, spending \$6 billion locally. F. Henley, *Gulf Shores & Orange Beach Tourism unveils 2020 economic impact report and 2021 Outlook at annual summit*, May 4, 2021, Gulf Shores & Orange Beach Tourism, <https://www.gulfshores.com/media/leisure-press-releases/gulf-shores-orange-beach-tourism-unveils-2020-economic-impact-report-and-2021-outlook-at-annual/>. The tourism revenue supports nearly 51,000 jobs. *Id.*

Commercial fishing and seafood distribution have also distinguished the coast's economy from the rest of the State's. Between 2011 and 2017, the seafood industry averaged almost \$520 million in sales and supported nearly 12,000 jobs. *Economic Impacts of the Alabama Seafood Industry*, Miss. State Univ. Coastal Research & Extension Ctr., <http://coastal.msstate.edu/economic-impacts-alabama-seafood-industry> (visited Apr. 28, 2022). Baldwin County's Bon Secour Fisheries, for example, began by delivering oysters to Mobile and surrounding communities in the late 19th century and now ships seafood nationwide. *Our Story*, Bon Secour Fisheries, <https://bonsecourfisheries.com/our-story/> (visited Apr. 30, 2022). Just across the Bay is Bayou La Batre, unofficially known as "the Seafood Capitol of Alabama." *About Bayou La Batre*, Bayou La Batre Area Chamber, <https://www.bayoulabatreareachamber.org/About-Bayou-La-Batre> (visited Apr. 30, 2022). It has attracted talented fishermen—in real life, and not just in *Forrest Gump*—since it was established in 1786. See W. Groom, *Forrest Gump* 59, 237 (Simon & Schuster 2002). Today,

the town's seafood industry has an economic impact of more than \$80 million annually.

The industrial advantages that took root during World War II have facilitated a new economic effervescence. Several large companies have set up shop near the Port of Mobile because of the logistical advantages the Bay and River provide. One of the primary reasons Airbus put its first U.S.-based aircraft manufacturing facility on Alabama's Gulf Coast, employing over 1,000 people, was that the location was perfect for receiving shipments from European ports. *Celebrating five years of production in Mobile, U.S.*, Airbus (Sept. 14, 2020), <https://www.airbus.com/en/newsroom/news/2020-09-celebrating-five-years-of-production-in-mobile-us>. One multinational steel manufacturer, AM/NS Calvert, uses Mobile County's rivers to receive raw material shipments from Brazil. It is joined by several other steel companies like Outokumpu, SSAB, and Earth Pipe. The boomtown is back.

The Gulf Coast's burgeoning economic opportunities have strengthened the ties between Mobile and Baldwin Counties. Lots of people live in one county and work in the other. Since 2000, the Census Bureau has included both counties in the same Combined Statistical Area and Metropolitan Statistical Area. See, *Alabama: 2020 Core Based Statistical Areas and Counties*, U.S. Census Bureau, Population Division, https://www2.census.gov/programs-surveys/metro-micro/reference-maps/2020/state-maps/01_Alabama_2020.pdf. And while the City of Mobile has long been a significant draw to the region, Baldwin County is now the fastest-growing county in the State. R. Archibald, *What's fueling growth in Alabama's fastest*

growing counties?, AL.com (May 11, 2021), <https://www.al.com/news/2021/05/whats-fueling-growth-in-alabamas-fastest-growing-counties.html>.

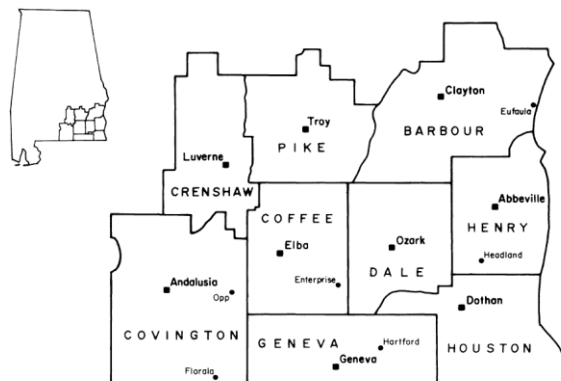
It's not just the economy. Anyone from other parts of Alabama will tell you coastal culture is, well, *different*. It is difficult for outside observers—even from places as close as Huntsville, Birmingham, and Montgomery—to get their heads around how important Mardi Gras is to Alabamians on the coast. Stemming from its French Catholic heritage, Mobile is the source of America's first Mardi Gras celebrations—a fact people from both counties are quick to note when they make friends from New Orleans. See, e.g., V. Brown, *Mardi Gras: Mobile, Ala., offers a family-friendly alternative to New Orleans*, Washington Post (Feb. 10, 2022), <https://www.washingtonpost.com/travel/2022/02/10/mobile-alabama-mardi-gras/>. Schoolkids have actual Mardi Gras holidays each year: in 2022, they got—in combination with President's Day—three straight days off. See *Mobile County Public Schools 2021-2022 School Year Calendar*, Mobile County Public Schools, <https://content.schoolinsites.com/api/documents/d3b369f711e74992810d11706cbb5d02.pdf>; *Baldwin County Board of Education 2021-2022 Calendar*, Baldwin County Board of Education, <https://www.bcbe.org/cms/lib/AL01901374/Centricity/Domain/4/2021-2022%20BCBE%20Approved%20Calendar.pdf> (both visited Apr. 30, 2022). Businesses shut down. Lawyers stop billing hours and get frustratingly hard to find. But the pause is good for the local economy, creating 12,811 jobs. J. Kiernan, *2020 Mardi Gras Facts – Booze, Floats, Money & More*, Wal-letHub (Feb. 18, 2020), <https://wallethub.com/blog/>

mardi-gras-facts/31999. And to these counties' residents, it is much more than a big party. Mardi Gras is a fundamental part of the unique society they have built on the coast.

C. Appellees' maps would fracture the Gulf Coast and merge part of it with the Wiregrass's divergent community

It is no little thing to this amicus that Appellees' Section 2 claim would sever Alabama's Gulf Coast community. Each of Appellees' proposed maps would extend a new, thin arm from the congressional district to the north, to cleave away residents from the oldest part of the Gulf Coast community, the City of Mobile. To compensate for the population Appellees would remove, each of those maps would consolidate the rest of Mobile and Baldwin Counties with a district, served by a single Member of Congress, that includes several counties with no connection to the water or the coast. *See supra* at 3.

Put to the side, for the moment, the fact that Appellees would separate the citizens in the very heart of the Alabama coast from the rest of their community. This brief will have more to say on that point in a moment. It also is remarkable that Appellees would merge the remaining parts of the coast with counties to the east. Those counties are part of an area known as "the Wiregrass," for its ubiquitous fields of long-bladed grass. K. Braund, *"Hog Wild" and 'Nuts: Billy Boll Weevil Comes to the Alabama Wiregrass*, 63 Agric. Hist. 15, 16–17 (1989). It consists of nine predominantly rural counties in the State's southeast:



The Alabama Wiregrass

See id. at 16. From the perspective of an organization whose goal is to ensure that the Gulf Coast continues to thrive, lumping the coast and the Wiregrass into a single district would be a serious, and counter-productive, mistake. These regions may be part of the same State, but as practical matter they are worlds apart. JA492–93.

Mobile and Baldwin Counties' interests, on the one hand, are tied to the water. Their coastal economy relies on commercial fishing, ship manufacturing, and beach tourism. Year in and year out, the area's residents need their Representative in Congress attending to matters, like federally prescribed parameters of red-snapper season, that may seem insignificant to others but are vitally important to the coast. J. Carl, *Carl: Federal strings make future uncertain for red snapper anglers*, Yellowhammer News (Oct. 25, 2021), <https://yellowhammernews.com/carl-federal-strings-make-future-uncertain-for-red-snapper-anglers/>. They need their Representative addressing hurricanes and funding for the Corps of Engineers to

dredge the Port of Mobile. See D. Winkler & B. Gordon, *The Effect of the BP Oil Spill on Volume and Selling Prices of Oceanfront Condominiums*, 89 Land Econ. 614 (2013); J. Baker & T. Hanson, *Economic Impact of the 2010 Oil Spill on Coastal Alabama Marine-Based Industries*, National Oceanic and Atmospheric Administration (May 2012), <https://repository.library.noaa.gov/view/noaa/38190>; J. Coughlan, *Gulf Coast Unemployment Trends, 2000 to 2010: Hurricanes, Recessions, Oil Spills*, Monthly Lab. Rev. 11 (Aug. 2012). They need legislation like the Gulf of Mexico Energy Security Act of 2006, 43 U.S.C. § 1331, which provides revenue sharing to coastal regions for environmental restoration and establishes regulatory measures to prevent oil spills.

The Wiregrass's residents need their Representative focused on different things. With no coastline, agricultural interests predominate there. Peanut farming—basically unheard of in Mobile and Baldwin Counties—has played a unique historical role in the southeastern part of the State. It contributes over \$210 million to the Wiregrass economy annually. H. Middlebrooks, *As planting is ongoing, Wiregrass peanut farmers looking for strong 2022 crop*, Dothan Eagle (Apr. 19, 2022), https://dothaneagle.com/news/business/as-planting-is-ongoing-wiregrass-peanut-farmers-looking-for-strong-2022-crop/article_71df3fec-bff2-11ec-bc61-674bfc963634.html. One of the region's larger municipalities has a 13-foot monument to the boll weevil—that's right, the insect—to commemorate its role destroying cotton and forcing farmers to diversify crops. L. Boissoneault, *Why an Alabama Town Has a Monument Honoring the Most De-*

structive Pest in American History, Smithsonian Magazine (May 31, 2017), <https://www.smithsonianmag.com/history/agricultural-pest-honored-herald-prosperity-enterprise-alabama-180963506/>. The Wiregrass's largest city, Dothan, holds a 10-day National Peanut Festival each year. National Peanut Festival, <https://www.nationalpeanutfestival.com/p/about> (visited Apr. 30, 2022). The Wiregrass's representative in Congress needs to hone in on these agricultural issues that have no special relevance to the coast.

But the differences between these communities are about more than agriculture versus fishing, or peanut festivals versus Mardi Gras. Of particular importance in Congress will be the roles different branches of the Armed Forces play in these areas. The Gulf Coast's military ship-building industry depends on naval funding. The Wiregrass, on the other hand, is home to Fort Rucker and the U.S. Army Aviation Center of Excellence. U.S. Army Aviation Center of Excellence and Fort Rucker, <https://home.army.mil/rucker/index.php/about/usaace> (visited Apr. 30, 2022). Many local businesses focus on servicing Army helicopters. *See* Staff Reports, *M1 Support Services wins award from Army Aviation association*, Dothan Eagle (Nov. 20, 2021), https://dothaneagle.com/news/local/m1-support-services-wins-award-from-army-aviation-association/article_8311c4a6-5224-11ec-8fb3-3f31618cce56.html.

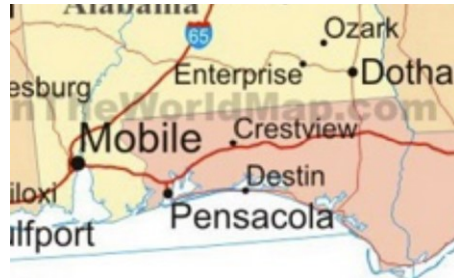
Placing these two military-dependent communities of interest in the same congressional district could create serious conflict. As Representative Byrne testified, funding for military-related expenditures is not automatic, and Members fight for those dollars each

year. JA813. “There were all sorts of people,” he explained, “trying to take the money away from those programs that they were building ships for, for other programs.” JA849. The people of the Gulf Coast deserve a representative who advocates for Navy-focused interests, just as the people of the Wiregrass deserve a representative who pushes for Army funding there. To paraphrase what Representative Byrne said below, if these two communities of interest are combined and a single Member of Congress must represent them both, “somebody is going to lose out.” JA822. Indeed, perhaps everybody in these two areas will. As this Court has put it, “[t]he practical consequence of drawing a district to cover two distant, disparate communities is that one or both groups will be unable to achieve their political goals.” *LULAC*, 548 U.S. at 434.

The differences between the two communities also are about more than their economies. Mobile and Baldwin Counties have grown more urban and suburban by the year, while the Wiregrass has remained mostly rural. Mobile is Alabama’s fourth largest city, and Baldwin is its fastest growing county. The Wiregrass’s largest city by a significant margin, Dothan, has a population that is less than half of Mobile’s. *Quick Facts: Dothan City, Alabama*, U.S. Census Bureau, <https://www.census.gov/quickfacts/fact/table/dothancityalabama/POP060210> (visited Apr. 30, 2022).

It is not even easy to get from one of these places to the other. The best way for a congressman to see constituents in both Mobile and Dothan on the same day would generally involve driving through Florida,

heading as far east as the turn-off to Panama City, and then turning north back into Alabama:



Map of Alabama, Florida, and Georgia, <https://ontheworldmap.com/usa/state/alabama/map-of-alabama-georgia-florida.html> (visited Apr. 30, 2022)

So the district court has read Section 2 to mandate congressional boundaries around parts of the State that are not even well connected with roads. That cannot be what the statute requires. The lack of infrastructure tying these areas together underscores a disconnect on a more fundamental level, as well as the reason they have not been part of the same congressional district. The maps ordered by the three-judge court would not further the economic and community goals that the amicus has sought to achieve on the coast—and they would not, by all appearances, further the economic and community goals that Wiregrass-based leaders and organizations are trying to achieve for their region, either.

It is no answer to say, as the district court did, that “the Legislature has repeatedly split Mobile and Baldwin Counties in creating maps for the State Board of Education districts.” MSA180. The Board of Education is the Board of Education. Congress is Congress. Education policy is generally not driven by the nearby

presence of large bodies of water. Matters relating to military funding, infrastructure building, and commercial regulation inevitably are. One member of Mobile’s state legislative delegation—who happens to be a Democrat—offered the following bipartisan sentiment at the time the Legislature drew the current map, with its current AL-1: “I consider Mobile and Baldwin counties one political subdivision and would prefer that these two Gulf Coast counties remain in the same congressional district because government, business and industry in the two counties work well together—with our congressman—for the common good of the two counties.” J. Sharp, *Redistricting Alabama: How South Alabama could be split up due to Baldwin County’s growth*, AL.com (Sept. 21, 2021), <https://www.al.com/news/2021/09/redistricting-alabama-how-south-alabama-could-be-split-up-due-to-baldwin-countys-growth.html> (quoting Rep. Adline Clarke, D-Mobile). One of her Republican colleagues agreed that putting these counties that “work good together as a region” in two different congressional districts “would be counterproductive on what we need.” *Id.* (quoting Rep. Matt Simpson, R-Daphne).

D. Section 2 does not require this fracturing of the Gulf Coast community

This amicus is a nonpartisan group whose focus is economic and community development, not political parties and elections. This amicus knows that Section 2 has corrected serious injustices in Alabama and elsewhere, and it does not doubt that this statute should continue to play an important role throughout the Nation. But while much can and should be said about the progress Section 2 has allowed the country to achieve, splitting this coastal community in two—

and, in particular, excising significant portions of the City of Mobile—cannot be what the statute mandates.

As the foregoing discussion suggests, the “reason” AL-1 is shaped as it is, and the “reason” it encompasses Alabama’s entire Gulf Coast, has no connection to the ills Section 2 is designed to eradicate. *Brnovich*, 141 S. Ct. at 2339–40. AL-1’s current lines do not mark, in the statute’s words, a “denial” or “abridgement” of anyone’s right to vote, or an attempt to make districts that are “not equally open” to all voters. 52 U.S.C. §10301(a) & (b). AL-1 looks as it does—and includes the parts of the City of Mobile the district court’s order would remove—because of the history and culture that have made the coast unlike any other part of the State. AL-1 looks as it does because the French sailed here at the turn of the 18th century, and because their contributions have been apparent ever since. The district looks this way because of the Bay, the beaches, and the boats that have defined this region in the intervening 300 years.

It is no comfort, to those who have witnessed the role that the region’s unity in Congress has played in helping it succeed, that the proposed maps would separate from the rest of the coast what might appear—to some, at first glance—to be a relatively small sliver of Mobile County. That supposedly small sliver, on every map, consists of large chunks of the City of Mobile. And that city is the very heart of this coastal community. Mobile is where the French planted their flag. It has always been the region’s largest city. It is where the ships are built, and where the economy finds its center. To suggest that Alabama’s Gulf Coast commu-

nity would remain relatively intact if you took out Mobile is a little like saying that New York City would remain relatively intact if you took out Manhattan.

There is something outright alarming, moreover, in the suggestion that Section 2 would gerrymander out this heart of the coastal community on the theory that the true interests of Mobile's residents—due to their overall racial demographics—must necessarily align with inland areas far to the east and the north. It goes without saying—at least, among those who know the coast—that all Mobilians are vital members of this community. Regardless, the cultural and geographic dynamics that have brought this area together transcend race and partisanship, and Mobile is a central part of those dynamics. And there is no legitimate basis, this Court has emphasized, “to believe a district that combines two farflung segments of a racial group with disparate interests provides the opportunity that §2 requires or that the first *Gingles* condition contemplates.” *LULAC*, 548 U.S. at 433. That is so because one purpose of the Voting Rights Act is “to foster our transformation to a society that is no longer fixated on race.” *Georgia v. Ashcroft*, 539 U.S. 461, 490 (2003). This Court has therefore held that proposed majority-minority districts were not sufficiently compact where they combined minority communities from urban and rural areas, or split counties and cities into different districts. *See LULAC*, 548 U.S. at 434–35; *Shaw v. Hunt*, 517 U.S. 899, 916 (1996); *Bush v. Vera*, 517 U.S. 952, 965–66 (1996) (plurality op.). That is what the proposed new maps would do to the City of Mobile.

That result would not be good for Mobile or the rest of the coast, and it cannot be what Section 2 dictates.

Alabama's coastal community has gotten things done in unprecedented ways by endeavoring, as Coastal Alabama Partnership says at the top of its website, to "leverage the strength of every area of our two counties to focus on what is important for Coastal Alabama." Coastal Alabama Partnership, <http://coastalalabama.org/> (visited Apr. 30, 2022). Section 2, and the "totality of circumstances," does not require this progress to end. *Brnovich*, 141 S. Ct. at 2339–40. Quite the opposite. They call for respect, and deference to, the Legislature's choice of "maintaining" this community of interest. *LULAC*, 548 U.S. at 433–34.

CONCLUSION

This Court should reverse the judgment of the District Court.

Respectfully submitted,

John C. Neiman, Jr.

Counsel of Record

H. William Bloom, III

Jordan A. LaPorta

MAYNARD COOPER & GALE, P.C.

1901 Sixth Avenue North

2400 Regions/Harbert Plaza

Birmingham, AL 35203

(205) 254-1228

jneiman@maynardcooper.com

May 2, 2022