

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

COAKLEY PENDERGRASS; TRIANA
ARNOLD JAMES; ELLIOTT
HENNINGTON; ROBERT RICHARDS;
JENS RUECKERT; and OJUAN GLAZE,

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his official
capacity as the Georgia Secretary of State;
SARA TINDALL GHAZAL, in her
official capacity as a member of the State
Election Board; JANICE JOHNSTON, in
her official capacity as a member of the
State Election Board; EDWARD
LINDSEY, in his official capacity as a
member of the State Election Board; and
MATTHEW MASHBURN, in his official
capacity as a member of the State Election
Board,

Defendants.*

CIVIL ACTION FILE
NO. 1:21-CV-05339-SCJ

**JOINT STIPULATED FACTS FOR PRELIMINARY INJUNCTION
PROCEEDINGS**

* Pursuant to Federal Rule of Civil Procedure 25(d), the parties have automatically substituted Janice Johnston, in her official capacity, for Anh Le, in her official capacity, based on recent changes to the composition of the State Election Board.

Pursuant to the Court's coordinated order of January 28, 2022, *see* ECF No. 51, Plaintiffs and Defendants respectfully submit the following joint stipulated facts.¹

As an initial matter, Plaintiffs and Defendants stipulate that the expert report of Dr. Loren Collingwood, *see* ECF No. 34-4, will be admitted as evidence without requiring Dr. Collingwood's testimony at the preliminary injunction hearing.

I. Parties

A. Plaintiffs

1. Coakley Pendergrass

1. Plaintiff Coakley Pendergrass is Black.
2. Plaintiff Coakley Pendergrass resides in Cobb County, Georgia.
3. Under the enacted congressional plan, Plaintiff Coakley Pendergrass resides and is a registered voter in Congressional District 11.

2. Triana Arnold James

4. Plaintiff Triana Arnold James is Black.
5. Plaintiff Triana Arnold James resides in Douglas County, Georgia.

¹ When stipulating to facts as true, the parties do not waive the right to object to evidence as irrelevant or otherwise inadmissible. Any stipulation made for purposes of the upcoming preliminary injunction proceedings shall not bind the parties for other purposes of this litigation.

6. Under the enacted congressional plan, Plaintiff Triana Arnold James resides and is a registered voter in Congressional District 3.

3. Elliott Hennington

7. Plaintiff Elliott Hennington is Black.

8. Plaintiff Elliott Hennington resides in Cobb County, Georgia.

9. Under the enacted congressional plan, Plaintiff Elliott Hennington resides and is a registered voter in Congressional District 14.

4. Robert Richards

10. Plaintiff Robert Richards is Black.

11. Plaintiff Robert Richards resides in Cobb County, Georgia.

12. Under the enacted congressional plan, Plaintiff Robert Richards resides and is a registered voter in Congressional District 14.

5. Jens Rueckert

13. Plaintiff Jens Rueckert is Black.

14. Plaintiff Jens Rueckert resides in Cobb County, Georgia.

15. Under the enacted congressional plan, Plaintiff Jens Rueckert resides and is a registered voter in Congressional District 14.

6. Ojuan Glaze

16. Plaintiff Ojuan Glaze is Black.

17. Plaintiff Ojuan Glaze resides in Douglas County, Georgia.

18. Under the enacted congressional plan, Plaintiff Ojuan Glaze resides and is a registered voter in Congressional District 13.

B. Defendants

1. Brad Raffensperger

19. Defendant Brad Raffensperger is the Georgia Secretary of State and is named in his official capacity.

2. Sara Tindall Ghazal

20. Defendant Sara Tindall Ghazal is a member of the State Election Board and is named in her official capacity.

3. Janice Johnston

21. Defendant Janice Johnston is a member of the State Election Board and is named in her official capacity.

4. Edward Lindsey

22. Defendant Edward Lindsey is a member of the State Election Board and is named in his official capacity.

5. Matthew Mashburn

23. Defendant Matthew Mashburn is a member of the State Election Board and is named in his official capacity.

II. Georgia's Congressional Map

A. 2020 Census

24. The U.S. Census Bureau releases data to the states after each census for use in redistricting. This data includes population and demographic information for each census block.

25. The Census Bureau provided initial redistricting data to Georgia on August 12, 2021.

26. From 2010 to 2020, Georgia's population grew by over 1 million people to 10.71 million, up 10.6 percent from 2010.

27. As a result of this population growth, the state retained 14 seats in the U.S. House of Representatives.

28. From 2010 to 2020, Georgia's Black population increased by almost half a million people, up almost 16 percent since 2010.

29. Between 2010 and 2020, 47.26 percent of the state's population gain was attributable to Black population growth.

30. From 2010 to 2020, Georgia's white population decreased by 51,764, or approximately 1 percent.

31. Georgia's Black population has increased in absolute and percentage terms since 1990, from about 27 percent in 1990 to 33 percent in 2020. Over the

same time period, the percentage of the population identifying as non-Hispanic white has dropped from 70 percent to 50 percent.

32. As a matter of total population, any part Black Georgians comprise the largest minority population in the state (33.03 percent).

33. Georgia has a total voting-age population of 8,220,274, of whom 2,607,986 (31.73 percent) are any part Black and 30.27 percent are single race Black.

34. The total estimated citizen voting-age population in Georgia in 2019 was 33.8 percent any part Black and 32.9 percent single race Black.

35. The Atlanta Metropolitan Statistical Area (the “Metro Atlanta area”) consists of the following 29 counties: Barrow, Bartow, Butts, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Haralson, Heard, Henry, Jasper, Lamar, Meriwether, Morgan, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, and Walton.

36. Under the 2000 Census, the population in the 29-county Metro Atlanta area was 29.29 percent any part Black, increasing to 33.61 percent in 2010 and 35.91 percent in 2020. Since 2000, the Black population in the Metro Atlanta area has grown from 1,248,809 to 2,186,815 in 2020.

37. Between 2010 and 2020, the non-Hispanic white population in the Atlanta Metro area decreased by 22,736 persons.

B. Enactment of Senate Bill 2EX (“SB 2EX”)

38. The Georgia General Assembly held nine in-person and two virtual joint committee meetings beginning on June 15, 2021, to gather input from voters.

39. The joint redistricting committees released an educational video about the redistricting process at their June 15, 2021 meeting.

40. The General Assembly created an online portal for voters to offer comments on redistricting plans and received more than 1,000 comments from voters in at least 86 counties.

41. The joint committees held a meeting to hear from interested groups on August 30, 2021.

42. The National Conference of State Legislatures, American Civil Liberties Union of Georgia, Common Cause, Fair Districts GA, the Democratic Party of Georgia, Asian-Americans Advancing Justice – Atlanta, and other organizations presented at the August 30, 2021 joint meeting.

43. The House Legislative and Congressional Reapportionment Committee adopted the guidelines filed as Doc. No. 26-17 in *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, No. 1:21-CV-05337-SCJ (N.D. Ga.) (“*Alpha Phi Alpha*”), prior to drawing redistricting plans.

44. The Senate Reapportionment and Redistricting Committee adopted the guidelines filed as *Alpha Phi Alpha* Doc. No. 26-18 prior to drawing redistricting plans.

45. After the special session convened, the House and Senate redistricting committees held multiple meetings prior to voting on proposed redistricting plans.

46. On November 22, 2021, the Georgia General Assembly passed SB 2EX, which adopted a new congressional districting plan that revised existing congressional district boundaries.

47. Governor Brian Kemp signed SB 2EX into law on December 30, 2021.

C. 2021 Congressional Plan

48. The adopted 2021 congressional plan contains two majority-Black districts using the any part Black voting-age population (“BVAP”) metric and four majority-Black districts using the non-Hispanic Black citizen voting-age population (“BCVAP”) metric.

49. The 2021 congressional plan reduces Congressional District 6’s any part BVAP from 14.6 percent under the prior congressional plan to 9.9 percent.

50. Under the 2021 plan, Congressional District 13 has an any part BVAP above 66 percent.

51. Under the 2021 plan, Congressional Districts 3, 11, and 14 border Congressional District 13.

III. *Gingles* Preconditions

52. Plaintiffs' mapping expert, William S. Cooper, drew an illustrative congressional plan that includes an additional majority-Black congressional district (illustrative Congressional District 6) in the western Atlanta metropolitan area.

53. Mr. Cooper's illustrative Congressional District 6 has an any part BVAP of 50.23 percent and a non-Hispanic BCVAP of 50.69 percent.

54. Mr. Cooper's illustrative Congressional District 13 has an any part BVAP of 51.40 percent and a non-Hispanic BCVAP of 50.05 percent.

55. Mr. Cooper's illustrative congressional plan includes three majority-Black districts using the any part BVAP metric and five majority-Black districts using the non-Hispanic BCVAP metric.

56. Plaintiffs' racially polarized voting expert, Dr. Maxwell Palmer, examined election results in Congressional Districts 3, 11, 13, and 14.

IV. Totality of Circumstances

57. In 2015, after the Supreme Court invalidated Section 5's preclearance formula in *Shelby County v. Holder*, 570 U.S. 529 (2013), the Georgia General Assembly engaged in mid-cycle redistricting.

58. According to Census estimates, the unemployment rate among Black Georgians (8.7 percent) is nearly double that of white Georgians (4.4 percent).

59. According to Census estimates, White households are twice as likely as Black households to report an annual income above \$100,000.

60. According to Census estimates, Black Georgians are more than twice as likely—and Black children in particular more than three times as likely—to live below the poverty line.

61. According to Census estimates, Black Georgians are nearly three times more likely than white Georgians to receive SNAP benefits.

62. According to Census estimates, Black adults are more likely than white adults to lack a high school diploma—13.3 percent as compared to 9.4 percent.

63. According to Census estimates, 35 percent of white Georgians over the age of 25 have obtained a bachelor's degree or higher, compared to only 24 percent of Black Georgians over the age of 25.

64. The Georgia Legislative Black Caucus has only 14 members in the Georgia State Senate—25 percent of that chamber—and 41 members in the Georgia House of Representatives—less than 23 percent of that chamber.

65. Georgia has had 77 governors, none of whom has been Black.

66. Senator Raphael Warnock is the first Black Georgian to serve Georgia in the U.S. Senate.

[signature blocks on following pages]

RETRIEVED FROM DEMOCRACYDOCKET.COM

Dated: February 4, 2022

By: **Adam M. Sparks**

Joyce Gist Lewis

Georgia Bar No. 296261

Adam M. Sparks

Georgia Bar No. 341578

KREVOLIN & HORST, LLC

One Atlantic Center

1201 West Peachtree Street, NW,
Suite 3250

Atlanta, Georgia 30309

Telephone: (404) 888-9700

Facsimile: (404) 888-9577

Email: JLewis@khlawfirm.com

Email: Sparks@khlawfirm.com

Kevin J. Hamilton*

PERKINS COIE LLP

1201 Third Avenue, Suite 4900

Seattle, Washington 98101

Phone: (206) 359-8000

Facsimile: (206) 359-9000

Email: KHamilton@perkinscoie.com

Respectfully submitted,

Abha Khanna*

Jonathan P. Hawley*

ELIAS LAW GROUP LLP

1700 Seventh Avenue, Suite 2100

Seattle, Washington 98101

Phone: (206) 656-0177

Facsimile: (206) 656-0180

Email: AKhanna@elias.law

Email: JHawley@elias.law

Daniel C. Osher*

Christina A. Ford*

Graham W. White*

Michael B. Jones

Georgia Bar No. 721264

ELIAS LAW GROUP LLP

10 G Street NE, Suite 600

Washington, D.C. 20002

Phone: (202) 968-4490

Facsimile: (202) 968-4498

Email: DOsher@elias.law

Email: CFord@elias.law

Email: GWhite@elias.law

Email: MJones@elias.law

Counsel for Plaintiffs

*Admitted *pro hac vice*

Christopher M. Carr
Attorney General
Georgia Bar No. 112505
Bryan K. Webb
Deputy Attorney General
Georgia Bar No. 743580
Russell D. Willard
Senior Assistant Attorney General
Georgia Bar No. 760280
Charlene McGowan
Assistant Attorney General
Georgia Bar No. 697316
State Law Department
40 Capitol Square, S.W.
Atlanta, Georgia 30334

/s/ Bryan P. Tyson

Bryan P. Tyson
Special Assistant Attorney General
Georgia Bar No. 515411
btyson@taylorenghish.com
Frank B. Strickland
Georgia Bar No. 678600
fstrickland@taylorenghish.com
Bryan F. Jacoutot
Georgia Bar No. 668272
bjacoutot@taylorenghish.com
Loree Anne Paradise
Georgia Bar No. 382202
lparadise@taylorenghish.com
Taylor English Duma LLP
1600 Parkwood Circle
Suite 200
Atlanta, Georgia 30339
(678) 336-7249

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I have on this date caused to be electronically filed a copy of the foregoing JOINT STIPULATED FACTS FOR PRELIMINARY INJUNCTION PROCEEDINGS with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to counsel of record.

Dated: February 4, 2022

Adam M. Sparks
Counsel for Plaintiffs

RETRIEVED FROM DEMOCRACYDOCK.COM