

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA**

SOUTHERN DIVISION

EVAN MILLIGAN, et al.,

Plaintiffs,

vs.

WES ALLEN, et al.,

Defendants.

No. 2:21-cv-01530-AMM
(three-judge court)

**MILLIGAN PLAINTIFFS' OBJECTIONS TO DEFENDANTS' REMEDIAL
PROPOSAL AND MEMORANDUM OF LAW**

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INTRODUCTION

Alabama’s new congressional map ignores this Court’s preliminary injunction order and instead perpetuates the Voting Rights Act violation that was the very reason that the Legislature redrew the map. The new map (known as SB5) fails to address this Court’s ruling that the 2021 congressional map likely violates § 2 of the Voting Rights Act (VRA). This Court’s order, which the Supreme Court affirmed, found that “the appropriate remedy” in this case “includes either an additional majority-Black congressional district, or an additional district in which Black voters otherwise have an opportunity to elect a representative of their choice.” Mem. Op. & Order, ECF No. 107 at 5 (“Op.”). Alabama’s new map fails to satisfy this requirement. Rather, in what Alabama apparently considers the remedial congressional district, CD2, Black voters comprise neither “a voting-age majority,” nor “something quite close to it.”¹ *Id.* at 6. That matters not because of any arbitrary BVAP threshold, but because the analyses performed by both Plaintiffs’ expert, Dr. Baodong Liu,² and Alabama itself³ confirm that Black-preferred candidates in the new CD2 will continue to lose 100% of biracial elections—that is, elections in which Black voters’ preferred candidates are Black and the other candidate is white—by

¹ Population Summary, “Livingston Congressional Plan 3,” Alabama Permanent Reapportionment Committee (July 20, 2023), Ex. A.

² Remedial Expert Report of Baodong Liu (Jul. 28, 2023), Ex. B (“Liu 2023 Report”).

³ Alabama Performance Analysis, Ex. C.

10%-points on average.⁴ Defendants’ own analyses of several other elections confirm this result.⁵

Because SB5 does not remedy the likely § 2 violation that this Court and the Supreme Court identified, Plaintiffs respectfully ask this Court to enjoin the use of SB5, direct the Special Master to propose a VRA-compliant map, and order that map be implemented to remedy the § 2 violation pending final resolution of this litigation.

FACTUAL BACKGROUND

A. Alabama’s 2021 Congressional Districting Plan.

The Alabama Legislature adopted the congressional map challenged in this action in a Special Session in Fall 2021. Op. at 32. During that Session, the Legislative Defendants distributed talking points concerning plans submitted by other parties, criticizing one of them as violating the VRA because it had “no majority-Black district,” and arguing that a plan featuring a district with a BVAP of 45.82% would make it “unlikely that a Black Democrat candidate without the strength of incumbency will carry [that] district.”⁶ Defendant Pringle also referred to a plan “[w]ithout . . . a majority-minority district” as “the Republican opportunity

⁴ Liu 2023 Report, Table 2.

⁵ Alabama Performance Analysis, Ex. C.

⁶ *Milligan* Trial Ex. M29, ECF No. 88-24.

plan,” noting that under a plan without “a majority-minority district, [] Republicans might be able to win all seven congressional districts.”⁷

B. This Court Found, and the Supreme Court Affirmed, a Likely VRA Violation.

After compiling an “extremely extensive record,” this Court held that “the *Milligan* plaintiffs are substantially likely to establish that the [2021] Plan violates Section Two of the Voting Rights Act.” Op. at 4. It concluded that the “appropriate remedy” is a “plan that includes either an additional majority-Black congressional district, or an additional district in which Black voters otherwise have an opportunity to elect a representative of their choice.” *Id.* at 5-6. The Court emphasized “the practical reality, based on the ample evidence of intensely racially polarized voting adduced during the preliminary injunction proceedings, that any remedial plan will need to include two districts in which Black voters either comprise a voting-age majority or something quite close to it.” *Id.*; *see also id.* at 213 (same).

This caution was based on extensive and largely undisputed testimony by two Plaintiffs’ experts, Dr. Liu as well the *Caster* plaintiffs’ expert Dr. Maxwell Palmer, and Defendants’ expert, Dr. M.V. Hood III, that elections in Alabama are characterized by extensive racially polarized voting. *See id.* at 177. For example,

⁷ Jeff Poor, *State Rep. Pringle: Proposal to create second Democrat congressional district could help GOP — ‘I call it the Republican opportunity plan’*, YELLOWHAMMER NEWS (Oct. 31, 2021), Ex. E, available at <https://yellowhammernews.com/state-rep-pringle-proposal-to-create-second-democrat-congressional-district-could-help-gop-i-call-it-the-republican-opportunity-plan/>.

analyzing a plan including a Black Belt-based district with a 46% BVAP, Dr. Hood concluded that it was “not obvious” that such a district would “elect [the] black candidate of choice.”⁸ In a separate analysis of a State House district anchored in the Black Belt with a BVAP of 48.3%, Dr. Hood found that the Black-preferred candidate would likely have lost the 2020 Presidential and 2018 Gubernatorial races in the district.⁹

In June, the Supreme Court affirmed this Court’s opinion in full. *See Allen v. Milligan*, 143 S. Ct. 1487 (2023). As to racially polarized voting, the Supreme Court affirmed this Court’s finding of extreme racial polarization in Alabama, including that “on average, Black voters supported their candidates of choice with 92.3% of the vote while white voters supported Black-preferred candidates with 15.4% of the vote.” *Id.* at 1505. The Court also held that each of Plaintiffs’ “eleven illustrative maps” “comported with traditional districting criteria,” meaning they were “reasonably configured.” *Id.* at 1504. As to Alabama’s argument that “plaintiffs’ maps were not reasonably configured because they failed to keep together a traditional community of interest within Alabama. . . . [in] the Gulf Coast region,” the Supreme Court did “not find the State’s argument persuasive.” *Id.* at 1504–05.

⁸ See Hood Expert Report (Trial Ex. D5) at 13, ECF No. 82-5.

⁹ See *Milligan* Trial Ex. M30 at 5–7, ECF No. 88-25.

Justice Kavanaugh fully joined in this part of the opinion. *Id.* His concurrence emphasized that Plaintiffs’ illustrative districts were reasonably configured and that the plans “respect[] compactness principles and other traditional districting criteria such as county, city, and town lines.” *Id.* at 1518 (Kavanaugh, J., concurring). He also agreed that the operative § 2 inquiry “requires in certain circumstances that courts account for the race of voters so as to prevent the cracking or packing . . . of large and geographically compact minority populations.” *Id.* The majority also rejected the argument that a § 2 remedy must be race blind. *See id.* at 1513–14. Instead, it held that, “under certain circumstances,” the Constitution “authorize[s] race-based redistricting as a remedy for state districting maps that violate § 2.” *Id.* at 1517; *see also id.* at 1519 (Kavanaugh, J., concurring) (agreeing with the majority).

C. The Legislative Process and Enactment of a New Map.

Following the Supreme Court’s affirmance, Governor Ivey called a special legislative session and the Permanent Legislative Committee on Reapportionment (the “Committee”), co-chaired by Rep. Pringle and Sen. Livingston, began work on a new map.¹⁰ The *Caster* and *Milligan* Plaintiffs (“VRA Plaintiffs”) proposed a map based closely on the illustrative plans previously submitted while maintaining the boundaries of the State’s 2021 districts wherever possible—including two districts

¹⁰ Press Release, Permanent Legis. Comm. on Reapportionment, June 21, 2023, Ex. F.

configured exactly as they were in the 2021 plan.¹¹ VRA Plaintiffs reminded Defendants that the “Supreme Court already considered and rejected the argument . . . that nearly identical splits of Mobile and Jefferson Counties in the VRA Plaintiffs’ illustrative plans were indicative of an unconstitutional racial gerrymander”¹² or were not otherwise “reasonably configured.” The VRA Plaintiffs’ plan and several other plans offered by Black legislators were discussed at two public hearings prior to the beginning of the special session. At the pre-session hearings, legislators and the public offered comments and asked questions about the VRA Plaintiffs’ plan and the Black legislators’ plans. But no other plans were proposed or available for public comment.

At a Committee Meeting on July 7, Rep. Pringle moved to re-adopt the 2021 Committee Redistricting Guidelines.¹³ See App’x A to Op. After voting down an amendment that offered specific instructions about remedying the VRA violation, the Committee voted along racial lines to readopt the 2021 Guidelines without amendment. In Committee on July 17, the first day of the Special Session, Rep. Pringle introduced for the first time a plan he designated the “Community of Interest” plan. He described it as a plan “that basically maintains the core of existing

¹¹ VRA Pls.’ June 26 Ltr., Ex. G.

¹² VRA Pls.’ July 11 Ltr., Ex. H. at 2.

¹³ Ala. Joint Permanent Leg. Comm. On Reapportionment Mtg., July 7, 2023, available at <https://alabamachannel.ompnetwork.org/embed/sessions/273827/alabama-joint-permanent-legislative-committee-on-reapportionment>, time stamp 14:00–26:22.

congressional districts,” noting that it had a BVAP of 42.45% in its CD 2. The “Community of Interest” plan was voted out of Committee along racial lines.¹⁴ Another plan—the “Opportunity Plan”—which had a BVAP of 38.31% in CD 2 was also introduced for the first time,¹⁵ and it was later revealed to have been sponsored by Sen. Livingston.¹⁶ Ultimately, the Senate passed a version of the Livingston Plan, the House passed the Pringle Plan, and during a six-person Conference Committee, the Co-Chairs introduced a new plan, designated SB5 and known as Livingston Plan 3, that was a hybrid of the two, splitting the difference in BVAP in CD 2. SB5 was passed by both houses of the legislature, almost entirely along racial lines, and signed by the Governor on July 21.¹⁷

SB5 keeps Mobile and Baldwin together in CD 1, while continuing to combine part of the Black Belt in CD 2 with most of the Wiregrass counties. CD2 added three more Black Belt counties (Macon, Russell, and Lowndes) plus the part of Montgomery that had belonged to CD7 in the 2021 plan. To balance the

¹⁴ Ala. Joint Permanent Leg. Comm. On Reapportionment Mtg., July 11, 2023, available at <https://alabamachannel.ompnetwork.org/embed/sessions/273898/alabama-joint-permanent-legislative-committee-on-reapportionmenttime>, time stamps 29:00–29:20, 1:47:48–1:48:36, 2:07:31–2:08:40.

¹⁵ *Id.* at time stamp 7:30–8:06.

¹⁶ Ex. I, Decl. of Rep. Samuel Jones ¶ 20.

¹⁷ *See, e.g.,* Mike Cason, *GOP lawmakers pass Alabama congressional map; Democrats say it defies Supreme Court*, AL.com (July 22, 2023), Ex. J, available at <https://www.al.com/news/2023/07/gop-lawmakers-reach-compromise-on-alabama-congressional-map-democrats-say-it-defies-supreme-court.html>.

population, CD2 gave up Conecuh County along with all of Autauga and part of Elmore Counties.

SB5 includes “findings” that establish, *ex post facto*, new redistricting considerations that directly contradict the Guidelines readopted with no changes the week before. Specifically, the legislative findings in SB5:

- Remove any reference to VRA compliance, and state that the following are now “non-negotiable” for the plan: (a) it “shall contain no more than six splits of county lines”; it shall “keep together communities of interest”; and it “shall not pair incumbent members of Congress within the same district”;
- Redefine “community of interest” to remove from the definition shared “ethnic, racial, tribal, social identities,” and add similarity of “transportation infrastructure, broadcast and print media, educational institutions”;
- Explicitly recognize three communities of interest: “the Black Belt, the Gulf Coast, and the Wiregrass”; and
- Provide one sentence defining the Black Belt while offering several pages of findings linking Mobile and Baldwin, including reference to its shared “French and Spanish colonial heritage.”

Of course, because these principles had not existed prior to the enactment of SB5, none of the plans proposed by other legislators had attempted to satisfy them.

In support of the plan, the Co-Chairs provided analysis concerning the new districts’ performance for Democratic and Republican candidates in seven elections in 2018 and 2020. Ex. C. Prior testimony had identified the Democratic candidates as the Black-preferred candidates. *See Caster* Ex. 79, ECF No. 73-8; Testimony of Dr. Palmer, Preliminary Injunction Hearing, ECF No. 105-2, at 758:19-21 (Jan. 6,

2022). According to Alabama’s analysis, Black-preferred candidates lost all seven elections in the new “opportunity district” CD 2, where Black-preferred candidates were defeated on average by a margin of 6.8 percentage points.¹⁸

Rep. Pringle has said he believes the plan is “an opportunity map” because it allows “minorities to elect a candidate of their choosing, . . . when you add function on top of that,”¹⁹ and Senate President Pro Tempore Reed believes that it provides “greater opportunity for others to be elected there other than Republicans” compared to the 2021 map.²⁰ Others were more candid. House Speaker Ledbetter proclaimed that the map gives them “a good shot” in the Supreme Court where the “ruling was 5-4, so there’s just one judge that needed to see something different.”²¹ Rep. Simpson from Baldwin County called the redrawing ‘an opportunity’ for Republicans, and predicted early in the process that they would “see about drawing

¹⁸ See Ex. C.

¹⁹ Zach Montellaro, *Alabama’s redistricting brawl rehashes bitter fight over voting rights*, POLITICO (July 21, 2023), Ex. K, available at <https://www.politico.com/news/2023/07/21/alabamas-redistricting-voting-rights-00107573>.

²⁰ Assoc. Press, *The fight over Alabama’s congressional redistricting now shifts back to federal court*, ALA. DAILY NEWS (July 24, 2023), Ex. L, available at <https://aldailynews.com/the-fight-over-alabamas-congressional-redistricting-now-shifts-back-to-federal-court/>.

²¹ Rep. Terri Sewell: *Alabama ‘Shamelessly’ Ignores U.S. Supreme Court*, BIRMINGHAM TIMES (July 22, 2023), Ex. M, available at <https://www.birminghamtimes.com/2023/07/rep-terri-sewell-alabama-shamelessly-ignores-u-s-supreme-court/>.

two new districts” where in 2024, “it would not surprise [him] if [the Alabama congressional delegation] ha[s] seven Republican congressmen.”²²

LEGAL STANDARD

Three factors are relevant to evaluating whether a State’s new map remedies a § 2 violation.

First and foremost, “[t]his Court cannot authorize an element of an election proposal that will not with certitude completely remedy the Section 2 violation.” *Dillard v. Crenshaw Cnty.*, 831 F.2d 246, 252-53 (11th Cir. 1987). An acceptable remedy then must “completely remed[y] the prior dilution of minority voting strength and fully provide[] equal opportunity for minority citizens to participate and to elect candidates of their choice.” *United States v. Dallas Cnty. Comm’n*, 850 F.2d 1433, 1437-38 (11th Cir. 1988) (quoting S.REP. No. 97-417, at 31 (1982)). This requires evaluating a remedial proposal under the *Gingles* standard to determine whether it provides Black voters with an additional opportunity district. *Id.*

Second, a § 2 remedial plan “should be guided by the legislative policies underlying [the challenged] plan—even one that [is] itself unenforceable,” but only “to the extent those policies do not lead to violations of the Constitution or the

²² Jeff Poor, *State Rep. Simpson on redistricting: ‘It would not surprise me if we have seven Republican congressmen’ after 2024 election*, 1819 NEWS (July 16, 2023), Ex. N, available at <https://1819news.com/news/item/state-rep-simpson-on-redistricting-it-would-not-surprise-me-if-we-have-seven-republican-congressmen-after-2024-election>.

Voting Rights Act.” *Perry v. Perez*, 565 U.S. 388, 399 (2012) (per curiam) (quoting *Abrams v. Johnson*, 521 U.S. 74, 79 (1997)). Thus, a § 2 remedy should disregard policies like partisanship or “incumbency protection,” *League of United Latin Am. Citizens v. Perry (LULAC)*, 548 U.S. 399, 440-41 (2006), and core retention, *Milligan*, 143 S. Ct. at 1505, that perpetuate vote dilution.

Third, any § 2 remedy itself must “meet the special standards of . . . racial fairness that are applicable to court-ordered plans.” *Upham v. Seamon*, 456 U.S. 37, 39 (1982). For example, a state’s decision to adopt a dilutive plan—while disregarding “other more promising” alternatives—may indicate its “lack of good faith” and “at the least” requires the state to “explain its preference for an apparently less effective method” of remedying the vote dilution. *Green v. Cnty. Sch. Bd.*, 391 U.S. 430, 439 (1968); *cf. Reno v. Bossier Par. Sch. Bd.*, 520 U.S. 471, 487 (1997) (“a jurisdiction that enacts a plan having a dilutive impact is more likely to have acted with a discriminatory intent”).

ARGUMENT

I. HB5 FAILS TO REMEDY THE § 2 VIOLATION

A. HB5 Fails to Completely Remedy the §2 Violation Because the Plan Itself Violates § 2 and Unlawfully Dilutes the Black Vote.

In evaluating a remedial proposal, the Court applies the same *Gingles* standard applied at the merits stage. *See Dallas Cnty.*, 850 F. 2d at 1440. The Court must reject Alabama’s proffered remedy if the Court finds that SB5 continues

“fragmenting” politically cohesive Black voters “among several districts where a bloc-voting majority can routinely outvote them.” *Johnson v. De Grandy*, 512 U.S. 997, 1007 (1994). Thus, the Court’s liability findings are relevant to its review of a remedial plan. *See Dallas Cnty.*, 850 F. 2d at 1438-39. This includes the Supreme Court’s recognition that “Black Alabamians enjoy virtually zero success in statewide elections” and that that the Black Belt is a community of interest. *Milligan*, 143 S. Ct. at 1492, 1506 (cleaned up).

The map that Alabama enacted in SB5 fails this § 2 remedial analysis for the same reasons its 2021 Plan did. First, and most importantly, the Supreme Court agreed with this Court that politically cohesive Black voters could form majorities in two reasonably configured districts, *Milligan*, 143 S. Ct. at 1504-06, yet SB5 continues to permit the white majority voting as a bloc in the new CD2 to easily and consistently defeat Black-preferred candidates. *See Ex. B.* A remedy where “the majority votes sufficiently as a bloc to enable it usually to defeat the minority’s preferred candidate” is no remedy at all. *See LULAC*, 548 U.S. at 425, 427 (a state’s purported “opportunity” district with a 46% Latino citizen population violated § 2 because the white majority would “often, if not always, prevent Latinos from electing the candidate of their choice in the district”); *cf. also Abbott v. Perez*, 138 S. Ct. 2305, 2332-33 (2018) (rejecting two proposed “opportunity” districts as

ineffective remedies because the minority-preferred candidates would have usually lost elections in these districts).

Alabama’s analysis shows that the new CD2 denies Black voters “an opportunity to elect a representative of their choice.” 52 U.S.C. § 10301(b). As shown below, Alabama found that *not once* in seven elections from 2018 to 2020 would Black voters’ candidates overcome white bloc voting to win in CD2. Ex. C.

Democrat	2018	2018	2018	2018	2018	2020	2020	
CD	AG	GOV	LTGOV	AUD	SOS	PRES	SEN	Average
2	48.5%	45.3%	46.0%	46.8%	46.0%	45.6%	48.0%	46.6%
Republican	2018	2018	2018	2018	2018	2020	2020	
CD	AG	GOV	LTGOV	AUD	SOS	PRES	SEN	Average
2	51.5%	54.7%	54.0%	53.2%	54.0%	54.4%	52.0%	53.4%

When Black voters’ candidates of choice are themselves Black, they lose by even larger margins. Dr. Liu’s analysis of 11 biracial elections—some of which overlap with the elections analyzed by Alabama—as well as the 2020 Presidential election, which featured a Black vice-presidential candidate, also shows zero Black electoral successes, with an average margin of defeat of over 10 percentage points. Ex. B, Table 1 (reproduced below), Table 2; *see Wright v. Sumter Cnty. Bd. of Elections*, 979 F.3d 1282, 1292-93 (11th Cir. 2020) (biracial elections are “more probative” than other elections); *accord Abrams*, 521 U.S. at 92 (examining biracial elections); *Thornburg v. Gingles*, 478 U.S. 30, 52-53 (1986) (same).

Election	Black Pref-Cand	White Pref-Cand	% vote cast for BPC in Livingston Plan	Black Support for Black Cand (95% CI)	White Support for Black Cand (95% CI)	BPC Won in Livingston Plan?	RPV?
2022 Governor	Yolanda Flowers	Kay Ivey	37.8%	94.0% (90-96)	4.9% (4-6)	No	Yes
2022 US Senate	Will Boyd	Katie Britt	38.8%	93.5% (89-96)	6.0% (4-9)	No	Yes
2022 Attorney General	Wendell Major	Steve Marshall	39.3%	94.3% (91-97)	6.3% (5-8)	No	Yes
2022 Secretary of State	Pamela Laffitte	Wes Allen	39.4%	94.2% (90-97)	6.0% (4-9)	No	Yes
2022 Supreme Court, Place 5	Anita Kelly	Bradley Byrne	39.9%	94.2% (91-97)	6.6% (5-10)	No	Yes
2018 Lt Governor	Will Boyd	Will Ainsworth	46.0%	93.6% (91-96)	6.3% (5-10)	No	Yes
2018 State Auditor	Miranda Joseph	Jim Zigler	46.9%	94.2% (90-97)	8.2 (6-13)	No	Yes
2018 Public Service Commission, Place 1	Cara McClure	Jeremy Oden	46.9%	95.7% (93-97)	6.5% (5-10)	No	Yes
2014 Secretary of State	Lula Albert-Kaigler	John Merrill	43.6%	91.5% (88-94)	6.2% (5-8)	No	Yes
2014 Lt Governor	James Fields	Kay Ivey	43.4%	91.3% (88-93)	6.3% (4-9)	No	Yes
2014 State Auditor	Miranda Joseph	Jim Zigler	41.7%	88.0% (81-91)	9.1% (6-14)	No	Yes

In this regard, the new CD2 offers no more opportunity than did the old CD2. In both plans, Black voters are unable to elect their preferred candidates. SB5 continues to violate this Court's order because nothing about the new CD2 meaningfully increases Black voters' electoral opportunities, nor decreases the dilution of their vote. *See Gingles*, 478 U.S. at 76 ("The relative lack of minority electoral success under a challenged plan, . . . can constitute powerful evidence of vote dilution").

B. SB5’s Legislative “Findings” Serve to Perpetuate the § 2 Violation and Contradict the District Court and Supreme Court’s Direct Conclusions and Actual Evidence about Communities of Interest.

In assessing a remedy, the Court should also examine the redistricting policies the Legislature relied upon to justify its proposed remedy. *See Dillard*, 831 F. 2d at 250-51. The Court should reject remedies that, as here, are based on legislative redistricting policies that largely serve to perpetuate the VRA violation. *See, e.g., Milligan*, 143 S. Ct. at 1505 (a state policy favoring “core retention” cannot justify a § 2 violation); *LULAC*, 548 U.S. at 440-41 (state redistricting policies favoring incumbent protection and partisan goals do not excuse illegal vote dilution).

Here, the Legislature purported to make after the fact “findings” tailored to disqualify all of the plans proposed by Black legislators and the VRA Plaintiffs’ plan, which had been created to comply with the 2021 redistricting guidelines readopted on July 7. These “findings” in SB5 contradict the Committee’s own recently readopted guidelines, were never the subject of debate or public scrutiny, ignored input from Black Alabamians and legislators, and simply parroted attorney arguments already rejected by this Court and the Supreme Court. The “findings” purport to enshrine as “non-negotiable” certain supposed “traditional redistricting principles” including that there cannot be “more than six splits of county lines,” and that three specified communities of interest shall be kept together “to the fullest extent possible”: the Black Belt, the Gulf Coast, and the Wiregrass. *See Ex. D*

(hereinafter “SB5”) Sec. 1, Finding 3(d), (e), (g)(4)(d). Yet the Redistricting Committee’s own 2021 Guidelines, which it fully readopted on July 13, 2023, prioritize VRA compliance over any of these factors, *Milligan* Doc. 107, at 31 (Subsection (f)), and call for respect for communities of interest without cherry-picking specific communities. While the 2021 guidelines call for minimizing county and other geographic splits, they do not set an arbitrary ceiling. Similarly, under the Guidelines, incumbency protection is a “decidedly lower-level criterion,” and there is no absolute prohibition on pairing incumbents. *Id.* at 172. SB5 also emphasizes “core retention” as a goal, even though the Guidelines also assign it a lower weight. *Cf. Milligan*, 143 S. Ct. at 1505 (Alabama cannot defeat a § 2 claim based on its desire to protect prior district cores). SB5 also redefines “community of interest” in economic and infrastructure terms that appear tailored to conform to the evidence placed in the legislative record by the committee chairs themselves in support of a Mobile-Baldwin community of interest. SB5 at (4)(a).

According to the Legislature, the Supreme Court “recently clarified that Section 2 of the Voting Rights act never requires adoption of districts that violate traditional redistricting principles.” SB5 at (1) (quoting *Milligan*, 143 S. Ct. at 1510). But it ignores that the Supreme Court recognized that the VRA Plaintiffs’ illustrative maps “comported with traditional districting criteria,” even though they split Mobile and Baldwin Counties because the Court did “not find the State’s argument

persuasive” concerning the purported Gulf Coast community of interest. *Milligan*, 143 S. Ct. at 1504–05. The record evidence continues to support that conclusion.

For example, State Rep. Sam Jones, a nearly lifelong Mobile County resident and the first Black Mayor of the City of Mobile, explains the many economic, cultural, religious, and social ties between much of Mobile and the Black Belt, in contrast to Baldwin County, which shares “little of these cultural or community ties” with Mobile.²³ Plaintiffs’ expert Dr. Bagley also contrasts the “intimate historical and socioeconomic ties” that the “City of Mobile and the northern portion of Mobile County, including Prichard, have . . . with the Black Belt,” in contrast to the “ahistorical” effort to treat the Wiregrass or “Mobile and Baldwin Counties as an inviolable” community.²⁴

Moreover, the Legislature gives away the game when it states it seeks to preserve the three specified communities of interest “to the fullest extent possible.” SB5 Sec. 1, Finding 3(d), (e), (g)(4)(d). In reality, the map in SB5 only keeps together the Gulf Coast, citing its “Spanish and French colonial heritage.” SB5 at (f)(9). But SB5 splits the Black Belt between two districts in a way that minimizes the voting power of Black voters in CD 2 and splits the Wiregrass between Districts

²³ Decl. of Rep. Samuel Jones, Ex. I (“Jones Decl.”), ¶ 15.

²⁴ Remedial Expert Report of Dr. Joseph Bagley, Ex. O, at 1.

1 and 2. In other words, SB5's "findings" are only fully honored where they prevent the City of Mobile from being joined with the Black Belt.

C. S.B. 5 Raises Constitutional Concerns as it May be the Product of Intentional Racial Discrimination.

Finally, SB 5 raises serious constitutional concerns due to strong evidence it was drawn with the purpose of discriminating against Black Alabamians, regardless of whether the ultimate purpose is racial, political, or otherwise. *See Ferrill v. Parker Grp., Inc.*, 168 F.3d 468, 472-73 & n.7 (11th Cir. 1999) (“[I]ll will, enmity, or hostility are not prerequisites of intentional discrimination.”). Courts look to the factors from *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 266–68 (1977) for guidance when deciding whether a legislature acted with discriminatory intent. The factors are: “(1) The impact of the challenged law; (2) the historical background; (3) the specific sequence of events leading up to its passage; (4) procedural and substantive departures; and (5) the contemporary statements and actions of key legislators.” *See Greater Birmingham Ministries v. Sec’y of State for State of Ala.*, 992 F.3d 1299, 1322 (11th Cir. 2021). Additional factors are also relevant, including “(6) the foreseeability of the disparate impact; (7) knowledge of that impact, and (8) the availability of less discriminatory alternatives.” *Id.* The enactment of SB 5 implicates each *Arlington Heights* factor.

First, the new CD 2 in SB5 does not provide Black voters a realistic opportunity to elect their preferred candidates in any but the most extreme situations.

Second, this deliberate failure to remedy the identified VRA violations raises the specter of “Alabama’s extensive history of repugnant racial and voting-related discrimination,” ECF No. 107, at 182; *Milligan*, 143 S. Ct. at 1506.

Third, the events leading to S.B. 5’s passage include the Reapportionment Committee rejecting plans that the Supreme Court found “reasonably configured” where Black voters could constitute a majority in a second congressional district. *Id.* at 1504. The Legislature did not incorporate feedback from Black voters or Black legislators, and instead entirely cut out Black members on the Reapportionment Committee from the process of providing input into “Committee” reapportionment plans, which were not made public until after the two public hearings the Committee held prior to the special session.²⁵ Instead, it focused on pleasing national leaders whose objective is to maintain the Republican Party’s slim majority in the U.S. House of Representative,²⁶ and instead make a play, in the words of Speaker Ledbetter, to convince “one judge [on the Supreme Court] . . . to see something different.”²⁷ State Rep. Matt Simpson even went so far as to call the State’s loss at

²⁵ Jones Decl. ¶ 20.

²⁶ Jane C. Timm, *Alabama Republicans refuse to draw a second Black congressional district in defiance of Supreme Court* (July 21, 2023), available at <https://www.cnbc.com/2023/07/21/alabama-republicans-refuse-to-draw-a-second-black-congressional-district-in-defiance-of-supreme-court.html>.

²⁷ *Rep. Terri Sewell: Alabama ‘Shamelessly’ Ignores U.S. Supreme Court*, Birmingham Times (July 22, 2023), Ex. M., available at <https://www.birminghamtimes.com/2023/07/rep-terri-sewell-alabama-shamelessly-ignores-u-s-supreme-court/>.

the Supreme Court an “opportunity” and to predict that SB5 would result in the election of seven Republicans rather than remedy vote dilution of Black voters.²⁸

Fourth, as explained above, the Legislature disregarded the 2021 redistricting guidelines it had re-adopted the previous week—and the policy considerations those guidelines reflect—and made legislative “findings” that explicitly favor majority-white communities and are plainly designed to justify the dilutive map it adopted.

Fifth, statements by elected officials suggest discriminatory intent motivated the Legislature in passing S.B. 5. For example, Representative Pringle previously agreed “[w]ithout being a majority-minority district, you can see where Republicans might be able to win all seven congressional districts,” and Black-preferred candidates might not win even one.²⁹ Yet the Legislative Defendants pushed through a plan that they knew would not provide any real opportunities for Black voters in a second district, and which legislative leadership made clear was an attempt to preserve political gains at the expense of Black Alabamians.³⁰

Finally, less discriminatory alternative maps exist. Both this Court and the Supreme Court agreed that maps Plaintiffs presented in the preliminary injunction proceedings comply with the VRA and traditional redistricting criteria. *Milligan*, 143 S. Ct. at 1504. The Legislature’s adoption of SB5 instead of a plan that would

²⁸ Poor, *supra* note 7.

²⁹ *Id.*

³⁰ *See supra* note 25.

offer Black voters have a new opportunity to elect their preferred candidate indicates that SB5 was passed with an intent to harm Black Alabamians in pursuit of other goals. *See LULAC*, 548 U.S. at 440 (finding that similar political efforts bore the “mark of intentional discrimination” and could violate the Fourteenth Amendment).

CONCLUSION

Plaintiffs respectfully request that the Court enjoin Alabama’s new map on the same grounds that it enjoined the 2021 map and authorize the Special Master to begin devising a complete § 2 remedy.

DATED this 28th day of June 2023.

Respectfully submitted,

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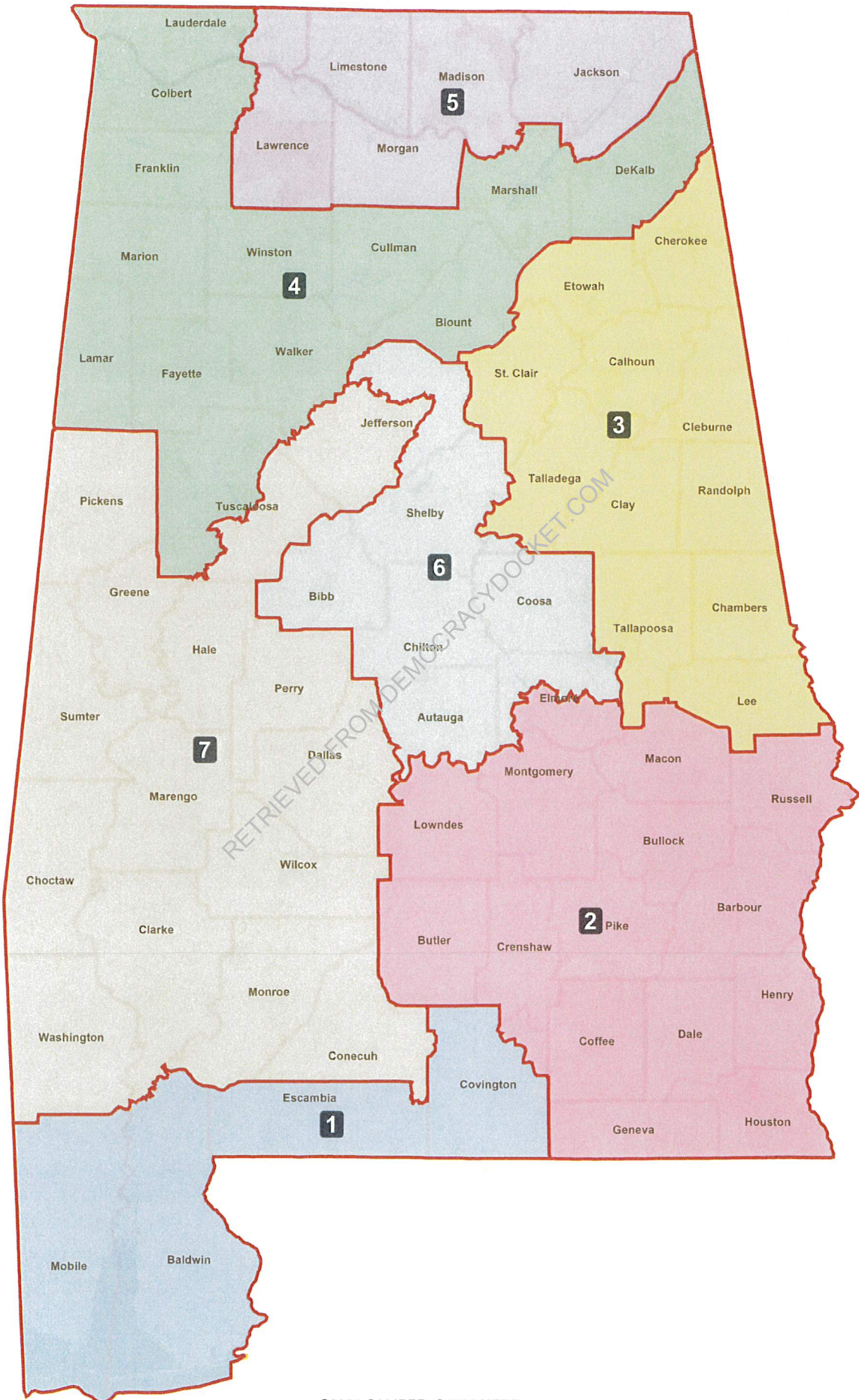
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Livingston Congressional Plan 3



User:
 Plan Name: Livingston Congressional Plan 3
 Plan Type:

Population Summary

Thursday, July 20, 2023

7:14 PM

District	Population	Devn.	% Devn.	[% White]	[% Black]	[% AP_Wht]	[% AP_Blkl]	[% 18+_Blkl]	[% 18+_AP_Blkl]
1	717,754	0	0.00%	65.36%	25.07%	70.31%	26.46%	23.8%	24.63%
2	717,755	1	0.00%	50.86%	39.93%	54.97%	41.63%	38.83%	39.93%
3	717,754	0	0.00%	70.79%	20.39%	75.16%	21.76%	19.93%	20.7%
4	717,754	0	0.00%	81.53%	6.93%	86.55%	7.9%	6.74%	7.22%
5	717,754	0	0.00%	69.02%	17.59%	75.72%	19.29%	17.33%	18.33%
6	717,754	0	0.00%	70.23%	19.36%	75.03%	20.51%	18.58%	19.26%
7	717,754	0	0.00%	40.89%	51.32%	44.15%	52.59%	49.68%	50.65%

Total Population: 5,024,279

Ideal District Population: 717,754

Summary Statistics:

Population Range: 717,754 to 717,755

Ratio Range: 0.00

Absolute Range: 0 to 1

Absolute Overall Range: 1

Relative Range: 0.00% to 0.00%

Relative Overall Range: 0.00%

Absolute Mean Deviation: 0.14

Relative Mean Deviation: 0.00%

Standard Deviation: 0.35

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

EVAN MILLIGAN, et al.,

Plaintiffs,

vs.

WES ALLEN, et al.,

Defendants.

No. 2:21-cv-01530-AMM

Expert Remedial Report of Baodong Liu, Ph.D.

July 28, 2023

I have been asked by Counsel for the Plaintiffs to analyze and provide my opinions on the effectiveness of the “Livingston Plan 3” in enacted Senate Bill 5 (hereinafter, the “Livingston Plan”). This report summarizes the results of my Effective Analysis (EA).

My EA is based on the eleven biracial elections between 2014 and 2022. These eleven elections are all statewide general elections: the 2014 Secretary of State, the 2014 Lt. Governor, the 2014 State Auditor, the 2018 Lt. Governor, the 2018 State Auditor, the 2018 Public Service Commission (Place 1), the 2022 Gubernatorial, the 2022 US Senate, the 2022 Secretary of State, the 2022 Attorney General, and the 2022 Alabama Supreme Court Associate Justice (Place 5) elections. In my December 20, 2021 report, I also examined the 2020 Presidential election where both major political parties featured a white candidate on the top of the ticket, but Kamala Harris, a Black woman, was the Vice Presidential Candidate for the Democratic Party. Thus, this report also references the 2020 Presidential election. In total, this report examines how the Livingston Plan performs in these twelve elections in Congressional Districts 2 and 7 of the Livingston Plan where Black Voting Age Population (BVAP) is substantially larger than those of the other five Congressional districts. I also compare the Livingston Plan’s performance in these two districts with the performance of the existing CD2 and CD7 based on the 2021 Enacted Plan.

My conclusion is that voting is highly racially polarized in CD2 and CD7 in the Livingston Plan and that this racial polarization in the Livingston Plan produces the same results for Black Preferred Candidates in both CD2 and CD7 as the results in the 2021 Enacted Plan. I provide summary of my professional qualifications as a CV in Appendix I and the cases for which I testified as an expert witness in Appendix II.

I am being compensated at \$300 per hour for my work in this report. My compensation is not contingent on or affected by the substance of my opinions or the outcomes of this litigation.

Method and Data Used in this Report

As in my preliminary report for this case executed on December 10, 2021, the method I used for the estimates of racial group voting and turnout is called Ecological Inference (EI) developed by Harvard Professor Gary King. This report continues to use the same EI method and the EI R-software to calculate the racial groups' vote choice in the 12 elections within CD2 and CD7 of the Livingston Plan. Furthermore, this EA report, just like my original preliminary report continues to report the findings concerning the exact percentage of votes cast for each candidate based on the tally of the votes in the 12 elections within CD2 and CD7. The data acquisition, processing and aggregation of this report is also the same process used in writing my preliminary report (see Appendix of my preliminary report).

Effectiveness Analysis Concerning CD2

In CD2, based on the measure of non-Hispanic Black alone measure, the Livingston Plan raises the BVAP to 38.8% of the Total Voting Age Population (TVAP) from the original 29%.¹ But the white VAP (WVAP) in the Livingston Plan is still as high as 52.5% of TVAP whereas it was 62.1% in the original 2021 Enacted Plan. Despite the differences between the racial configuration of the Livingston Plan and the 2021 Enacted Plan, the 11 biracial elections led to the same election outcomes due to the consistent high-level of racially polarized voting (RPV) as I show in Table 1 to this report. All Black-preferred-candidates (BPCs) in the 11 biracial elections were defeated in both the 2021 Enacted Plan and the Livingston Plan.² Furthermore, my EA shows how RPV helped White-Preferred Candidates (WPCs) defeated BPCs in CD2 of the Livingston Plan (See Table 1 for the detailed RPV in the 11 biracial elections analyzed in this report). While not included in Table 1, I also found high RPV in the 2020 presidential election with the BPCs (Biden/Harris) receiving 90.8% (84-94) of the Black vote, and only 8.9% (6-14) of the white vote. In the 2020 presidential election, Biden and Harris were defeated with only 43.5% of the total vote in Livingston CD2.

¹ Using any-part Black VAP measure, the BVAP is increased to 39.9% in CD2. This report uses the Non-Hispanic Black voting age population as the measure of BVAP in the EA and RPV analyses. However, using any-part Black VAP to run the same analyses leads to the same conclusions stated in this report.

² All BPCs are Black candidates in the biracial elections analyzed, with the only exception of the 2020 Presidential Election where BPCs are the Biden and Harris ticket. See Table 1 for the detailed votes for the candidates in the 11 biracial elections based on EA of Livingston's CD2.

Table 1: RPV in the 11 Biracial Elections based on the Livingston Plan, CD2

Election	Black Pref-Cand	White Pref-Cand	% vote cast for BPC in Livingston Plan	Black Support for Black Cand (95% CI)	White Support for Black Cand (95% CI)	BPC Won in Livingston Plan?	RPV?
2022 Governor	Yolanda Flowers	Kay Ivey	37.8%	94.0% (90-96)	4.9% (4-6)	No	Yes
2022 US Senate	Will Boyd	Katie Britt	38.8%	93.5% (89-96)	6.0% (4-9)	No	Yes
2022 Attorney General	Wendell Major	Steve Marshall	39.3%	94.3% (91-97)	6.3% (5-8)	No	Yes
2022 Secretary of State	Pamela Laffitte	Wes Allen	39.4%	94.2% (90-97)	6.0% (4-9)	No	Yes
2022 Supreme Court, Place 5	Anita Kelly	Bradley Byrne	39.9%	94.2% (91-97)	6.6% (5-10)	No	Yes
2018 Lt Governor	Will Boyd	Will Ainsworth	46.0%	93.6% (91-96)	6.3% (5-10)	No	Yes
2018 State Auditor	Miranda Joseph	Jim Zigler	46.9%	94.2% (90-97)	8.2 (6-13)	No	Yes
2018 Public Service Commission, Place 1	Cara McClure	Jeremy Oden	46.9%	95.7% (93-97)	6.5% (5-10)	No	Yes
2014 Secretary of State	Lula Albert-Kaigler	John Merrill	43.6%	91.5% (88-94)	6.2% (5-8)	No	Yes
2014 Lt Governor	James Fields	Kay Ivey	43.4%	91.3% (88-93)	6.3% (4-9)	No	Yes
2014 State Auditor	Miranda Joseph	Jim Zigler	41.7%	88.0% (81-91)	9.1% (6-14)	No	Yes

As shown in Table 2, the BPCs in all 12 elections (including the 2020 presidential election) received on average 32.2% of the total votes cast from the Enacted Plan in CD2, and 42.3% in Livingston CD2.

Table 2: Overall Performance in CD2 based on 12 Elections, Compared³***2021 Enacted Plan***

	Blk_pref_cand %	Wht_pref_cand %
White	5.1	94.0
Black	89.8	9.2
Total	32.2	65.0

2023 Livingston Plan

	Blk_pref_cand %	Whte_pref_cand %
White	7.2	91.8
Black	92.7	6.5
Total	42.3	53.7

Effectiveness Analysis Concerning CD7

The Livingston Plan reduces the BVAP of CD7 to about 50% from originally more than 54% in the Enacted Plan, and the WVAP at the same time is increased from about 39% to 43%. This new racial configuration makes WPCs more competitive in CD7. As shown in Table 4, WPCs received on average 40.8% of the total votes cast in the twelve elections analyzed in this report. BPCs in the Livingston Plan, however, still maintain their winning advantage as they won 12 out of 12 times (including the 2020 presidential election) according to my EA findings. The BPCs received an average of 60% of the votes in CD7 in the Livingston Plan and 64% in the 2021 Enacted Plan.

³ Tables 2 and 4 show the average values based on the RPV analyses of all 12 elections.

Table 3: RPV in the 12 Elections based on the Livingston Plan, CD7

Election	Black Pref-Cand	White Pref-Cand	% vote cast for BPC in Livingston Plan	Black Support for BPC (95% CI)	White Support for BPC (95% CI)	BPC Won in Livingston Plan?	RPV?
2022 Governor	Yolanda Flowers	Kay Ivey	56.7%	96.3% (95-97)	10.8% (9-14)	Yes	Yes
2022 US Senate	Will Boyd	Katie Britt	57.8%	96.4% (96-97)	13.2% (12-16)	Yes	Yes
2022 Attorney General	Wendell Major	Steve Marshall	57.9%	96.3% (95-97)	14.4% (12-17)	Yes	Yes
2022 Secretary of State	Pamela Laffitte	Wes Allen	58.4%	96.2% (94-97)	13.7% (12-15)	Yes	Yes
2022 Supreme Court, Place 5	Anita Kelly	Bradley Byrne	58.3%	96.1% (94-97)	14.9% (13-17)	Yes	Yes
2020 US President	Biden/Harris	Trump/Pence	61.6%	94.4% (93-96)	17.0% (14-22)	Yes	Yes
2018 Lt Governor	Will Boyd	Will Ainsworth	62.9%	96.1% (94-97)	13.6% (12-17)	Yes	Yes
2018 State Auditor	Miranda Joseph	Jim Zigler	63.1%	96.2% (95-97)	15.6 (12-22)	Yes	Yes
2018 Public Service Commission, Place 1	Cara McClure	Jeremy Oden	63.7%	95.3% (93-97)	14.8% (12-20)	Yes	Yes
2014 Secretary of State	Lula Albert-Kaigler	John Merrill	59.3%	92.5% (90-94)	11.0% (9-15)	Yes	Yes
2014 Lt Governor	James Fields	Kay Ivey	59.1%	92.4% (90-95)	12.2% (10-15)	Yes	Yes
2014 State Auditor	Miranda Joseph	Jim Zigler	60.2%	92.9 (91-95)	12.8% (9-18)	Yes	Yes

Table 4: Overall Performance in CD7 based on 11 Elections, Compared***2021 Enacted Plan***

	Blk_pref_cand %	Wht_pref_cand %
White	13.2	85.9
Black	94.8	4.3
Total	64.6	36.2

2023 Livingston Plan

	Blk_pref_cand %	Wht_pref_cand %
White	14.4	84.6
Black	93.8	5.2
Total	60.0	40.8

Conclusion

My EA shows that the Black Preferred Candidates are likely to win elections in only CD7 under both the Livingston Plan and the 2021 Enacted Plan. The marginal increase of BVAP in CD2 in the Livingston Plan will continue to provide white preferred candidates, rather than Black preferred candidates, a significant advantage there.

To the best of my knowledge, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on July 28, 2023.



BAODONG LIU, PH.D.

Appendix I
Curriculum Vitae

Baodong Liu, Ph.D.

Professor (with Tenure) in Political Science and Ethnic Studies

University of Utah

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PROFESSIONAL EXPERIENCE

Director of Graduate Studies, 2023-present

Professor of Political Science and Ethnic Studies, affiliated with Asian Studies, 2008-present

Associate Chair, Political Science Department, 2015-2017

Interim Director, Ethnic Studies Program, 2011-2013

University of Utah

Courses taught: Advanced Quantitative Methods (graduate), American Political Behavior (graduate), Race and Political Volatility in the US (graduate/undergraduate), Voting, Election and Public Opinion, Racial and Ethnic Politics, Political Analysis, Asian American Contemporary Issues, Social Justice and Inequality, Asian Pacific American Experiences, Methodology in Ethnic Studies.

TRISS Endowed Professor in Political Science, 2007-2008

Associate Professor (early promotion to associate professor 2005, early tenure 2006)

Assistant Professor, 2002-2005

Department of Political Science

University of Wisconsin-Oshkosh

Courses taught: Race and Ethnicity in American Politics, Politics of Urban Growth, Political Method, State and Local Government, Political Analysis, American Government, National, state and Local Government.

Assistant Professor of Political Science

Department of Political Science

Stephens College, Columbia, Missouri, 1999 - 2002

Courses taught: Urban and Minority Politics, Legislative Process, American Presidency, Campaigning and Lobbying, Macroeconomics, American Government, and Introduction to Statistics.

Consultant, Expert Witness, Principal Investigator, Opinion Writer/Commentator, 2000-present

Provided research services to NAACP LDF, Southern Poverty Law Center, the US Department of Justice, New America, Mexican American Legal Defense and Educational Fund, Navajo Nation, Native American Rights Fund, Southern Coalition for Social Justice, National Science Foundation, Lawyers' Committee for Civil Rights Under Law, Florida State Legislature, Illinois State Legislature, Wisconsin Security Research Consortium, Fond du Lac School District, Johnson Controls, Inc, City of Waupaca (WI), and Wisconsin Public Service, among others.

Served also as a commentator and/or opinion writer for Salt Lake Tribune, ABC4News, Hinkley Forum, NPR, AP, Daily Utah Chronicle, ETtoday, Chinese Americans, Milwaukee Sentinel Journal, Daily Caller, KSL, among other media outlets.

EDUCATION

Ph.D. in Political Science (1999), University of New Orleans, Louisiana
Dissertation: *Black Candidates, White Voters and Racial Context*
Winner of Byran Jackson Award, Urban Politics Section, American Political Science Association, and
Winner of Ted Robinson Award for the best research in race and ethnicity, Southwestern Political Science
Association

M.A. in *Political Science* (1995), Oklahoma State University, Stillwater, Oklahoma

LL. B (1987), The East China University of Political Science and Law, Shanghai, China

Post-Doctoral Educational Program Participant

National Science Foundation's "Local Elections in America Project Workshop," Macalester College, Saint
Paul, MN (2009)

Methodological Issues in Quantitative Research on Race and Ethnicity, Inter-University Consortium for
Political and Social Research (ICPSR), University of Michigan (2006)

Mapping Your City with GIS Workshop, New Urban Research, Madison, Wisconsin (2005)

Jessie Ball duPont Summer Seminars for Liberal Arts College Faculty, the National Humanities Center,
Research Triangle, North Carolina (2001)

PROFESSIONAL PUBLICATIONS (contribution is in the order of authors for publications with multiple
authors).

A) Books

Liu, Baodong. Ed. (2nd edition, 2023). *Solving the Mystery of the Model Minority: The Journey of Asian
Americans in America*. Cognella Academic Publishing.

Liu, Baodong. (2022). *Political Volatility in the United States: How Racial and Religious Groups Win
and Lose*. Lexington Books. Reviewed by *Choice*.

Liu, Baodong. Ed. (2018). *Solving the Mystery of the Model Minority: The Journey of Asian Americans in
America*. Cognella Academic Publishing.

Liu, Baodong. (2016). *Race, Ethnicity and Religion in the American Political Arena*. University Readers.

Liu, Baodong. (2015). *Social Research: Integrating Mathematical Foundations and Modern Statistical
Computing*. Cognella Academic Publishing.

Liu, Baodong. (2013). *Understanding the Scientific Method: A Social Science Approach*. University
Readers.

Liu, Baodong. (2010). *The Election of Barack Obama: How He Won*. Palgrave Macmillan. Reviewed by
Hanes Walton, Jr. (2012) for *The American Review of Politics*.

Liu, Baodong and James Vanderleeuw. (2007). *Race Rules: Electoral Politics in New Orleans, 1965-2006*. Lexington Books. Paperback and Hardback. Reviewed by Peter Burns (2008) for *Urban Affairs Review*; also reviewed by Robert Dupont (2008) for *H-Urban*.

Liu, Baodong. (2002). *Making American Democracy Work: Reforms and Debates*. The McGraw-Hill, Inc.

B) Peer-Reviewed Journal Articles

Liu, Baodong, Porter Morgan and Dimitri Kokoromytis. (2022) "Immigration, Nation-State Contexts and Value Changes of Ethnic Chinese" *Athens Journal of Social Sciences* 9(1):31-54.

Liu, Baodong, Zachary Stickney, and Nicole Batt. (2020). "Authoritarianism for and against Trump," *Journal of Behavioral and Social Sciences* 7(3): 218-238.

Liu, Baodong. (2018). "The Haitian and Cuban American Electorates in South Florida: Evidence from Ten Federal, State and Local Elections, 2008-2014." *National Political Science Review* 19 (1): 51-60.

Wei, Dennis, Weiyi Xiao, Christopher Simon, Baodong Liu, Yongmei Ni. (2018). "Neighborhood, Race and Educational Inequality." *Cities* 73: 1-13.

Simon, Christopher A., Nicholas P. Lovrich, Baodong Liu, and Dennis Wei. (2017). "Citizen Support for Military Expenditure Post 9/11: Exploring the Role of Place of Birth and Location of Upbringing." *Arm Forces and Society* 44 (4): 688-706.

Liu, Baodong, Dennis Wei, and Christopher A. Simon. (2017). "Social Capital, Race, and Income Inequality in the United States." *Sustainability* 9 (2): 1-14.

Liu, Baodong. (2014). "Post-Racial Politics? Counterevidence from the Presidential Elections, 2004-2012." *Du Bois Review: Social Science Research on Race* 11(2): 443-463.

Liu, Baodong. (2014). "Racial Context and the 2008 and 2012 US Presidential Elections." *Athens Journal of Social Sciences* 1(1): 21-33.

Liu, Baodong. (2011). "Demystifying the 'Dark Side' of Social Capital: A Comparative Bayesian Analysis of White, Black, Latino, and Asian American Voting Behavior." *The American Review of Politics* 32 (Spring): 31-56.

Byron D'Andra Orey, L. Marvin Overby, Pete Hatemi and Baodong Liu. (2011). "White Support for Racial Referenda in the Deep-South." *Politics & Policy* 39 (4): 539-558.

Geoffrey M. Draper, Baodong Liu, and Richard F. Riesenfeld. (2011). "Integrating Statistical Visualization Research into the Political Science Classroom." *Information Systems Education Journal* 9 (3): 83-94.

Liu, Baodong. (2011). "Obama's Local Connection: Racial Conflict or Solidarity?" *PS: Political Science and Politics* 44 (1): 103-105.

- Liu, Baodong. (2011). "State Political Geography and the Obama White Vote." *World Regional Studies* 20 (4): 1-15. (in Chinese)
- Liu, Baodong, Sharon D. Wright Austin, and Byron D'Andrá Orey. (2009). "Church Attendance, Social Capital, and Black Voting Participation" *Social Science Quarterly* 90 (3): 576-92.
- Vanderleeuw, James, Baodong Liu, and Erica Nicole Williams. (2008). "The 2006 New Orleans Mayoral Election: The Political Ramifications of a Large-Scale Natural Disaster." *PS: Political Science and Politics* 41 (4): 795-801.
- Liu, Baodong and Robert Darcy. (2008) "Race, Immigration, and Party Strategies in the US Elections," *Íslenska Leiðin*: 33-39.
- Liu, Baodong. (2007). "EI Extended Model and the Fear of Ecological Fallacy", *Sociological Methods and Research* 36 (1): 3-25.
- Liu, Baodong. (2006). "Whites as a Minority and the New Biracial Coalition in New Orleans and Memphis," *PS: Political Science and Politics* 40 (1): 69-76.
- Vanderleeuw, James, and Baodong Liu. (2006). "Racial Polarization or Biracial Coalition? An Empirical Analysis of the Electoral Coalition of Winning Candidates in Urban Elections," *American Review of Politics* 27 (Winter): 319-344.
- Liu, Baodong, and James Vanderleeuw. (2004). "Economic Development Priorities and Central City/Suburb Differences," *American Politics Research* 32 (6): 698-721.
- Vanderleeuw, James, Baodong Liu, and Greg Marsh. (2004). "Applying Black Threat Theory, Urban Regime Theory, and Deracialization: The Memphis Mayoral Elections of 1991, 1995, and 1999," *Journal of Urban Affairs* 26 (4): 505-519
- Liu, Baodong, and James Vanderleeuw. (2003). "Growth Imperative, Postmaterialism and Local Decision-Makers," *Journal of Political Science* 31: 173-96.
- Liu, Baodong. (2003). "Deracialization and Urban Racial Context," *Urban Affairs Review* 38 (4): 572-591.
- Vanderleeuw, James and Baodong Liu. (2002) "Political Empowerment, Mobilization, and Black-Voter Rolloff," *Urban Affairs Review* 37 (3): 380-96.
- Liu, Baodong. (2001). "The Positive Effect of Black Density on White Crossover Voting: Reconsidering the Social Interaction Theory," *Social Science Quarterly* 82 (3): 602-615.
- Liu, Baodong. (2001). "Racial Context and White Interests: Beyond Black Threat and Racial Tolerance," *Political Behavior* 23 (2): 157-80.
- Liu, Baodong, and James Vanderleeuw. (2001). "Racial Transition and White-Voter Support for Black Candidates in Urban Elections," *Journal of Urban Affairs* 23 (3/4): 309-22.

Liu, Baodong. (2001). "Interests and Opinions among African-Americans: A Test of Three Theories," *the Texas Journal of Political Studies* 21 (2): 113-24.

Liu, Baodong, and James Vanderleeuw. (1999). "White Response to Black Political Power: the Case of New Orleans, 1980-1994." *Southeastern Political Review* 27 (1): 175-188.

C) Book Chapters, Encyclopedia Entries and other Peer-reviewed Articles

Liu, Baodong, Nadia Mahallati, and Charles Turner. (2021). "Ranked-Choice Voting Delivers Representation and Consensus in Presidential Primaries" *Available at SSRN*: <https://ssrn.com/abstract=3822879> or <http://dx.doi.org/10.2139/ssrn.3822879>

Liu, Baodong. "The Growth of Scientific Knowledge through Social Computing Networks" (2021). *The 19th International E-Society Conference Proceedings*.

Liu, Baodong, Nadia Mahallati, and Charles Turner. (2021). "Ranked-Choice Voting Delivers Representation and Consensus in Presidential Primaries", <https://www.newamerica.org/our-people/baodong-liu/> (brief)

Liu, Baodong. (2014). "Racial Context and the 2008 and 2012 US Presidential Elections" in Yannis A. Stivachtis and Stefanie Georgakis Abbott, ed. *Addressing the Politics of Integration and Exclusion: Democracy, Human Rights and Humanitarian Intervention*. Athens: Atiner publications. (Also published in *Athens Journal of Social Sciences*.)

Liu, Baodong. (2011). "Mayor" in *International Encyclopedia of Political Science*. CQ Press.

Liu, Baodong. (2011). "Roll-off" in *International Encyclopedia of Political Science*. CQ Press.

Liu, Baodong and Carolyn Kirchhoff. (2009) "Mayor", *Encyclopedia of American Government and Civics*, eds. Michael A. Genovese and Lori Cox Han. New York: Facts on File.

Liu, Baodong and Robert Darcy. (2006). "The Rising Power of Minorities and the Deracialization of U.S. Politics" in Gillian Peele, Christopher J. Bailey, Bruce E. Cain, and B. Guy Peters, ed. *Developments in American Politics* 5. Hampshire, UK: Palgrave Macmillan/Macmillan Publishers.

D) Book Reviews

Liu, Baodong. (2010). Review of Zoltan L. Hajnal, "America's Uneven Democracy: Race, Turnout, and Representation in City Politics" in *American Review of Politics* 31 (summer): 157-160.

Liu, Baodong. (2008). Review of Rodney E. Hero, *Racial Diversity and Social Capital*, in *Urban Affairs Review* 44 (1):146-149.

Liu, Baodong. (2006). Review of Peter Burns, *Electoral Politics Is Not Enough*, in *American Review of Politics* 27 (Spring): 186-189.

Liu, Baodong. (1999). Review of Terry Nichols Clark and Vincent Hoffmann-Martinot (ed), "The New Political Culture," in *American Review of Politics* 20: 99-102.

E). Other Publications/Editorials

Liu, Baodong. (2021). "Asian Americans and Minority Voters: The New Destination of Partisan Competitions?" ETtoday. January 8, 2021. (in Chinese/Taiwanese)

Liu, Baodong. (2020). "U Professor Shows Which States Have Strict or Lenient Voting Rights Laws." Daily Caller, @U, October 8, 2020.

Liu, Baodong. (2020). "Checks and Balances and the End of Trump Legal Battles". ETtoday. Dec. 29, 2020. (in Chinese/Taiwanese)

Liu, Baodong. (2020). "Trump's Legal Battles and the New Beginning of the Electoral Laws?". ETtoday. Nov. 10, 2020. (in Chinese/Taiwanese)

Liu, Baodong and Feng Ling. (2018). "Liberalism or Conservatism: Which One Contributes to America More?" *Chinese Americans*, No. 1565. (in Chinese).

Liu, Baodong. (2018). "The Lawsuit against Harvard and Asian-American Attitude toward Affirmative Action," *Chinese Americans*, No. 1207. (in Chinese).

Liu, Baodong. (2016). "Lu Xun's Attack on Old Chinese Regime and St. Augustine's Self Examination," *Overseas Campus* (in Chinese).

Liu, Baodong. (2015). "Will Christianity Bring about Democracy?" *Overseas Campus* 130 (June): 40-43. (in Chinese)

Liu, Baodong. (2011). "New Ethnic Studies Major at the U: Education for the 21st Century" *Diversity News* 2011 (Fall). <http://diversity.utah.edu/newsletter/fall-2011/ethnic-studies-degree.php>.

Liu, Baodong (2008). "The Urban Politics Field as We Know It." *Urban News* 22 (1): 1-2.

Liu, Baodong. (2008). "Negative Campaigning a Desperate Strategy," *The Daily Utah Chronicle*. Guest Column. October 20, 2008.

Liu, Baodong. (2007). "The 2006 Midterm Election: Angry Voters? Yes! Clear Vision? No!" *Wisconsin Political Scientist* XIII (2): 9-10.

Liu, Baodong. (2006). "Midterm Election Results Show No Clear Future Vision." Guest Column, *Advance-Titan*. Nov. 9, 2006: A5.

Liu, Baodong and James Vanderleeuw. (2003). "Local Policymakers and Their Perceptions of Economic Development: Suburbs, Central Cities and Rural Areas Compared" *Wisconsin Political Scientist* IX (1): 4-7.

SOFTWARE DEVELOPMENT/GRANTS

Founder, www.easystates.com, a free web application and database of U.S. state politics with more than 1000 variables and back to 1790s that empowers students and public to visualize and statistically analyze data on US politics (written in Python), 2021-present

diaglm, the author of the R software statistical package for diagnosing and visualization of violations of linear and nonlinear statistical modeling, published at GitHub (bblpo/diaglm). 2019.

diagglm, the author of the R software statistical package for diagnosing and visualization of violations of nonlinear statistical modeling, published at github (bblpo/diagglm). 2019.

Principal Investigator, with Co-Pi, Mike Cobbs (North Carolina State University) and Richard Engstrom (University of Houston). "Understanding the Support for Ranked-Choice Voting," initial grant proposal supported by Political Reform Program, New America. Washington D.C. 2020. \$40,000

Principal Investigator, "Authoritarianism in the Global Ethnic Chinese Communities", a grant proposal supported by University Sabbatical Leave and Asia Center Travel Award. 2020. \$1500

Co-PI, with Dennis Wei (PI) and Chris Simon. "Amenity, Neighborhood and Spatial Inequality: A Study of Salt Lake County," Interdisciplinary Research Pilot Program (IRPP), College of Social and Behavioral Science, the University of Utah, 2015. \$10,000.

Co-PI, with Daniel McCool. "The Efficacy of American Indian Voting: A Pilot Project" Research Incentive Grant, College of Social and Behavioral Science, the University of Utah. (2014-2015). \$7500.

I have provided my Expert Witness Opinions on federal voting rights cases such as *South Carolina NAACP et al. v. McMaster et al.*, Case No. 3-21-cv-03302-JMC-TJH-RMG (Columbia D., SC. 2021), *Milligan, et al. v. Merrill, et al.*, Case No. 2:21-cv-01530-AMM and *Thomas, et al. v. Merrill, et al.*, Case No. 2:21-cv-01531-AMM (N.D. Ala. 2021), *Traci Jones et al. vs. Jefferson County Board of Education et al.* (N.D. Ala. 2019); *CMA v. Arkansas* (E.D. Ark., 2019); *Alabama State Conference of the NAACP v. Pleasant Grove*, (N.D. Ala. 2018); *Navajo Nation, et al. vs. San Juan County, et al.* (D. Utah, 2012); *League of Women Voters of Florida, et al v. Detzner, et al.* (Fla., 2012); *Anne Pope et. al. v. County of Albany and the Albany County Board of Elections* (N.D.N.Y. 2011); *Radogno, et al v. State Board of Elections, et al.* (N.D. Ill. 2011); *NAACP v. St. Landry Parish et al.* (W.D. La. 2003); *Arbor Hill Concerned Citizens Neighborhood Association et al v. County of Albany* (N.D.N.Y. 2003); *Hardeman County Branch of NAACP v. Frost* (2003).

Expert Instructor, Racially Polarized Voting in Federal Voting Rights Cases. NAACP LDF Convention. 2021.

Expert Instructor, Quantitative Analysis of Racially Polarized Voting, Native American Rights Fund Training Program. 2021.

Expert Instructor, Racially Polarized Voting and Political Participation: EI and EZI. Expert Preparation Program, Community Census and Districting Institute. A grant supported by Ford Foundation and Southern Coalition for Social Justice, Duke University, Durham, North Carolina. 2010.

Principal Investigator, 2010-2012. A Multi-level Analysis of Obama Racial Coalition in 2008 and 2012. A project funded by the PIG grant of College of Social and Behavior Sciences, the University of Utah.

Recipient, Faculty Sabbatical Grant, 2008. University of Wisconsin Oshkosh, grant offered, but finally declined the offer due to job change.

Grant Director/Faculty Advisor, 2008. The WiscAMP program, National Science Foundation.

Principal Investigator, 2007. Wisconsin Research and Development Capacity Study. A project funded by Wisconsin Security Research Consortium.

Principal Investigator, 2007. The Impact of Industrial Involvement on Science Education in Wisconsin. A project funded by Johnson Control, Inc.

Principal Investigator, 2007. The Impact of Fond du Lac School District on Local Economic Development. A project funded by Fond du Lac School District.

EI Methodologist, 2007. Retrogressive Effects of H.B. No. 1565 on Latino Voters in the Bexar County Metropolitan Water District, TX.

Principal Investigator, 2006. The Impact of Economic Development on Citizen Opinions. A project funded by City of Waupaca, Wisconsin Public Services.

Principal Investigator, 2006. Leading the Big Easy: Will the Biracial Coalition Sustain Katrina? Institute on Race and Ethnicity, University of Wisconsin System. 2006.

Methodological Issues in Quantitative Research on Race and Ethnicity, Inter-University Consortium for Political and Social Research (ICPSR), Institute of Social Research, University of Michigan, 2006.

Off-Campus Program Grant, Faculty Development, the University of Wisconsin-Oshkosh, 2006.

GIS and Social Research, Small Research Grant, Faculty Development Program, the University of Wisconsin-Oshkosh, 2005.

Principal Investigator, Getting the White Votes. American Political Science Association Research Grant, Washington D.C., 2003.

Principal Investigator, A Comparative Study of Urban Elections. Faculty Research Development Grant, the University of Wisconsin-Oshkosh, Oshkosh, Wisconsin, 2004.

Principal Investigator, Getting the White Votes. Faculty Research Development Grant, the University of Wisconsin-Oshkosh, Oshkosh, Wisconsin, 2003.

Advanced Graduate Student Travel Grant, the American Political Science Association, 1999

AWARDS AND HONORS

"People's Voice: Ranked-Choice Voting Manifests Voter Values", *University of Utah Magazine*, Fall 2021 (a piece covering my research findings and grant on ranked-choice voting)

Nominee for the Career & Professional Development Center, Faculty Recognition Program, University of Utah. 2018.

Winner of A Showcase of Extraordinary Faculty Achievements (for publication of my book, Social Research: Integrating Mathematical Foundations and Modern Statistical Computing. San Diego: Cognella Academic Publishing), With commendation from the J. Willard Marriott Library and the Office of the Vice President for Research. University of Utah. 2016

Nominee for the Social and Behavior Science College Superior Research Award (senior scholar category), nominated by the political science department in both 2011 and 2012.

Professor of Political Science (National 985-Plan Supported Foreign Scholar), Taught Summer Class at School of Government, Nanjing University, Nanjing, China. 2012.

TRISS Endowed Professorship for Excellence, University of Wisconsin Oshkosh, 2007-8

Artinian Award for Professional Development, Southern Political Science Association, 2004

Byran Jackson Award for the best research/dissertation in racial and ethnic politics in an urban setting, Urban Politics Section, the American Political Science Association, 1999

Ted Robinson Award for the best research in race and ethnicity, Southwestern Political Science Association, 1999

Who's Who in America, 2001-2006, Marquis, USA.

Davis Summer Research Grant, Stephens College, 2001

Firestone Baars Grant for Faculty Development, Stephens College, 1999-2001

Vice President Discretion Grant for Research, Stephens College, 2001, 2000

Advanced Graduate Student Travel Grant, the American Political Science Association, 1999

Graduate Student Travel Grant, University of New Orleans, 1997

The Best Graduate Student Paper Award, Department of Political Science, Oklahoma State University, 1993

Pi Sigma Alpha, National Political Science Honor Society, 1994

PROFESSIONAL POSITIONS

Chair, Political Methodology Section, Southern Political Science Association, 2022-present

Member, Review Board, Journal of Behavioral and Social Sciences. 2019-present

Member, Board of Directors, National Association for Ethnic Studies, 2013-2015

Editorial Board, Urban Affairs Review, 2008-2011

Editorial Advisor, International Encyclopedia of Political Science, CQ Press, 2005-2011

Editor, Urban News, Urban Politics Section, American Political Science Association, 2004-2010

Chair, Urban Politics Program, Southern Political Science Association Annual Convention, 2008

Co-Chair, Asian Pacific American Caucus, American Political Science Association, 2004-2006

Member, American Political Science Association Small Research Grant Committee, 2005

AS A JUDGE OR REVIEWER OF WORKS OF OTHER SCHOLARS FOR ACADEMIC JOURNALS OR PRESSES

2001-present

Perspectives; Politics and Religion; American Political Science Review; Lexington Books; Journal of Behavioral and Social Sciences; The National Science Foundation; Sage Publications, W. W. Norton & Company, Inc; McGraw Hill Publishing; Journal of Politics; National Political Science Review, Political Analysis; Social Science Quarterly; Urban Affairs Review; Political Research Quarterly; Politics and Policy; Journal of Urban Affairs; American Politics Research; Public Opinion Quarterly; Political Behavior; Sociological Methods and Research

PROFESSIONAL AND COMMUNITY SERVICES

Member, College Faculty Tenure and Promotion Committee, 2022-present

Chair, Faculty Tenure and Promotion Committee, Ethnic Studies Program, 2022-present

Co-Chair, EDI Committee, Political Science, 2022-present

Member, European Consortium for Political Research, 2022-present

Judge, Graduate Student Research Day, College of Social and Behavioral Science, 2021

Reviewer, University **URC Faculty Scholarly Grant Program, 2020**

Chair, Faculty Tenure and Promotion Committee, Political Science, 2019-2020

Member, Curriculum Overhaul Committee, Ethnic Studies, 2018-2019

Member, Faculty Tenure and Promotion Committee, Political Science, 2018-2019

Chair, Faculty Tenure and Promotion Sub-Committee, Ethnic Studies, 2017-2018

Member, Graduate Committee, political science department, the University of Utah, 2014-2018

Member, Executive Committee, political science department, the University of Utah, 2014-2018

Faculty Senator, the University of Utah, 2015-2018

Chair, American Politics Field, political science department, the University of Utah, 2014-2018

Member, GC Building Committee, Social Science Lab, 2015-2018

Expert Volunteer for Utah Fair Redistricting Legal Team, 2017

Member, Assistant Vice President for Diversity Search Committee, 2015-2016

Member, Ad Hoc Graduate Committee for Writing, 2015-2016

Chair, Faculty Joint Appointment Search Committee, ethnic studies program and theatre department, the University of Utah, 2014-2015

Member, Betty Glad Foundation Committee, political science department, the University of Utah, 2014-2015

Chair, Awards Committee, National Association for Ethnic Studies, 2014

Faculty Mentor to Junior Faculty, Department of Political Science, 2013-2018

Chair, University of Utah MLK Committee. 2012-2013.

Member, Graduate School Dean Search Committee, 2013.

Member, University Diversity Leadership Team, the University of Utah. 2010-2013.

Member, University Teaching Program Committee, the University of Utah, 2011-2013.

Member, University Diversity Curriculum Committee, Undergraduate Studies, the University of Utah, 2011-2013.

Judge, The Research Day of College of Social and Behavioral Science, 2011-2013.

Member, Organizing Committee, International Conference on Urbanization and Development in China, University of Utah, August 2010.

Member, Retention, Promotion, and Tenure Committee, Department of Political Science, the University of Utah. 2011-2013.

Assistant Director, Ethnic Studies Program, the University of Utah. 2010-2011.

Committee Member, Undergraduate Studies, Department of Political Science, the University of Utah. 2009-2011.

Committee Member, Utah Opportunity Scholarship, the University of Utah, reviewing and making decisions on more than 200 applications. 2009-2010.

Member, Ethnic Studies Positions Exploration Committee, the University of Utah. 2009-2010.

Member, Marketing Committee, Department of Political Science, the University of Utah. 2009-2010.

Guest Speaker, "Obama and the 2008 Presidential Election: A Spatial Analysis" at the Graduate Seminar titled Introduction of Survey Research in Higher Education. College of Education. The University of Utah. Feb. 3, 2009.

Special Speaker, "Obama and the Minimum Winning Coalition" Ethnic Studies Works in Progress Presentation. The University of Utah. Dec., 5, 2008.

Special Speaker, "Election 2008: A Symposium," Hinckley Institute of Politics, University of Utah. October 6, 2008.

Special Speaker, "Predicting the 2008 Presidential Election Outcomes" Political Science Department, the University of Utah. Sept. 25, 2008.

Political Commentator for reporting from Salt Lake Tribune, AP, EFE Hispanic News Services, Milwaukee Journal Sentinel, WHBY, KFRU radio stations, the Post-Crescent, Oshkosh Northwestern, Columbia Missourian, and the Daily Utah Chronicle. December 1999 to present.

Faculty Representative for University of Wisconsin-Oshkosh, ICPSR, University of Michigan, 2007-2008

Member, Board of Trustees, Wisconsin International School, 2007-2008

Member, UWO Office of Institutional Research Advisory Board, 2007-2008

President, Northeast Wisconsin Chinese Association, 2007 (executive vice president, 2006)

Member, Program Evaluation Committee. College of Letters and Science, University of Wisconsin-Oshkosh, 2007-2008

Member, Political Science Curriculum, Center for New Learning, University of Wisconsin-Oshkosh, 2007-2008

Moderator, Oshkosh City Forum, Mayoral Candidates' Debates, March 23, 2005

Grant Reviewer, Faculty Development Program. University of Wisconsin-Oshkosh, 2004-2008

Member, African American Minor Counsel. University of Wisconsin-Oshkosh, 2006-2008

Member, Search Committee for University Foundation President. University of Wisconsin-Oshkosh, 2005-2006.

Member, Faculty Senate Libraries & Information Services Committee. University of Wisconsin-Oshkosh, 2005-2008.

Chair/Member, Curriculum Committee, Dept. of Political Science, University of Wisconsin-Oshkosh, September 2002-2008.

Chair, Budget Committee, Dept. of Political Science, University of Wisconsin-Oshkosh, September 2007-2008.

Member, Personal Committee, Dept. of Political Science, University of Wisconsin-Oshkosh, September 2007-2008.

Member, Search Committee, Dept. of Political Science, University of Wisconsin-Oshkosh, September 2002-2008.

Faculty Director, the Stephens College Model UN Team, National Model United Nations Conference, New York, New York, March, 2002.

Chair, Political Science Search Committee, Stephens College. August 2001 to May 2002.

Member, Editorial Advisory Board, Collegiate Press, San Diego, California. 2000 to 2001.

Chair, Harry Truman Scholarship Committee, Stephens College. 2000 to 2002.

Member, Strategic Planning and Budgeting Committee, Stephens College. 2000 to 2002.

CONFERENCE PAPER/PROCEEDINGS

Liu, Baodong and Richard Engstrom. "Ranked Choice Voting and the Minority Voting Rights" paper presented at the American Political Science Association Annual Conference. Seattle. September, 2021.

Liu, Baodong. "The Growth of Scientific Knowledge through Social Computing Networks" paper presented at the 19th International E-Society Annual Conference, 2021. (through Zoom).

Liu, Baodong, Nadia Mahallati, and Charles Turner. "Ranked-Choice Voting Delivers Representation and Consensus in Presidential Primaries." Paper presented at the Electoral Reform Research Group Conference organized by New America, American Enterprise Institute, Center on Democracy, Development, and the Rule of Law, Stanford University and Unite America Institute, 2021. (through Zoom).

Liu, Baodong. "Racial Prejudice behind the Anti-Affirmative Action Attitude of Asian Americans," paper presented at the Western Political Science Association Annual Conference. San Diego. April 2019.

Liu, Baodong, Porter Morgan and Dimitri Kokoromytis. "Immigration, Nation-State Contexts and Value Changes of Ethnic Chinese" paper presented at the Midwest Political Science Association Annual Conference. Chicago. April 2019.

Baodong Liu. "The Strategical Religious Voter", paper presented at the Midwest Political Science Association Annual Meeting. Chicago, Illinois. April 2018.

Baodong Liu, Nicole Batt and Zackery Stickney. "Authoritarianism for and against Trump", paper presented at the Annual Meeting of Behavioral and Social Sciences, Las Vegas, Nevada. February 2018.

Baodong Liu. "The Strategic Religious Voter", paper presented at the Oxford Symposium on Religious Studies, Oxford, UK. March 2016.

Baodong Liu. "The Political Fate of Religious Minorities in the U.S. Presidential Elections." paper presented at the 19th Annual American Association of Behavioral and Social Sciences. Las Vegas, Nevada. February 2016.

Baodong Liu. "The Political Fate of Religious Minorities in the U.S. Presidential Elections." paper presented at the Hawaii University International Conferences on Arts, Humanities, Social Sciences and Education. Honolulu, Hawaii. January 2016.

Baodong Liu. "Statistical Inference and Visualization of Big Data in Urban Research", paper presented at the 3rd International Conference on China Urban Development, Shanghai, China. June 2015.

Baodong Liu. "Race, Religion, and U.S. Presidential Elections," paper presented at the Annual Convention of National Association for Ethnic Studies, Oakland, California. April 2014.

Baodong Liu. "Racial Context and the 2008 and 2012 US Presidential Elections," paper presented at the 11th Annual International Conference on Politics & International Affairs, Athens, Greece. June 2013.

Baodong Liu. "Deracialization in the Post-Obama Era," presented at the National Black Political Scientist Association Annual Meeting. Las Vegas, Nevada. March 2012.

Baodong Liu. "Obama's Racial Coalition," paper presented at the Southwestern Social Science Association Annual Meeting. Las Vegas, Nevada. March 2011.

Geoffrey M. Draper, Baodong Liu, and Richard F. Riesenfeld. "Integrating Statistical Visualization Research into the Political Science Classroom" Information Systems Educators Conference. 2010. Nashville, Tennessee. October 2010.

Baodong Liu. "Space and Time: An Empirical Analysis of 2008 Presidential Election," paper delivered at the Annual American Political Science Association Conference, Toronto, Canada, September 2009.

Baodong Liu. "Sequential and Spatial Voting: An Analysis of the 2008 Democratic Primaries," paper presented at the 2009 Midwest Political Science Association Annual Conference, Chicago, Illinois, April 2009.

Baodong Liu. "Social Capital, Race, and Turnout," paper presented at the 2008 Midwest Political Science Association Annual Conference, Chicago, Illinois, April 2008.

Baodong Liu and Lori Weber. "Social Capital and Voting Participation," paper presented at the 2008 Southern Political Science Association Annual Meeting, New Orleans, Louisiana, January 2008.

Baodong Liu. "The 2006 New Orleans Mayoral Election," paper presented at the 2007 Midwest Political Science Association Annual Conference, Chicago, Illinois, April 2007.

James Vanderleeuw, Baodong Liu, and Erica Williams. "The Political Ramifications of a Large-Scale Natural Disaster," paper presented at the 2006 annual conference, the American Political Science Association, Philadelphia, September 2006.

Baodong Liu. "EI Extended Model and the Fear of Ecological Fallacy," paper presented at the 2006 Midwest Political Science Association Annual Meeting, Chicago, Illinois, April 2006.

Baodong Liu. "The Fear of Ecological Fallacy and the Methods to Conquer It" paper presented at the Western Political Science Association Annual Meeting, Oakland, CA, April 2005.

Baodong Liu. "The Whites Who Stayed in the City," paper presented at the 2004 Midwest Political Science Association Annual Meeting, Chicago, Illinois, April 2004.

Baodong Liu. "Whites as a Minority and the New Biracial Coalition," paper presented at the 2004 Southern Political Science Association Annual Meeting, New Orleans, Louisiana, January 2004.

Baodong Liu and James Vanderleeuw. "Economic Development Priorities and Central City/Suburb Differences," presented at the 2003 Midwest Political Science Association Annual Meeting, Chicago, Illinois, April 2003.

James Vanderleeuw, Baodong Liu, and Greg Marsh, "Divided Leadership and Racial Reflexivity in Memphis: An Analysis of the 1991, 1995 and 1999 Mayoral Elections," presented at the 2003 Southwestern Political Science Association Annual Meeting, San Antonio, Texas, April 2003.

Baodong Liu. "White Votes Count: The Effect of Black Candidates' Qualifications on White Crossover Voting," paper presented at the 98th American Political Science Association Conference, Boston, Massachusetts, September 2002.

Baodong Liu. "Searching for a 'Qualified' Black Candidate," *Proceedings of the 97th American Political Science Association Conference*, San Francisco California, September 2001.

Baodong Liu. "In Defense of an Ethical Rational Choice Theory," paper delivered at the 2001 Jessie Ball duPont Fund Summer Seminars for Liberal Arts College Faculty, the National Humanities Center, Research Triangle, North Carolina, June 2001.

Baodong Liu. "Reconsidering Social Interaction Theory," presented at the 2001 Western Political Science Association Annual Meeting. Las Vegas Nevada, March 2001.

James Vanderleeuw, Baodong Liu, and John Johnson. "Economic Development Priorities of City Administrators: A Report on a Survey of City Administrators in Texas," presented at the 2001 Louisiana Political Science Association Convention, Lamar Texas, March 2001.

Baodong Liu. "Racial Transition: Explaining the Curvilinear Relationship between Black Density and White Crossover Voting," *Proceedings of the 96th American Political Science Association Conference*, Washington DC, September 2000.

Baodong Liu and James Vanderleeuw. "Racial Transition: Explaining the Curvilinear Relationship between Black Density and White Crossover Voting," presented at the 96th American Political Science Association Conference, Washington DC, September 2000.

Baodong Liu. "Electoral Law and the Russian Party System: A Comparative Study," presented at *the 58th Midwest Political Science Association Conference*, Chicago Illinois, April 2000.

James Vanderleeuw and Baodong Liu. "Rolling Off in the Context of Context," presented at *the 30th Southwestern Political Science Association Conference*, Galveston Texas, March 2000.

Baodong Liu. "The Changing Nature of Electoral Competition in Japan." Roundtable Discussant, *the 52nd Association of Asian Studies Annual Meeting*, San Diego California, March 2000.

Baodong Liu. "Racial Context and White Voting Strategies," presented at *the 95th American Political Science Association Conference*, Atlanta Georgia, September 1999.

Baodong Liu. "The President's Support in Congress: A Test of U.S. China Policy, 1980-1994," *The 1997 Southern Political Science Association Convention*, Norfolk Virginia, November 1997.

Baodong Liu. "Examining the Race Line: White Voting Behavior in New Orleans, 1980-1994," *The 27th Southwestern Political Science Association Conference*. New Orleans Louisiana, March 1997.

Baodong Liu. "Intrapartisan Defeats and the Nomination Strategies of the Japanese Liberal Democratic Party in the 1993 Election," *The Sixth Annual Graduate Student Research Symposium*. Oklahoma State University. Stillwater Oklahoma, February 1995.

INVITED SPEAKER, ROUNDTABLE/PANEL DISCUSSANT

Baodong Liu. "Author Meets Critics Panel--Baodong Liu's newly published book, *Political Volatility in the United States and its impact*". Southern Political Science Association Annual Meeting. St. Pete Beach, FL. January 2023.

Baodong Liu. "The Future of Political Polls." Hinkley Forum. Hinkley Institute of Politics. 2021.

Baodong Liu. "Beyond the Bloc: Asian American Voting and Political Power." Hinkley Forum. Hinkley Institute of Politics. 2021.

Baodong Liu. "The 2020 Presidential Election and Congressional Election in Utah," live interview on TV by ABC4 News. October 2020.

Baodong Liu. "The 2020 Presidential Election and the Future of American Democracy", invited lecture given to Chinese Americans on Zoom. September 2020.

Baodong Liu, Michael Cobb, and Richard Engstrom. "Understanding the Support for Ranked-Choice Voting in Two Southern Cities" talk given at the Electoral Reform Research Group, Research Development Conference. Washington D.C. February 2020.

Baodong Liu. "'Nation-State Context and Authoritarian Value Changes of Ethnic Chinese.'" Talk given at the workshop of *The Clash of Authoritarianisms: Secularism versus Islamism in Turkey*, University of Utah. April 2019

Baodong Liu. "Trump's Voters," Panel Discussion on Presidential Primaries. Hinkley Institute of Politics. The University of Utah. Salt Lake City, Utah. March 2016

Baodong Liu. "Big Data in the Social Sciences," The Consortium for Research on China and Asia (CROCA) and Policy at the Podium. The University of Utah. Salt Lake City, Utah. November 2014.

Baodong Liu. "Deracialization in the Historical Perspective," the National Black Political Scientist Association Annual Meeting. Las Vegas, Nevada. March 2012.

"Educating the Best Students in the 21st century: the New Ethnic Studies Major at the University of Utah," a presentation provided to the University Diversity Division Fall Retreat (March 12, 2011), the Ethnic Studies Program (August, 17, 2011), and the Community Council (September 13, 2011), at the University of Utah.

"Quantitative Analysis: Ecological Inferences and the Voting Rights Law," a Ford Foundation Project, Duke University. July 24-28, 2010.

"Election 2008: A Symposium," Hinckley Institute of Politics, University of Utah. October 6, 2008.

"IMMIGRATION TODAY: What are the issues?" League of Women Voters of the Oshkosh Area Public Forum, November 12, 2007.

Theme Panel: "Bleaching" New Orleans? Power, Race, and Place After Katrina, the American Political Science Association Annual Meeting, Philadelphia, September 2, 2006.

"2006 Midterm Election Preview," American Democracy Project, the University of Wisconsin, Oshkosh, November 2, 2006.

"Analysis on the 2006 Midterm Election Results," American Democracy Project, the University of Wisconsin, Oshkosh, November 9, 2006.

"The Politics of New Americans: Studying Asian American Political Engagement," the American Political Science Association Annual Meeting, Washington, D.C. September 3, 2005.

"Significance of Voting Rights Act," Lawyers' Committee for Civil Rights under Law, National Asian Pacific American Legal Consortium, Mexican American Legal Defense and Educational Fund, Washington DC: June 17-18, 2004.

"Protecting Democracy: Defining the Research Agenda for Voting Rights Reauthorization," the Civil Rights Project, Harvard University, Cambridge, MA. May 10, 2004.

Chair, the Politics of Ethnicity and Self-Determination Panel, International Studies Association-Midwest Conference, St. Louis, Missouri, November 2, 2001.

PROFESSIONAL MEMBERSHIP

Pi Sigma Alpha, National Political Science Honor Society
American Political Science Association
Western Political Science Association
Midwest Political Science Association

Association for Asian American Studies
Association of Chinese Political Studies
Southwestern Political Science Association

Serve as an Advisor/Committee Member for the following Graduate Students

Nicole Batt (Ph.D Dissertation Chair)
Jake Peterson (Ph.D Dissertation Chair)
Matt Haydon (Ph.D. Dissertation Chair)
Porter Morgan (Ph.D. Committee)
Charles Turner (Ph.D Committee)
Geri Miller-Fox (Ph.D Committee)
Alex Lovell (Ph.D Committee)
Samantha Eldrudge (Ph.D Committee)
Leslie Haligan-Park (Ph.D Committee)
Nicole Cline (Master Committee Chair)
Oakley Gordon (Master Committee)
Michael McPhie (Master Committee)

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Appendix II

Voting Rights Cases in which I Served as an Expert Witness

McClure et al. v. Jefferson County Commission et al. Case No. 2:23-cv_00443-MHH (N.D., Alabama).

The South Carolina State Conference of the NAACP, et al., v. McMaster et al., Case No. 3-21-cv-03302-JMC-TJH-RMG (Columbia Division, S.C. 2021).

Milligan, et al. v. Merrill, et al., Case No. 2:21-cv-01530-AMM and *Thomas, et al. v. Merrill, et al.*, Case No. 2:21-cv-01531-AMM (N.D. Ala. 2021).

Traci Jones et al v. Jefferson County Board of Education et al, (N.D. Ala. 2019).

CMA v. Arkansas, (E.D. Ark. 2019).

Alabama State Conference of NAACP v. Pleasant Grove, (N.D. Ala. 2018).

Navajo Nation, et al, v. San Juan County, et al. (D. Utah 2012).

League of Women Voters of Florida, et al v. Detzner, et al, (Fla. 2012).

Anne Pope et. al. v. County of Albany and the Albany County Board of Elections (N.D.N.Y. 2011).

Radogno, et al v. State Board of Elections, et al, (N.D. Ill. 2011).

NAACP v. St. Landry Parish et al, (W.D. La. 2003).

Arbor Hill Concerned Citizens Neighborhood Association et al v. County of Albany, (N.D.N.Y. 2003).

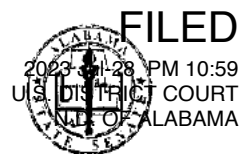
Hardeman County Branch of NAACP v. Frost, (Tenn. 2003).

Democrat CD	2018 AG	2018 GOV	2018 LTGOV	2018 AUD	2018 SOS	2020 PRES	2020 SEN	Average
1	39.2%	38.5%	36.7%	37.6%	36.9%	34.8%	38.2%	37.4%
2	48.5%	45.3%	46.0%	46.8%	46.0%	45.6%	48.0%	46.6%
3	33.3%	32.6%	31.2%	31.8%	31.5%	29.3%	31.9%	31.6%
4	24.8%	24.8%	21.7%	22.6%	21.7%	18.6%	21.9%	22.3%
5	39.2%	38.6%	36.8%	38.0%	37.4%	36.2%	39.5%	37.9%
6	35.6%	36.2%	32.8%	33.7%	33.2%	33.4%	35.9%	34.4%
7	64.7%	64.0%	62.9%	63.2%	62.9%	61.6%	63.4%	63.2%

Republican CD	2018 AG	2018 GOV	2018 LTGOV	2018 AUD	2018 SOS	2020 PRES	2020 SEN	Average
1	60.8%	61.5%	63.3%	62.4%	63.1%	65.2%	61.8%	62.6%
2	51.5%	54.7%	54.0%	53.2%	54.0%	54.4%	52.0%	53.4%
3	66.7%	67.4%	68.8%	68.2%	68.5%	70.7%	68.1%	68.4%
4	75.2%	75.2%	78.3%	77.4%	78.3%	81.4%	78.1%	77.7%
5	60.8%	61.4%	63.2%	62.0%	62.6%	63.8%	60.5%	62.1%
6	64.4%	63.8%	67.2%	66.3%	66.8%	66.6%	64.1%	65.6%
7	35.3%	36.0%	37.1%	36.8%	37.1%	38.4%	36.6%	36.8%

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SB5 ENROLLED



ACT #2023 - 563

- 1 XBT977-3
- 2 By Senator Livingston
- 3 RFD: Conference Committee on SB5
- 4 First Read: 17-Jul-23
- 5 2023 Second Special Session



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**SB5 Enrolled**

1 Enrolled, An Act,

2

3

4 To amend Section 17-14-70, Code of Alabama 1975, to
5 provide for the reapportionment and redistricting of the
6 state's United States Congressional districts for the purpose
7 of electing members at the General Election in 2024 and
8 thereafter, until the release of the next federal census; and
9 to add Section 17-40-70.1 to the Code of Alabama 1975, to
10 provide legislative findings.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 17-14-70.1 is added to the Code of
13 Alabama 1975, to read as follows.

14 §17-14-70.1

15 The Legislature finds and declares the following:

16 (1) The Legislature adheres to traditional
17 redistricting principles when adopting congressional
18 districts. Such principles are the product of history,
19 tradition, bipartisan consensus, and legal precedent. The
20 Supreme Court of the United States recently clarified that
21 Section 2 of the Voting Rights Act "never requires adoption of
22 districts that violate traditional redistricting principles."

23 (2) The Legislature's intent in adopting the
24 congressional plan in this act described in Section 17-14-70.1
25 is to comply with federal law, including the U.S. Constitution
26 and the Voting Rights Act of 1965, as amended.

27 (3) The Legislature's intent is also to promote the
28 following traditional redistricting principles, which are



SB5 Enrolled

29 given effect in the plan created by this act:

30 a. Districts shall be based on total population as
31 reported by the federal decennial census and shall have
32 minimal population deviation.

33 b. Districts shall be composed of contiguous geography,
34 meaning that every part of every district is contiguous with
35 every other part of the same district.

36 c. Districts shall be composed of reasonably compact
37 geography.

38 d. The congressional districting plan shall contain no
39 more than six splits of county lines, which is the minimum
40 number necessary to achieve minimal population deviation among
41 the districts. Two splits within one county is considered two
42 splits of county lines.

43 e. The congressional districting plan shall keep
44 together communities of interest, as further provided for in
45 subdivision (4).

46 f. The congressional districting plan shall not pair
47 incumbent members of Congress within the same district.

48 g. The principles described in this subdivision are
49 non-negotiable for the Legislature. To the extent the
50 following principles can be given effect consistent with the
51 principles above, the congressional districting plan shall
52 also do all of the following:

- 53 1. Preserve the cores of existing districts.
- 54 2. Minimize the number of counties in each district.
- 55 3. Minimize splits of neighborhoods and other political
56 subdivisions in addition to minimizing the splits of counties

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57 and communities of interest.

58 (4)a. A community of interest is a defined area of the
59 state that may be characterized by, among other commonalities,
60 shared economic interests, geographic features, transportation
61 infrastructure, broadcast and print media, educational
62 institutions, and historical or cultural factors.

63 b. The discernment, weighing, and balancing of the
64 varied factors that contribute to communities of interest is
65 an intensely political process best carried out by elected
66 representatives of the people.

67 c. If it is necessary to divide a community of interest
68 between congressional districts to promote other traditional
69 districting principles like compactness, contiguity, or equal
70 population, division into two districts is preferable to
71 division into three or more districts. Because each community
72 of interest is different, the division of one community among
73 multiple districts may be more or less significant to the
74 community than the division of another community.

75 d. The Legislature declares that at least the three
76 following regions are communities of interest that shall be
77 kept together to the fullest extent possible in this
78 congressional redistricting plan: the Black Belt, the Gulf
79 Coast, and the Wiregrass.

80 e.1. Alabama's Black Belt region is a community of
81 interest composed of the following 18 core counties: Barbour,
82 Bullock, Butler, Choctaw, Crenshaw, Dallas, Greene, Hale,
83 Lowndes, Macon, Marengo, Montgomery, Perry, Pickens, Pike,
84 Russell, Sumter, and Wilcox. Moreover, the following five



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85 counties are sometimes considered part of the Black Belt:
86 Clarke, Conecuh, Escambia, Monroe, and Washington.

87 2. The Black Belt is characterized by its rural
88 geography, fertile soil, and relative poverty, which have
89 shaped its unique history and culture.

90 3. The Black Belt region spans the width of Alabama
91 from the Mississippi boarder to the Georgia border.

92 4. Because the Black Belt counties cannot be combined
93 within one district without causing other districts to violate
94 the principle of equal population among districts, the 18 core
95 Black Belt counties shall be placed into two reasonably
96 compact districts, the fewest number of districts in which
97 this community of interest can be placed. Moreover, of the
98 five other counties sometimes considered part of the Black
99 Belt, four of those counties are included within the two Black
100 Belt districts - Districts 2 and 7.

101 f.1. Alabama's Gulf Coast region is a community of
102 interest composed of Mobile and Baldwin Counties.

103 2. Owing to Mobile Bay and the Gulf of Mexico
104 coastline, these counties also comprise a well-known and
105 well-defined community with a long history and unique
106 interests. Over the past half-century, Baldwin and Mobile
107 Counties have grown even more alike as the tourism industry
108 has grown and the development of highways and bay-crossing
109 bridges have made it easier to commute between the two
110 counties.

111 3. The Gulf Coast community has a shared interest in
112 tourism, which is a multi-billion-dollar industry and a



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113 significant and unique economic driver for the region.

114 4. Unlike other regions in the state, the Gulf Coast
115 community is home to major fishing, port, and ship-building
116 industries. Mobile has a Navy shipyard and the only deep-water
117 port in the state. The port is essential for the international
118 export of goods produced in Alabama.

119 5. The Port of Mobile is the economic hub for the Gulf
120 counties. Its maintenance and further development are critical
121 for the Gulf counties in particular but also for many other
122 parts of the state. The Port of Mobile handles over 55 million
123 tons of international and domestic cargo for exporters and
124 importers, delivering eighty-five billion dollars
125 (\$85,000,000,000) in economic value to the state each year.
126 Activity at the port's public and private terminals directly
127 and indirectly generates nearly 313,000 jobs each year.

128 6. Among the over 21,000 direct jobs generated by the
129 Port of Mobile, about 42% of the direct jobholders reside in
130 the City of Mobile, another 39% reside in Mobile County but
131 outside of the City of Mobile, and another 13% reside in
132 Baldwin County.

133 7. The University of South Alabama serves the Gulf
134 Coast community of interest both through its flagship campus
135 in Mobile and its campus in Baldwin County.

136 8. Federal appropriations have been critical to
137 ensuring the port's continued growth and maintenance. In 2020,
138 the Army Corps of Engineers allocated over two hundred
139 seventy-four million dollars (\$274,000,000) for the Port of
140 Mobile to allow the dredging and expansion of the port.

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141 Federal appropriations have also been critical for expanding
142 bridge projects to further benefit the shared interests of the
143 region.

144 9. The Gulf Coast community has a distinct culture
145 stemming from its French and Spanish colonial heritage. That
146 heritage is reflected in the celebration of shared social
147 occasions, such as Mardi Gras, which began in Mobile. This
148 shared culture is reflected in Section 1-3-8(c), Code of
149 Alabama 1975, which provides that "Mardi Gras shall be deemed
150 a holiday in Mobile and Baldwin Counties and all state offices
151 shall be closed in those counties on Mardi Gras." Mardi Gras
152 is observed as a state holiday only in Mobile and Baldwin
153 Counties.

154 10. Mobile and Baldwin Counties also work together as
155 part of the South Alabama Regional Planning Commission, a
156 regional planning commission recognized by the state for more
157 than 50 years. The local governments of Mobile, Baldwin, and
158 Escambia Counties, as well as 29 municipalities within those
159 counties, work together through the commission with the
160 Congressional Representative from District 1 to carry out
161 comprehensive economic development planning for the region in
162 conjunction with the U.S. Economic Development Administration.
163 Under Section 11-85-51(b), factors the Governor considers when
164 creating such a regional planning commission include
165 "community of interest and homogeneity; geographic features
166 and natural boundaries; patterns of communication and
167 transportation; patterns of urban development; total
168 population and population density; [and] similarity of social

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169 and economic problems."

170 g.1. Alabama's Wiregrass region is a community of
171 interest composed of the following nine counties: Barbour,
172 Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, and
173 Pike.

174 2. The Wiregrass region is characterized by rural
175 geography, agriculture, and a major military base. The
176 Wiregrass region is home to Troy University's flagship campus
177 in Troy and its campus in Dothan.

178 3. All of the Wiregrass counties are included in
179 District 2, with the exception of Covington County, which is
180 placed in District 1 so that the maximum number of Black Belt
181 counties can be included within just two districts.

182 Section 2. Section 17-14-70, Code of Alabama 1975, is
183 amended to read as follows:

184 "§17-14-70

185 (a) The State of Alabama is divided into seven
186 congressional districts as provided in subsection (b).

187 (b) The numbers and boundaries of the districts are
188 designated and established by the map prepared by the
189 Permanent Legislative Committee on Reapportionment and
190 identified and labeled as ~~Pringle Congressional Plan 1~~
191 Livingston Congressional Plan 3-2023, including the
192 corresponding boundary description provided by the census
193 tracts, blocks, and counties, and are incorporated by
194 reference as part of this section.

195 (c) The Legislature shall post for viewing on its
196 public website the map referenced in subsection (b), including

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197 the corresponding boundary description provided by the census
198 tracts, blocks, and counties, and any alternative map,
199 including the corresponding boundary description provided by
200 the census tracts, blocks, and counties, introduced by any
201 member of the Legislature during the legislative session in
202 which this section is added or amended.

203 (d) Upon enactment of ~~Act 2021-555, adding~~the act
204 amending this section and adopting the map identified in
205 subsection (b), the Clerk of the House of Representatives or
206 the Secretary of the Senate, as appropriate, shall transmit
207 the map and the corresponding boundary description provided by
208 the census tracts, blocks, and counties identified in
209 subsection (b) for certification and posting on the public
210 website of the Secretary of State.

211 (e) The boundary descriptions provided by the certified
212 map referenced in subsection (b) shall prevail over the
213 boundary descriptions provided by the census tracts, blocks,
214 and counties generated for the map."

215 Section 3. The provisions of this act are severable. If
216 any part of this act is declared invalid or unconstitutional,
217 that declaration shall not affect the part which remains.

218 Section 4. This act shall be effective for the election
219 of members of the state's U.S. Congressional districts at the
220 General Election of 2024 and thereafter, until the state's
221 U.S. Congressional districts are reapportioned and
222 redistricted after the 2030 decennial census.

223 Section 5. This act shall become effective immediately
224 upon its passage and approval by the Governor, or upon its



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225 otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB5

Senate 19-Jul-23

I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 21-Jul-23

I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 21-Jul-23

House of Representatives
Passed 21-Jul-23, as amended by Conference Committee Report.

By: Senator Livingston

APPROVED July 21, 2023

TIME 5:28 PM

GOVERNOR

Alabama Secretary Of State

Act Num....: 2023-563
Bill Num....: S-5

Recv'd 07/21/23 05:41pmSLF

SOR

introduction
SPONSORS

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SENATE ACTION

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB _____

years _____ nays _____ abstain _____

PATRICK HARRIS,
Secretary

I hereby certify that the notice & proof is attached to the Bill, SB _____ as required in the General Acts of Alabama, 1975 Act No. 919.

PATRICK HARRIS,
Secretary

CONFERENCE COMMITTEE

Senate Conferees _____

HOUSE ACTION

DATE: _____ 20 23

RD 1 RFD _____

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on State Government was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed w/amend(s) w/sub This 20 day of July, 2023.

Chris Bell, Chairperson

DATE: _____ 20 23

RF _____ RD 2 CAL _____

DATE: _____ 20 _____

RE-REFERRED RE-COMMITTED

Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB _____

YEAS _____ NAYS _____


JOHN TREADWELL,
Clerk

FURTHER HOUSE ACTION (OVER)

Home > Politics

POLITICS

State Rep. Pringle: Proposal to create second Democrat congressional district could help GOP – ‘I call it the Republican opportunity plan’

By  Jeff Poor October 31, 2021



(Screenshot/APTV)

During this week’s broadcast of Alabama Public Television’s “Capitol Journal,” State Rep. Chris Pringle (R-Mobile), the chairman of the reapportionment effort in the House of Representatives, addressed a proposal offered by Democrats that could create two Democrat-leaning congressional districts in Alabama.

Pringle told host Don Dailey the proposal meant to help Democrats could give Republicans all seven of Alabama’s congressional seats.



“If you remember, the seventh congressional district was drawn when the Democrats were in the supermajority in the Alabama Legislature,” he said. “And they drew that district to be a majority-minority district. It’s remained that way because once it is there, it is protected under Section 2 of the Voting Rights Act. But the plan they had brought forth – the seventh congressional district is no longer a majority-minority district, and neither is the second [district].”

“I call it the Republican opportunity plan,” Pringle continued. “Without being a majority-minority district, you can see where Republicans might be able to win all seven congressional districts.”

@Jeff_Poor is a graduate of Auburn University and the University of South Alabama, the editor of Breitbart TV, a columnist for Mobile’s Lagniappe Weekly, and host of Mobile’s “The Jeff Poor Show” from 9 a.m.-12 p.m. on FM Talk 106.5.

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PERMANENT LEGISLATIVE COMMITTEE ON REAPPORTIONMENT



FOR IMMEDIATE RELEASE
June 21, 2023

Contact: Rob Green
(334) 261-0528

REAPPORTIONMENT CHAIRS ANNOUNCE KEY DATES AND LOCATIONS FOR PUBLIC INPUT IN THE CONGRESSIONAL REDISTRICTING PROCESS

MONTGOMERY, AL – State Sen. Steve Livingston (R-Scottsboro) and State Rep. Chris Pringle (R-Mobile), who serve as joint chairs of the Permanent Legislative Committee on Reapportionment, released on Wednesday a series of dates, times, deadlines, and meeting places related to the upcoming congressional redistricting process.

The meetings and deadlines are:

- June 27 at 1:30 P.M., State House Room 200: Committee meeting and public hearing. The link to watch all meetings and public hearings can be found here: [Alison.legislature.state.al.us/live-stream](https://alison.legislature.state.al.us/live-stream). Under location, select room 200.
- July 7 at 5 P.M.: Deadline for all plans to be submitted to the Reapportionment Committee. Email to: district@alsenate.gov.
- July 13 at 1:30 P.M., State House Room 200; Committee meeting and public hearing.
- August 14: Hearing at Hugo L. Black United States Courthouse. Located at 1729 5th Avenue North, Birmingham, AL 35203.

The House members serving on the Permanent Legislative Committee on Reapportionment members include Cynthia Almond (R-Tuscaloosa); Barbara Boyd (D-Anniston); Jim Carns (R-Birmingham); Steve Clouse (R-Ozark); Corley Ellis (R-Columbiana); Chris England (D-Tuscaloosa); Laura Hall (D-Huntsville); Sam Jones (D-Mobile); Joe Lovvorn (R-Auburn); Chris Pringle (R-Mobile); Rex Reynolds (R-Huntsville).

###

June 26, 2023

Sent via email

Legislative Committee on Reapportionment
Room 303, State House
11 South Union Street
Montgomery, Alabama 36130
district@al-legislature.gov

Dorman Walker
Counsel for the Committee Chairs
445 Dexter Avenue, Suite 8000
Montgomery, AL 36104-3864
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Re: VRA Plaintiffs' Remedial Plan

Dear Reapportionment Committee Members,

Evan Milligan, Shalela Dowdy, Letetia Jackson, Khadidah Stone, Greater Birmingham Ministries, and the Alabama State Conference of the NAACP (collectively, the “*Milligan Plaintiffs*”) and Marcus Caster, Lakeisha Chestnut, Bobby L. Dubose, Benjamin Jones, Rodney A. Love, Manasseh Powell, Ronald Smith, and Wendell Thomas (collectively, the “*Caster Plaintiffs*”) jointly submit the attached remedial plan.

As you know, on June 8, 2023, the Supreme Court of the United States ruled in favor of both the *Milligan* and *Caster* Plaintiffs in holding that Alabama’s 2021 congressional redistricting plan (“HB1”) violated Section 2 of the Voting Rights Act (“VRA”). No other group of Plaintiffs has successfully challenged HB1. Because the Alabama Legislature’s enactment of this plan (hereinafter, the “VRA Plaintiffs’ Remedial Plan” or “VRA Plan”) would likely resolve the pending lawsuit, we urge the Committee to give careful consideration to our VRA Plan.

In affirming the three-judge district court’s preliminary injunction against HB1, the Supreme Court upheld the district court’s findings that “Black Alabamians enjoy virtually zero success in statewide elections; that political campaigns in Alabama had been characterized by overt or subtle racial appeals; and that Alabama’s extensive history of repugnant racial and voting-related discrimination is undeniable and well documented.”¹ The Court also held that the district court had “faithfully applied our precedents and correctly determined that . . . HB1 violated §2.”²

The Supreme Court also affirmed the findings that “elections in Alabama were racially polarized”; “on average, Black voters supported their candidates of choice with 92.3% of the vote

¹ *Allen v. Milligan*, No. 21–1086, slip op. at 14 (2023) (internal citation and quotation marks omitted).

² *Id.* at 15.

while white voters supported Black-preferred candidates with 15.4% of the vote”; and, according to all the trial experts, racial polarization in Alabama is “intense, very strong, and very clear.”³

Given the extreme degree of racially polarized voting in Alabama, the trial court’s preliminary injunction order, which was upheld by the Supreme Court, emphasized the “practical reality” that “any remedial plan will need to include two districts in which Black voters either comprise a voting-age majority or something quite close to it.”⁴ For this reason, any plan that proposes remedial districts in which Black voters constitute less than “a voting-age majority or something quite close to it” almost certainly will not conform to the district court’s order.⁵

The VRA Plaintiffs’ Remedial Plan carefully adheres to the decisions of both the United States Supreme Court and the federal district court. The VRA Plan contains two districts that “perform” consistently for Black voters in primary and general elections.⁶ It also remedies the cracking of the Black Belt community of interest, identified by the courts, by keeping the eighteen “core” Black Belt counties together within these two remedial districts, does not split Montgomery County or any other core Black Belt county, has zero population deviation, splits only seven counties and only ten precincts,⁷ and is otherwise “guided by the legislative policies underlying [HB1] to the extent those policies do not lead to violations of the Constitution or the Voting Rights Act.”⁸ For instance, Districts 3, 4, 5, 6 and 7 largely maintain the “cores” of those districts as drawn by the Legislature in HB1, and Districts 1 and 2 reflect modest changes necessary to bring Alabama into compliance with the VRA. Indeed, the overall “core retention” percentage of the VRA Plaintiffs’ Remedial Plan is over 80%. In further deference to the Legislature’s past policy choices, the VRA Plan splits Jefferson County in essentially the same manner as HB1 and it splits Mobile County similar to the way in which the Legislature did so in its enacted 2021 State Board of Education plan. Finally, the VRA Plaintiffs’ Remedial Plan is based on the Plaintiffs’ illustrative plans—including “Cooper Illustrative Plan 2” and “Duchin Illustrative Plan A,” which the Supreme Court identified as legally acceptable remedies—but makes specific changes to better reflect legislative choices like limiting the number of county splits and protecting district cores.⁹

For these reasons, the *Milligan* and *Caster* Plaintiffs strongly and respectfully urge the Legislature to adopt our plan. If you have any questions, please contact us through our attorneys.

³ *Id.* at 14 (internal citation and quotation marks omitted).

⁴ *Milligan v. Merrill*, 582 F. Supp. 3d 924, 936 (N.D. Ala. 2022) (three-judge court).

⁵ On behalf of the Secretary of State and the Chairs of this Reapportionment Committee, political scientist Dr. M.V. Hood testified at the preliminary injunction hearing that a “Whole County Plan” or similar plan with a 40% Black “opportunity district” centered on an intact Jefferson County would not provide Black voters with an opportunity to elect their candidate of choice as required by the VRA. *See Milligan*, Doc. 66-4 at 14. And another court recently ordered the division of the county school board into single-member districts to remedy a VRA violation and address persistent racial polarization in Jefferson County. *See Jones v. Jefferson Cnty. Bd. of Educ.*, No. 2:19-cv-01821, 2019 WL 7500528, at *2–4 (N.D. Ala. Dec. 16, 2019).

⁶ *See, e.g., Abbott v. Perez*, 138 S. Ct. 2305, 2332–33 (2018); *Abrams v. Johnson*, 521 U.S. 74, 94 (1997).

⁷ With modest adjustments, the number of precinct or VTD splits in the VRA Plaintiffs’ Plan could be reduced to seven, the same number of VTDs split by HB1.

⁸ *Perry v. Perez*, 565 U.S. 388, 941 (2012) (citation and internal quotation marks omitted).

⁹ *See, e.g., Milligan*, slip op. at 12, 33-34.

Sincerely,

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Brittany Carter
Tanner Lockhead
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VRA Plaintiffs' Remedial Map

District Demographic Data

CD	Population	VAP	CVAP (2020)	Black	% Black	BVAP	% BVAP	BCVAP	% BCVAP	White	% White	WVAP	% WVAP	WCVAP	% WCVAP
1	717,754	558,142	532,306	117,087	16.3%	83,257	14.9%	80,290	15.1%	527,338	73.5%	423,469	75.9%	422,523	79.4%
2	717,754	557,855	543,316	374,699	52.2%	279,348	50.1%	279,187	51.4%	290,195	40.4%	241,133	43.2%	241,839	44.5%
3	717,754	565,115	534,107	162,156	22.6%	121,850	21.6%	114,669	21.5%	498,318	69.4%	402,042	71.1%	400,439	75.0%
4	717,754	556,133	526,676	59,655	8.3%	42,819	7.7%	40,698	7.7%	573,666	79.9%	458,324	82.4%	461,981	87.7%
5	717,754	561,187	520,376	136,782	19.1%	101,339	18.1%	94,795	18.2%	491,054	68.4%	397,809	70.9%	394,322	75.8%
6	717,754	554,731	510,682	107,721	15.0%	78,396	14.1%	71,925	14.1%	531,168	74.0%	422,414	76.1%	416,608	81.6%
7	717,755	564,003	541,718	406,636	56.7%	307,363	54.5%	305,769	56.4%	259,612	36.2%	219,353	38.9%	221,133	40.8%

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July 11, 2023

Sent via Email

Dorman Walker
Counsel for the Committee Chairs
445 Dexter Avenue, Suite 8000
Montgomery, AL 36104-3864
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Re: VRA Plaintiffs' Remedial Plan

Dear Counsel:

On behalf of the plaintiffs in *Milligan et al. v. Allen et al.*, No. 2:21-cv-01530, (the “*Milligan* Plaintiffs”) and *Caster et al. v. Allen*, No. 2:21-cv-01536 (the “*Caster* Plaintiffs”), we write to provide additional information related to the VRA Plaintiffs’ Remedial Plan (or VRA Plan) that was submitted to you on June 22, 2023 and discussed at the June 27, 2023 Legislative Committee on Reapportionment hearing.

First, as noted in our clients’ letter issued June 26, 2023 to the Legislative Committee, the *Milligan* and *Caster* Plaintiffs (collectively, the “VRA Plaintiffs”) are the only litigants who have been successful in challenging HB1. No court has ruled in favor of the separate racial gerrymandering claim brought by plaintiffs in the separate case, *Singleton v. Allen*, No. 2:21-cv-1291 (the “*Singleton* Plaintiffs”). Accordingly, maps proposed by the *Singleton* Plaintiffs or their attorneys have no relationship to the VRA claim resolved in U.S. Supreme Court. The VRA Plaintiffs’ Remedial Plan, by contrast, is put forward by the VRA Plaintiffs who won on their claim in the Supreme Court and who secured the injunction requiring a remedial map-drawing process.

Second, at the June 27th hearing, counsel for the *Singleton* plaintiffs spoke out against the VRA Plaintiffs’ Remedial Plan and offered a plan found in an amicus brief that the Campaign Legal Center filed in support of the VRA Plaintiffs in the Supreme Court (the “CLC Plan”). According to him, the CLC Plan is a viable remedy for the VRA violation because it has two “crossover” districts in which Black voters do not form the majority but can elect preferred candidates.

This is incorrect.

As an initial matter, the CLC Plan has not been proposed or endorsed as a remedy by the group that originally created it. The CLC Plan was created by Campaign Legal Center, a nonprofit voting rights organization, in support of the VRA Plaintiffs’ position at the Supreme Court “in response to arguments advanced by the State that the Supreme Court has now flatly rejected.”¹ In fact, the Campaign Legal Center has issued a letter explaining this context and explicitly rejecting

¹ Letter from Campaign Legal Center to the Legislative Committee on Reapportionment (June 30, 2023), available at [https://campaignlegal.org/sites/default/files/2023-06/CLC Letter to AL Apportionment Committee 6.30.23.pdf](https://campaignlegal.org/sites/default/files/2023-06/CLC%20Letter%20to%20AL%20Apportionment%20Committee%206.30.23.pdf).

“any suggestion that it would be an unconstitutional racial gerrymander if the Legislature were to adopt two majority BVAP districts—such as the districts proposed by the VRA Plaintiffs.”²

More importantly, the CLC Plan is not a viable remedy for the VRA violation because it does not provide Black voters with a sufficient opportunity to elect their preferred candidates. The CLC Plan’s district 6 (“CLCD6”) contains all of Jefferson County along with eight precincts in Shelby County.³ It replaces existing congressional district 6 by taking portions of the existing majority-Black congressional district 7 and drawing the Black-preferred incumbent out of her district. The Black voting-age population is less than 40 percent in CLCD6. Notably, no Black candidate since Reconstruction has ever been elected to Congress in Alabama from a district with less than a 50 percent Black voting-age population.

Since its creation in 1992, existing majority-Black district 7 has consistently elected a Black and Black-preferred candidate in contested biracial elections. In CLCD6, however, the Black and Black-preferred candidates would have lost nearly 60% of biracial statewide elections between 2014 and 2022.⁴ Further, consistent with this analysis, a federal court recently relied on expert testimony to conclude that racially polarized voting had caused Black and Black-preferred candidates to lose Jefferson County in both the 2008 U.S. Senate and 2010 county district attorney general elections.⁵ Thus, given the “practical reality” of “intensely racially polarized voting,”⁶ the CLC Plan is not a viable remedy because it would fail to “completely remed[y]” the identified violation of the Voting Rights Act.⁷

Third, counsel for the *Singleton* Plaintiffs implied that the VRA Plaintiffs’ Remedial Plan split counties for predominantly racial reasons in a manner that is constitutionally suspect. This is wrong. The U.S. Supreme Court already considered and rejected the argument, which had been advanced by Alabama, that nearly identical splits of Mobile and Jefferson Counties in the VRA Plaintiffs’ illustrative plans were indicative of an unconstitutional racial gerrymander.⁸ The Supreme Court found that these county splits in the illustrative maps did not breach “the line between racial predominance and racial consciousness,”⁹ and thus the similar splits in the VRA

² *Id.*

³ CLCD6 combines all of Jefferson County with the following eight precincts in Shelby County: 1st Christian Church, Asbury United Methodist Church, Christ United Methodist, Meadowbrook Baptist, The Church at Brook Hills, Riverchase Baptist, Riverchase Church of Christ and Valleydale Baptist Church.

⁴ According to our preliminary performance analysis, there have been seven biracial statewide elections between 2014 and 2022. The Black and Black-preferred candidates would have lost CLCD6 in four of these races: State Auditor (2014), Secretary of State (2014), Lieutenant Governor (2014), and Governor (2022). The Black and Black-preferred candidate would have won the 2022 U.S. Senate election in CLCD6, but only by about 1,400 votes.

⁵ *Jones v. Jefferson Cnty. Bd. of Educ.*, No. 2:19-CV-01821, 2019 WL 7500528, at *2-3 (N.D. Ala. Dec. 16, 2019).

⁶ *Milligan v. Merrill*, 582 F. Supp. 3d 924, 936 (N.D. Ala.), *aff’d sub nom. Allen v. Milligan*, 143 S. Ct. 1487 (2023).

⁷ *Dillard v. Crenshaw Cnty.*, 831 F.2d 246, 249 (11th Cir.1987) (“This Court cannot authorize an element of an election proposal that will not with certitude completely remedy the Section 2 violation.”); *cf. also Abrams v. Johnson*, 521 U.S. 74, 94 (1997) (concluding that, given the persistence of racial bloc voting, § 2 of the Voting Rights Act required the maintenance of a majority-Black district in a remedial plan).

⁸ *See Allen v. Milligan*, 143 S. Ct. 1487, 1510-13, 1516-17 (2023) (rejecting the contention that the *Milligan* and *Caster* illustrative plans are unconstitutional racial gerrymanders and reaffirming the constitutionality of “race-based redistricting as a remedy for state districting maps that violate § 2”).

⁹ *Id.* at 1510–11.

Plan also do not even implicate the concerns raised by the *Singleton* Plaintiffs' counsel.¹⁰

Finally, under the VRA Plaintiffs' Remedial Plan, the Black registered voter population in congressional district 2 is 52% and in district 7 is 58%. This should negate any concerns that the Plan will not perform for Black voters due to the disproportionate number of Black Alabamians who are incarcerated and/or ineligible to vote. Both remedial districts would consistently provide an opportunity to elect Black-preferred candidates in congressional elections.¹¹ For that reason, there is, in our view, no basis for the concern that the presence of people in jails or prisons in these districts or low Black voter turnout requires increases to their Black voting-age populations.

Accordingly, the VRA Plaintiffs again strongly and respectfully urge the Legislature to adopt the VRA Plaintiffs' Remedial Plan, which will effectively put an end to the VRA litigation. The VRA Plaintiffs object to any remedial plan like the CLC Plan that fails to completely remedy the Section 2 violation.

Sincerely,

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¹⁰ Even if the *Singleton* attorney had raised valid concerns, race can be a predominant motive in drawing districts so long as it is narrowly tailored to remedy an identified VRA violation. *See Bethune-Hill v. State Bd. of Elections*, 137 S. Ct. 788, 802 (2017) (holding that a majority-Black district was narrowly tailored to prevent a VRA violation).

¹¹ *See Milligan*, 582 F. Supp. 3d at 969, 982 (N.D. Ala. 2022) (noting that experts for the VRA Plaintiffs conducted "effectiveness" and "performance" analyses that confirmed that their illustrative plans, which the VRA Plaintiffs' Remedial Plan is based on, would elect Black-preferred candidates).

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DECLARATION OF REP. SAMUEL JONES

I, Samuel Jones, hereby declare as follows:

1. I am over the age of 21 and the testimony set forth in this Declaration is based on firsthand knowledge, about which I could and would testify competently in open court if called upon to do so.

2. I have served as a member of the Alabama State Legislature's House of Representatives representing House District 99 since 2018. My district is located in both portions of the City of Mobile and parts of Mobile County outside of the City.

3. Before becoming a member of the Alabama State Legislature, I served as the City of Mobile's Mayor from 2005 until 2013, and was the first Black individual to ever hold that position. Prior to that, the people also elected me as a Mobile County Commissioner to Northern Mobile County's District One for four consecutive terms—from 1987 until 2005—which consists of seven municipalities. I also spent approximately 15 years chairing the South Alabama Regional Planning Commission. Prior to holding political office, I served in the United States Navy for nine years.

4. I was born in Mobile County in 1947. Other than my time in the United States Navy from 1967–1976, I have always lived in Mobile.

City of Mobile, the Black Belt, and Baldwin County

5. Based on my experience in local and state level elected office and other positions in Mobile as well my lived experiences, the City of Mobile and other nearby communities in Northern Mobile County such as Prichard, Chickasaw, and Mount Vernon, have more similarities and closer ties to much of Alabama's Black Belt than these communities do with Baldwin County.

6. Mobile is the economic hub of South Alabama, in large part because of the Port of Mobile. Timber processing, shipbuilding, aerospace engineering, manufacturing, chemical developers, and companies from other industries all operate within Mobile County.

7. Mobile County's industrial identity has attracted job seekers from Alabama's Black Belt for decades. The Black Belt's limited employment opportunities, coinciding with Mobile County's need for workers in its diverse industries, has created a regular migration from the Black Belt to Mobile. Many intra-state migrants from the Black Belt permanently moved to Mobile. Others commute from the Black Belt to work in Mobile County.

8. Companies operating in Mobile actively recruit talent from the Black Belt. For example, one such shipbuilding company is Austal USA, which recruits and attracts prospective employees from the Black Belt to build ships in Mobile and across the state line in Pascagoula, Mississippi. The need for longshoremen and

workers in the Port of Mobile has also attracted prospective employees from the Black Belt to Mobile for those jobs.

9. Mobile has highest level trauma center in the region, at the University of South Alabama hospital. When individuals in much of the Black Belt need specialized healthcare or high-level treatment, they usually travel either to Mobile or Montgomery.

10. I can't think of a single family who lives on my street who don't have origins or relatives in Alabama's Black Belt, places like Wilcox, Lowndes, and Marengo Counties, as do many others I know who live in Mobile.

11. Migration from the Black Belt to Mobile has also deepened cultural ties between the two areas. I know of many ministers based in Mobile who have sister churches in the Black Belt. Many of Mobile's pastors are graduates of Selma University. Some Sundays, they travel for congregations at those sister churches. Faith leaders in the Black Belt likewise travel to Mobile for congregations at sister houses of worship there.

12. Events like Mardi Gras and college football games have strengthened the bonds that the City of Mobile shares with the Black Belt. Families from across the Black Belt convene in the City of Mobile to celebrate Mardi Gras, which has the feel of a family reunion, particularly for Black families. While Baldwin hosts its own Mardi Gras celebration, I know of very few people in Mobile who attend it. Baldwin

County's Mardi Gras celebration lacks the shared family reunion dynamic that the City of Mobile's celebration has.

13. The City of Mobile also hosts football matchups between Historically Black Colleges and Universities ("HBCUs") every year, such as the Gulf Coast Challenge match up, and the Senior Bowl, which serves as college football's all-star game and annual beginning of the NFL Draft process. Both games in the City of Mobile attract fans and family from both Mobile County and from across the Black Belt.

14. Mobile and Baldwin have their own community colleges: Bishop State in Mobile and Coastal Alabama in Baldwin.

15. Baldwin County shares little of these cultural or community ties that the City of Mobile and Northern Mobile County share with the Black Belt.

16. Part of the reason these cultural ties are lacking between Mobile and Baldwin County are because of the two areas' different histories and development. Whereas the City of Mobile is Southern Alabama's industrial center, Baldwin County's economy is driven by tourism. The County's beaches along the Gulf of Mexico have attracted a wealthier demographic than the industrial workers who migrated to the City of Mobile. Industrial companies did not recruit talent from the Black Belt to Baldwin County—those companies recruited that talent to work in the

City of Mobile. As a result, few majority Black communities now exist within Baldwin County. In contrast, the City of Mobile is a majority-Black city.

17. I cannot think of a major economic development project in Mobile that I was not a part of in the last 24 years. For fifteen years I chaired the Regional Planning Commission. During that time, I cannot think of any economic development ventures where we had to provide incentives in which Baldwin participated. Baldwin's economic base is fundamentally different from Mobile's economy.

Reapportionment Committee Experience

18. As a member of the Alabama State Legislature, I was first appointed to the Joint Committee on Reapportionment in 2018. I was reappointed in advance of the Special Session in July 2023.

19. During the 2023 special session, the Co-Chairs of the Reapportionment Committee had difficulty answering my basic questions about how they chose what plans to prioritize, when they would provide data supporting their own plans, and how they arrived on those plans. For example, out of about 100 congressional plans submitted to the Committee Co-Chairs, maybe 15–20 were shared with other members and myself. No one explained to me how those 15–20 plans were selected from the other plans submitted. I asked who selected the 15–20 plans chosen by the

“Committee.” Co-Chair Representative Pringle responded: “We did.” When I asked him to define “we,” Representative Pringle said “me and my Co-Chair.”

20. This lack of transparency continued throughout the 2023 special session. I requested the different plans by July 7, 2023, but only received them on July 14, 2023. Even then, we only saw the maps the Co-Chairs selected. On July 17, 2023, one map introduced as “Opportunity Plan” had no one available to answer questions about it at that Reapportionment Committee meeting. I later learned that Senator Livingston introduced that plan, and that he was present at the hearing. To my knowledge, no one explained how under the “Opportunity Plan,” Black Alabamians could elect a representative of their choice. None of the maps introduced by Committee Co-Chairs were vetted at the public hearing. Even after requesting responses from the Committee lawyer—Dorman Walker—I understand that he only shared information with the Committee’s Co-Chairs. At the July 13, 2023 hearing, Mr. Walker brought a number of documents concerning Mobile to enter into the record. I had not seen these documents before and he did not explain why he was entering them into the hearing record.

21. I did not see nor have the opportunity to review the final plan passed in S.B. 5 until the day it passed.

22. I am concerned that the plan passed as a result of S.B. 5 cannot result in a second Black preferred candidate being elected to Congress from Alabama.

S.B. 5 separates Mobile from the Black Belt, despite their shared history, culture, and institutions. Moreover, Mobile County would be better served by having two Congressional representatives rather than one. A reapportionment plan connecting Mobile to the Black Belt will serve the interests not only of Mobile's residents, but also Alabamians across the state as well.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 27, 2023, in Mobile, Alabama.



Samuel Jones

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NEWS

GOP lawmakers pass Alabama congressional map; Democrats say it defies Supreme Court

Updated: Jul. 22, 2023, 10:12 a.m. | Published: Jul. 21, 2023, 1:45 p.m.



A conference committee of three representatives and three senators approves a proposed new congressional map for Alabama on Friday. The U.S. Supreme Court ruled the current map most likely violates the Voting Rights Act. (Mike Cason/mcason@al.com)

By [Mike Cason | mcason@al.com](mailto:mcason@al.com)

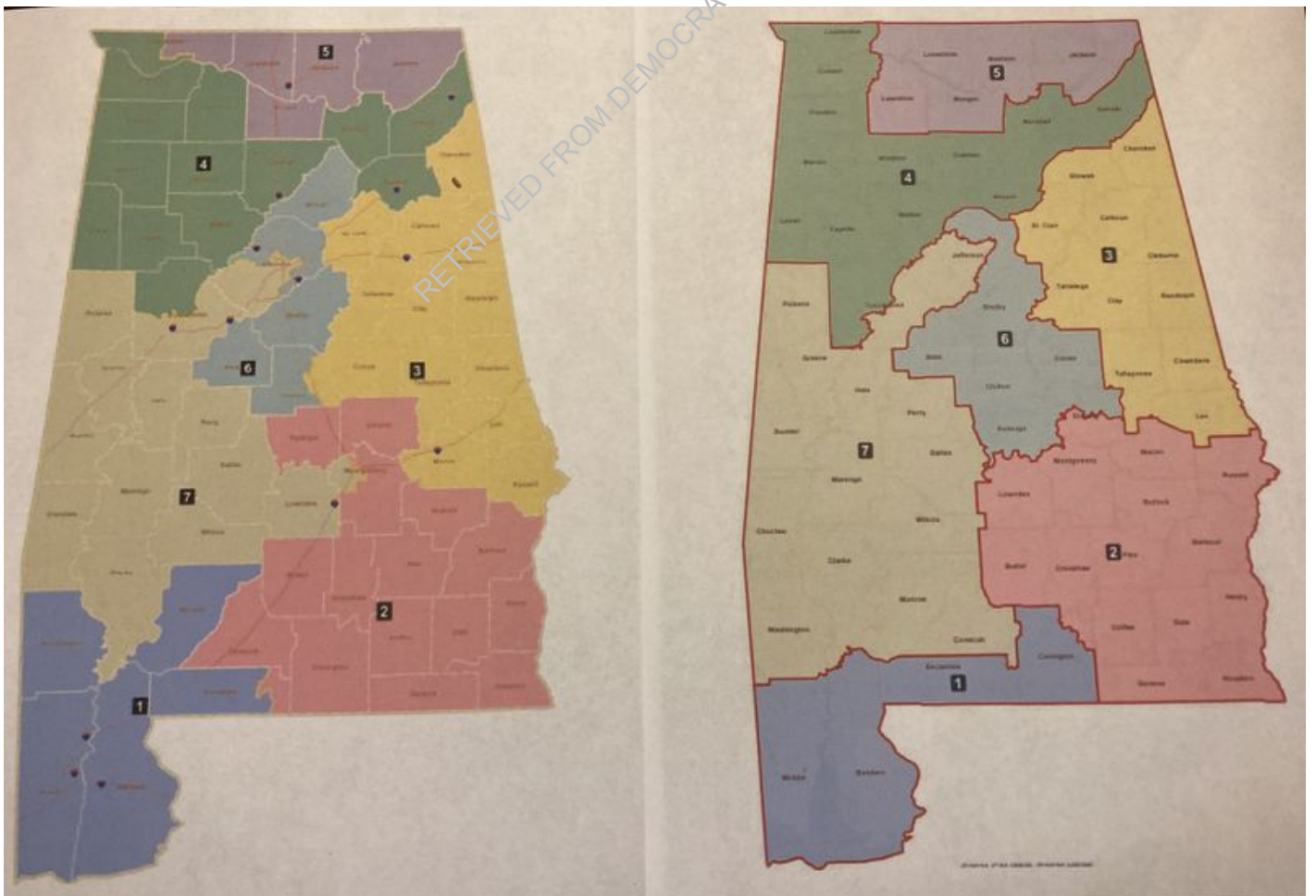
The Alabama Legislature passed a new congressional district map Friday, a compromise version approved by Republicans on a conference committee.

Like earlier versions of maps supported by the Republican majority in the State House, it does not add a second majority Black district.

Friday is the deadline set by a federal court for the Legislature to approve a new map.

The Senate approved the conference committee map by a vote of 24-6 Friday afternoon. The House later approved it by a vote of 75-28.

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Alabama's 2021 congressional map, left, and the new map passed by the Legislature on July 21, 2023. On the new map, District 7 remains the only majority Black district. In District 2, the Black voting age population was increased from 30% to 40%, which Republican lawmakers who passed the plan said they believe can fix what the U.S. Supreme Court said is a likely Voting Rights Act violation on the 2021 map. (Mike Cason/mcason@al.com)

In June, the U.S. Supreme Court affirmed a three-judge district court ruling that Alabama's current map likely violates the Voting Rights Act by diluting the Black vote.

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One-fourth of the state's residents are Black, but only one of the seven Congressional districts has a majority Black population. The district court said that to fix the violation, Alabama needed a second majority Black district "or something quite close to it," a district where Black voters would have an opportunity to elect a candidate of their choice.

The map approved by the conference committee Friday would leave District 7 as the lone majority Black district, barely, at 51% in Black voting age population, down from 56% on the current map. It would increase the Black voting age population in District 2, which covers southeast Alabama, from 30% to 40%.

Sen. Steve Livingston, R-Scottsboro, sponsor of the plan, said the intent is for District 2 to be the second "opportunity" district for Black voters.

Rep. Chris England, D-Tuscaloosa, a member of the conference committee, said the plan does not comply with the court's order.

"This is the quintessential definition of noncompliance and I believe it will be rejected," England said.

The three-judge district court tentatively scheduled an Aug. 14 hearing to consider challenges to the map.

The conference committee voted 4-2 in favor of the map. Voting for the map were the four Republicans on the panel -- Livingston, Sen. Clay Scofield of Guntersville, Rep. Chris Pringle of Mobile, and Rep. Chris Sells of Greenville.

Voting no were England and Sen. Rodger Smitherman, D-Birmingham.

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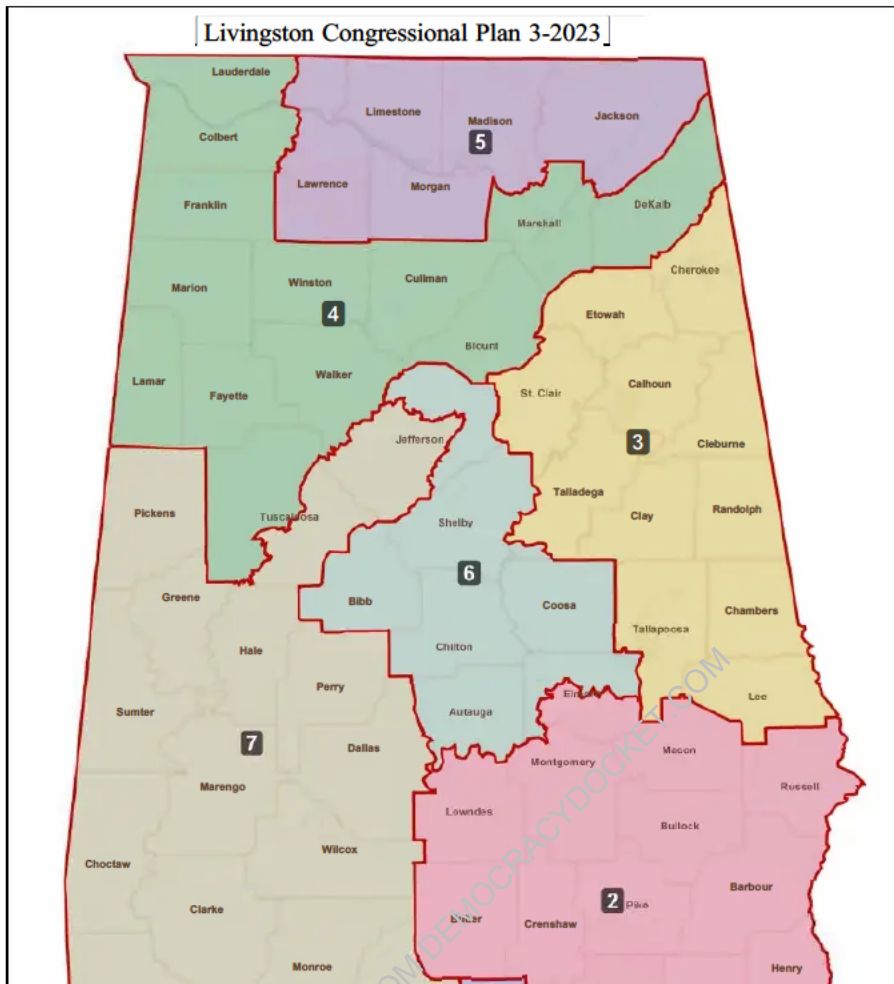
Later on Friday afternoon, before the Senate approved the conference committee map, Smitherman said lawmakers did not receive important information about the Republican-backed plans, including an analysis of recent election results that he said would have shown whether Black voters would have an opportunity to elect a candidate of their choice in the proposed District 2. Smitherman said it was not enough just to know the Black voting age population.

"I think the process on the other side was set up so that you could make sure an African American would not win it," Smitherman said. "I think it was intentionally set that way."

Rep. Barbara Boyd, D-Anniston, said the new District 2, with a 40% Black voting age population, does not match the district court guidance for a second majority Black district "or something quite close to it."

"The maps that we see aren't even close, much less quite close," Boyd said.

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ELECTIONS

Alabama's redistricting brawl rehashes bitter fight over voting rights

A federal court directed lawmakers to draw two majority Black districts or “something quite close to it.” The GOP-dominated legislature’s maps don’t do that.



Alabama Attorney General Steve Marshall sent a letter to the redistricting committee earlier this month arguing that adopting a map “which race predominates” could violate the Equal Protection Clause. | Alex Wong/Getty Images

By **ZACH MONTELLARO**

07/21/2023 12:56 PM EDT



A court ordered Alabama’s Legislature to redraw its congressional map to give Black voters more power.

The Legislature’s response? Not unless we have to.

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“We are the ‘make me state,’” said Democratic state Rep. Chris England, a member of the redistricting committee. “Throughout our history, we are more than willing to be forced to do the right thing by the courts.”

The GOP-dominated Legislature passed a map on Friday that disregarded a lower federal court’s directive — [one reinforced in June by the Supreme Court](#) — that it should include two districts with a Black “voting-age majority or something quite close to it” when it redraws its lines. The legislature, over the unified objections of Democrats, instead came up with a map that falls short of that, with one narrowly Black-majority district and one with a Black voting age population of just under 40 percent, even as Republicans argue they are in adherence.

“I believe this map is an opportunity map and would comply with Section 2 of the Voting Rights Act,” state House Speaker Pro Tempore Chris Pringle, a Republican who co-chaired the Alabama redistricting committee, said of the

candidate of their choosing,” and when pushed, added “when you add function on top of that, it could work.”

The final map is bound for a fresh round of litigation that must move quickly ahead of the 2024 election.

Republican-dominated legislatures in the South have looked to circumvent racial gerrymandering provisions in the Voting Rights Act for decades, arguing that they have partisan reasons for drawing their lines that ultimately result in less minority representation across the South. Indeed, if Alabama redraws another Black-majority district, Democrats would likely gain a seat, cutting into House Republicans’ razor-thin majority.

Stuart Naifeh — the manager of the redistricting project at the Legal Defense Fund, the civil rights organization that was involved in the initial lawsuit — said the legislature is prioritizing “incumbent protection.”

AD

“The goal of protecting incumbents is inconsistent with the goal of ensuring that Black voters have an opportunity to elect candidates of choice,” Naifeh said, “and the legislature seems to be thumbing their nose at the district court’s order.”

The weeklong special session where the GOP-dominated legislature arrived [at its new map was rushed](#) and exposed a rift even among Republicans.



same day, the Senate passed a map with an even lower Black population in the second district: 38 percent. On Friday morning, both chambers again passed their own versions of the map lines, triggering a stalemate. But Republican lawmakers in both chambers on a conference committee that convened after that deadlock quickly introduced and approved [the third and final map](#) with one majority-Black district and a second district where the Black voting age population fell in between the Senate and House maps, at just under 40 percent. GOP supermajorities in both chambers rubberstamped the lines Friday afternoon.

If Republicans had not passed a map by Friday, the lower court that threw out the districts in the first place would have directed a court-appointed expert to draw the lines instead.

National Republicans have also focused in on the process. In a response to a question from POLITICO earlier this week, House Speaker Kevin McCarthy confirmed that he had spoken to Alabama Republican lawmakers as they were drawing the map.

“I have talked to a few,” he said on Wednesday. “I’d like to know where they’re going to go.”

The looming legal battle to challenge the new lines will take place soon. The plaintiffs have until next Friday to file their objections to that map with the lower federal court, and they have already signaled they would do so. A hearing will likely be held on Aug. 14. The state told the court last year that a map needs to be in place “by early October” to give election officials — and candidates — enough time to prepare for next year’s early March primary.

Some Republicans have suggested drawing two majority Black districts could also wind up in court. A [memo from the National Republican Redistricting Trust](#) — the party’s redistricting arm — to the state redistricting committee argued that the legislature need not draw two majority Black districts.

AD

Adam Kincaid, the executive director of the NRRT, said in an interview that the Supreme Court's recent decision that upheld the lower court order was one that maintained the "status quo" of decades of precedent in Voting Rights Act enforcement. He argued that the proposed remedies from the lower court "would be a significant shift for VRA enforcement."

"I don't think that's where the [Supreme] Court is," he added.

The memo also alluded to the possibility of a "reverse discrimination" lawsuit if the legislature enacted "a new redistricting plan on the basis of race to create a second majority-minority district."

Democrats derided the new map as a sour grapes attempt to hold on to power, and one that was doomed to fail. Marina Jenkins — the executive director of the National Redistricting Foundation, which is an arm of the Democratic Party's main redistricting organization — said Republicans are playing "a game of chicken with the court."

Yet Republicans are eager for the fight. After the Supreme Court's ruling last month, state Attorney General Steve Marshall [said that while the decision was "disappointing,"](#) the "case is not over" and that the state would ultimately be vindicated.




for second majority Black House district

BY ASSOCIATED PRESS | JULY 17, 2023 04:39 PM

Marshall also [sent a letter to the redistricting committee](#) earlier this month arguing that, in light of the Supreme Court's recent decisions ending affirmative action in college admissions, adopting a map "which race predominates" could violate the Equal Protection Clause. His memo is an early sign of arguments some conservatives could make in future litigation that could ultimately look to chip away at the Voting Rights Act once again.

And some Democrats fear that this new map is merely a pretense for Republicans to do just that. "I think this is another attempt to use something that's clearly non-compliant and illegal to either run the clock out to force us to use the illegal map [in 2024] ... or to take another stab at allowing the Supreme Court to accept their map and get rid of Section 2 of the Voting Rights Act," said England.

FILED UNDER: GOP, U.S. SUPREME COURT, U.S. SUPREME COURT, VOTING RIGHTS, 

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The fight over Alabama's congressional redistricting now shifts back to federal court

JULY 24, 2023 • NEWS



BY ASSOCIATED PRESS

MONTGOMERY, Ala. (AP) Standing at an Alabama Statehouse microphone before lawmakers **voted on new congressional districts**, state Rep. Chris England said that change in the Deep South state has often happened only through federal court order.

The Democratic lawmaker accused Republicans of repeating history and **flouting a judicial mandate to create a second majority-Black district** in the state or “something quite close to it.”

“Alabama does what Alabama does. Ultimately, what we are hoping for, I guess, at some point, is that the federal court does what it always does to Alabama: Forces us to the right thing. Courts always have to come in and save us from ourselves,” said England, a Black lawmaker from Tuscaloosa.

The fight over whether Alabama’s congressional map complies with the **Voting Rights Act** of 1965 now shifts back to federal court as state Republicans submit their new plan to the same three judge panel that **struck down** the previous districts.

The outcome could have consequences across the country as the case again weighs the requirements of the Voting Rights Act in redistricting. It could also impact the partisan leanings of one Alabama congressional district in the 2024 elections with **control of the U.S House of Representatives** at stake.

Alabama lawmakers on Friday approved new district lines six weeks after the **surprise U.S. Supreme Court ruling** upholding a lower court ruling that the state’s previous map with one Black majority district out of seven in a state that is 27% Black likely violated the Voting Rights Act by diluting the voting power of Black residents.

The state’s Republican legislative supermajority boosted the percentage of Black voters in the majority white 2nd Congressional District, now represented by Republican Rep. Barry Moore, from about 31% to almost 40%. The plan also dropped the Black voting age population in the state’s sole majority Black district, now represented by Democratic Rep. Terri Sewell, to 50.65%.

A **group of voters who won** the U.S. Supreme Court decision announced that they will challenge the new plan. The three judge panel has set an Aug. 14 hearing on the new plan and could eventually order a special master to draw new lines for the state.



Hugo Black Federal Courthouse in Birmingham

“The Alabama Legislature believes it is above the law. What we are dealing with is a group of lawmakers who are blatantly disregarding not just the Voting Rights Act, but a decision from the U.S. Supreme Court and a court order from the three judge district court,” the plaintiffs said in a statement. “Even worse, they continue to ignore constituents’ pleas to ensure the map is fair and instead remain determined to rob Black voters of the representation we deserve,” the plaintiffs said.

Alabama will argue that the map complies with the court order and adheres to other redistricting principles such as keeping districts compact and not dividing communities of interest.

“The Legislature’s new plan fully and fairly applies traditional principles in a way that complies with the Voting Rights Act. Contrary to mainstream media talking points, the Supreme Court did not hold that Alabama must draw two majority minority districts,” state Attorney General Steve Marshall’s office said in a statement. “Instead, the Court made clear that the VRA never requires adoption of districts that violate traditional redistricting principles.”

In a July 13 letter to the state legislative redistricting committee, Marshall said the plaintiffs in the case “now demand a plan that provides not just a ‘fair chance’ to compete, but instead a guarantee of Democratic victories in at least two districts.”

Republicans, who have been reluctant to create a Democratic leaning district, are gambling that the court will accept their proposal or that the state will prevail in a second round of appeals. In his letter, Marshall noted that Justice Brett Kavanaugh only partly joined with the Supreme Court’s 5 4 ruling against Alabama.

“I’m confident that we’ve done a good job. It will be up to the courts to decide whether they agree,” said Senate President Pro Tempore Greg Reed, a Republican from Jasper.

The three judge panel that struck down Alabama’s existing map in 2022 said the “appropriate remedy” is a map with a second majority Black district or “an additional district in which Black voters otherwise have an opportunity to elect a representative of their choice.” The judges added that it should include a second majority Black district or “something quite close to it.”

The meaning of “opportunity” dominated much of the floor debate in the Legislature as Democrats criticized the GOP proposal they said would ensure the reconfigured district stays under white Republican control.

“Your opportunity district gives you a majority white population. ... It’s not an opportunity to win. It’s an opportunity to lose,” said Senate Minority Leader Bobby Singleton, a Democrat from Greensboro.

Reed said the court did not give state lawmakers a definition of opportunity, but he argued that the district had been substantially altered.

“If you look at the difference at what the district was before and what the district is now, is there a greater opportunity for others to be elected there other than Republicans? I think the answer is yes,” Reed said.

An analysis by The Associated Press, using redistricting software, shows that the 2nd District map approved Friday has mostly voted for Republicans in recent statewide elections. Donald Trump won the district by nearly 10 percentage points in his 2020 reelection bid.

Alabama was the site of a court case that led to the Supreme Court decision that **effectively** ended the requirement in the Voting Rights Act that states with a history of racial discrimination in voting, mainly in the South, get Washington’s approval before changing the way they hold elections.



“I’m really disappointed in my colleagues who want to tee up the Voting Rights Act up to be gutted,” Singleton said.

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Rep. Terri Sewell: Alabama ‘Shamelessly’ Ignores U.S. Supreme Court

By **Birmingham Times** - July 22, 2023



An Alabama Senate committee discusses a proposal to draw new congressional district lines. ((Kim Chandler / Associated Press))

By The Associated Press

MONTGOMERY, Ala. (AP) — Alabama on Friday refused to create a second majority-Black congressional district, a move that could defy a [recent order from the U.S. Supreme Court to give minority voters a greater voice](#) and trigger a renewed battle over the state’s political map.

Lawmakers in the Republican-dominated House and Senate instead passed a plan that would increase the percentage of Black voters from about 31% to 40% in the state’s 2nd District. The map was a compromise between plans that had percentages of 42% and 38% for the southeast Alabama district. GOP Gov. Kay Ivey quickly signed it.

Rep. Terri Sewell, Alabama’s only Black member of Congress and the delegation’s only Democrat, said on Friday that Republicans “shamelessly” ignored the U.S. Supreme Court.

“The Supreme Court was very clear. The Alabama State Legislature must draw two majority-minority districts to ensure that Alabama’s African American voters are fairly represented in Congress,” Sewell said in a statement on Friday.

"Today, the State of Alabama has shamelessly chosen to ignore the Supreme Court. The map advanced by the state legislature includes only one majority-minority district and a second district where Black voters make up only 39.9 percent of the voting age population.

"This map does not comply with the Supreme Court's order and is an insult to Black voters across our state. I fully expect that it will be rejected by the courts."

State lawmakers faced a deadline to adopt new district lines after the Supreme Court in June upheld a three-judge panel's finding that the current state map — with one majority-Black district out of seven in a state that is 27% Black — likely violates the federal Voting Rights Act.

Voting rights advocates and Black lawmakers said the plan invoked the state's Jim Crow history of treating Black voters unfairly.

Former U.S. Attorney General Eric Holder, chair of the National Democratic Redistricting Committee, said the map, "and the Republican politicians who supported it, would make George Wallace proud," referring to the segregationist former Alabama governor.

"It arrogantly defies a very conservative United States Supreme Court decision ... from just weeks ago," Holder said in a statement.

Republicans argued that their proposal complies with the directive to create a second district where Black voters could influence the outcome of congressional elections. Opponents said it flouted a directive from the panel to create a second majority-Black district or "something quite close to it" so that Black voters "have an opportunity to elect a representative of their choice."

The 140-seat Alabama Legislature has 33 Black lawmakers. All but one are Democrats.

There's no opportunity there for anybody other than a white Republican to win that district. It will never, ever elect a Democrat. They won't elect a Black. They won't elect a minority," said Sen. Rodger Smitherman, a Democrat from Birmingham.

High-Stakes Wager

Republicans have been reluctant to create a Democratic-leaning district and are engaging in a high-stakes wager that the panel will accept their proposal or that the state will prevail in a second round of appeals. Republicans argued that the map meets the court's directive and draws compact districts that comply with redistricting guidelines.

"If you think about where we were, the Supreme Court ruling was 5-4, so there's just one judge that needed to see something different. And I think the movement that we have and what we've come to compromise on today gives us a good shot," House Speaker Nathaniel Ledbetter said.

Republican Senate President Pro Tem Greg Reed said he believed the changes to the district make it a so-called opportunity district.

"I'm confident that we've done a good job. It will be up to the courts to decide whether they agree," Reed said.

The debate in Alabama is being closely watched across the nation, and could be mirrored in fights in Louisiana, Georgia, Texas and other states.

The three-judge panel ruled in 2022 that the current legislative map likely violates the federal Voting Rights Act and said any map should include two districts where "Black voters either comprise a voting-age majority" or something close. The Supreme Court concurred.

Now that the plan has passed, the fight will shift quickly back to the federal court to debate whether Alabama's congressional districts comply with federal law and offer a fair opportunity to Black voters and candidates in a political landscape dominated by white Republicans.

Black Alabama lawmakers say it's crucial that their constituents have a better chance of electing their choices.

"I have people in my district saying their vote doesn't count, and I understand why they say that," Rep. Thomas Jackson, a Thomasville Democrat, said during debate Friday. "The person they want to elect can never get elected because they are in the minority all the time."

Another Challenge To Voting Law

Black lawmakers disputed that the changes to the 2nd District, an area with deep ties to agriculture and home to military bases, would easily become a swing district. They speculated that state Republicans were seeking to mount another challenge to federal voting law.

"This is designed to protect a few people and ultimately to finish off the Voting Rights Act," said Rep. Chris England, a Democratic lawmaker from Tuscaloosa.

An analysis by The Associated Press, using redistricting software, shows that the 2nd District proposed Friday has mostly voted for Republicans in recent statewide elections. Donald Trump won the district by nearly 10 percentage points in his 2020 reelection bid.

Experts have said the GOP proposals fall short of what the Supreme Court said last month is required.

"They have pretended as though the court didn't say what it said," said Kareem Crayton, senior director for voting and representation at New York University's Brennan Center for Justice, which filed a brief supporting the plaintiffs before the Supreme Court.

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Politics

State Rep. Simpson on redistricting: 'It would not surprise me if we have seven Republican congressmen' after 2024 election

Jeff Poor 07.16.23



(Jeff Poor/1819 News)

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FAIRHOPE — With a redistricting special session soon underway in Montgomery, many unknowns remain about how Alabama's congressional delegation will look beyond the 2024 election cycle.

According to State Rep. Matt Simpson (R-Daphne), the U.S. Supreme Court ruling requiring the Alabama Legislature to consider race when drafting new congressional maps may backfire on Democrats.

During a speech to the Eastern Shore Republican Women's Club at the Fairhope Yacht Club on Thursday, Simpson laid out a scenario that would have all seven seats held by Republicans after next year's election.

"This is one of those 'be careful what you wish for because you just might get it,'" he said. "I will tell you — there were Democrat plaintiffs, that's what we'll call it, that sued. They said the minority population in Alabama was 28%. They said because we had seven Congress slots, seven congressional districts — two of those districts ... should be minority-majority districts, competitive for minorities, meaning instead of the one district they have now, they would have two districts."

"My anticipation is we will see about drawing two new districts that have a close — when I say close, we're talking 52-48, somewhere in that ballpark, districts. The Democrats think they are going to be able to get two congressional seats out of it. ... We are very, very possible to have a Republican wave in Alabama in a presidential year. Motivated Republicans come out to vote. And it would not surprise me if I looked at you guys, and I'm standing here in December 2024 — instead of having six Republicans and one Democrat in our congressional districts, it would not surprise me if we have seven Republican congressmen."

The Baldwin County Republican added redistricting was "an opportunity" for Republicans.

"When the Mighty Alabama Strike Force gets activated — you don't have to go to Georgia," Simpson added, referring to a group of Republican door-knockers who have traveled to different states in the past to support GOP candidates.

Jeff Poor is the editor in chief of 1819 News and host of "The Jeff Poor Show," heard Monday-Friday, 9 a.m.-noon on Mobile's [FM Talk 106.5](#). To connect or comment, email jeff.poor@1819News.com or follow him on Twitter [@jeff_poor](#).

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MILLIGAN V. ALLEN**Case No.: 2:21-cv-012921****SECOND SUPPLEMENTARY DECLARATION OF JOSEPH BAGLEY, PHD., RE: S.B. 5****I. UPDATED CREDENTIALS, PURPOSE OF THIS REPORT**

I briefly update my credentials here before explaining my inquiry in this second supplemental report. I submitted a report and testified in a deposition, this year, for plaintiffs in *Georgia State Conference of Branches of the NAACP v. the State of Georgia*, No. 1:2021cv05338 (N.D. Ga.), a case challenging the Congressional and state legislative redistricting process in that state. The previous fall, 2022, I submitted an expert report and rebuttal report and testified at trial in *South Carolina State Conference of Branches of the NAACP v. Alexander*, No. 3:21-cv-03302; the court therein tendered me as an expert in “American political history, southern legal history, political analysis, historical methods, the history of race discrimination and voting . . . and southern race relations and southern politics and law.” The court cited to my report in its Findings of Fact and Conclusions of Law.¹ I also submitted a report and rebuttal report in the state House phase of that litigation, *South Carolina NAACP v. McMaster*.²

Prior to the South Carolina litigation, I submitted two reports and testified at a preliminary injunction hearing in the case presently before this Court. I am compensated at the rate of \$150 per hour for my work in preparing this report. This compensation is not dependent upon my findings, and my opinions stated in this report do not necessarily represent the sum of my opinions in this matter, which are subject to change upon further research or revelations.

Plaintiffs in this case have asked me to examine the Alabama State Legislature’s recent passage, during the 2023 Second Special Session, of S.B. 5, representing the body’s adoption of the so-called “Livingston 3 Plan” for congressional redistricting. Plaintiffs have asked me, more specifically, to provide an assessment of the Legislature’s assertions in the bill regarding communities of interest (COIs). As a historian of Alabama and its politics, I have studied the state’s many COIs and rely upon a historical assessment of primary and secondary sources in support of the following overarching opinions, to wit: (1) consistent with my previous testimony, much of the City of Mobile and the northern portion of Mobile County, including Prichard, have intimate historical and socioeconomic ties with the Black Belt; (2) consistent with my previous testimony in the case, treating Mobile and Baldwin Counties as an inviolable COI is ahistorical; and (3) the Wiregrass likewise does not constitute an inviolable COI. For example, the term “Wiregrass” region has declined in value and usage beyond referring to the cities of Dothan, Enterprise, and Ozark, and aspects of the Wiregrass region may overlap with the Black Belt. For example, S.B. 5 includes Barbour, Crenshaw, and Pike Counties in both the Wiregrass and the Black Belt.

II. MOBILE AND THE BLACK BELT

The Legislature explains in S.B. 5 that it adheres to traditional redistricting principles in adopting congressional districts, and that these principles are, *inter alia*, “the product of history.” Preserving COIs is among those principles. Communities of interest are defined by the Legislature as being “characterized by, among other commonalities, shared economic interests, geographic features, transportation infrastructure, broadcast and print media, educational institutions, and historical and cultural factors.”³ S.B. 5’s drafters then assert that there are three COIs in Alabama that deserve special treatment – the Black Belt, the “Gulf Coast” region, and the Wiregrass. Having maintained in the previous paragraph that dividing a COI into

¹ *South Carolina State Conf. of the NAACP v. Alexander et al.*, C/A No.: 3:21-cv-03302-MGL-TJH-RMG, Findings of Fact and Conclusions of Law, Jan. 6, 2023, p.8 (D.S.C.).

² Consent Decree entered (D.S.C., 2022).

³ S.B. 5, pp. 2-3.

two districts is preferable to dividing it among 3 or more, the drafters of the bill then insist that the Black Belt must be divided into 2 districts to ensure equality of population in the remaining districts.

The Black Belt in S.B. 5 is defined as a region characterized by “rural geography, fertile soil, and relative poverty, which have shaped its unique history and culture.” The bill’s drafters list 18 “core counties” as part of the Black Belt along with 5 counties “sometimes considered” part of the region.⁴

The Black Belt region’s unique history and culture are, as I explained in my first supplementary report in the case (in response to Mr. Bryan’s report), not only related to the fertility of the soil and the current poverty experienced by its residents, but are also characterized by Indian Removal, chattel slavery, cotton production, Reconstruction and Redemption, sharecropping, convict leasing, white supremacy, lynching, disenfranchisement, the birth of Historically Black Colleges and Universities (HBCUs), struggles for civil and voting rights, Black political and economic organization, backlash in the form of violence and economic reprisal, repressive forms of taxation, white flight, prolonged struggle against vote dilution and a war on absentee balloting, blues and jazz music, folklore, quilting, military heroism, hunting, and fishing.

A final enduring characteristic of the Black Belt is profound racial inequality resulting from persistent racial subordination. Historically, much of the land in the region is owned by white people or corporations controlled by white people. And, as I have testified before, state law protects that land from adequate taxation for social services. Such services are so severely lacking that the state of Alabama was very recently found to have discriminated against Black residents by failing to address a chronic lack of access to clean drinking water not tainted by failed septic tank systems, and failing to provide Black residents with equal access to driver’s licensing services.⁵ Furthermore, white people abandoned public schools for private “segregation academies” rather than accede to desegregation. Schools in the region are thus among the most segregated in the country and, certainly, in the state.

Many of these characteristics could also be applied to metropolitan Mobile, from Prichard to Maysville, and Africatown to Toulminville. The Port of Mobile (a lynchpin of the Legislature’s argument that Mobile and Baldwin are inseparable) historically saw the importation and exportation of human chattel, up to the illegal importation of enslaved individuals by the crew of the *Clotilda* in 1860.⁶ The port also saw the export of the cotton grown by the enslaved people in the Black Belt that made Alabama planters among the richest individuals in the union prior to their decision to launch the ill-fated Civil War. Mobile was

⁴ The legislature includes three counties in the “core” definition that it subsequently lists as part of the Wiregrass – Barbour, Crenshaw, and Pike. The newly designated Alabama Black Belt National Heritage Area does not include those counties, nor does it include Russell County, though it does include Bibb, which the bill does not. See <https://www.alblackbeltheritage.com/>. My definition of the Black Belt in my book dovetails with that of the Legislature. My definition of the Wiregrass does not, as I limit that region to Henry, Houston, Coffee, Dale, Geneva, and Covington Counties; Bagley, *The Politics of White Rights*, p. viii.

⁵ Linda Qui, “[Alabama Discriminated Against Black Residents Over Sewage, Justice Dept. Says](#),” *New York Times*, May 5, 2023; “[Assistant Attorney General Kristen Clarke Delivers Remarks to Announce Agreement in Civil Rights and Environmental Justice Investigation of Alabama Department of Public Health](#),” U.S. Department of Justice, office of Public Affairs, May 4, 2023; U.S. Department of Transportation, Press Release, Dec. 28, 2016, “[U.S. Department of Transportation Takes Action to Ensure Equitable Driver License Office Access for Alabama Residents](#);” United States Attorney’s Office, Southern District of Alabama, Press Release, Dec. 28, 2016, “[U.S. Department of Transportation Takes Action to Ensure Equitable Driver License Office Access for Alabama Residents](#).”

⁶ Allison Keyes, “[The ‘Clotilda,’ the Last Known Slave Ship to Arrive in the U.S., Is Found](#),” *Smithsonian Magazine*, May 22, 2019; the residents of Africatown trace their lineage to the enslaved brought over in the *Clotilda*, see “[Clotilda: The Exhibition at the Africatown Heritage House](#),” Press Release of History Museum of Mobile, June 19, 2023, *Sweet Home Alabama*, Alabama Tourism Dept.

subsequently represented by a Black man during Reconstruction – but his district was redrawn into a majority-white district by connecting it with Baldwin County and his supporters were violently turned away from the polls.⁷ Black leaders in Mobile were among the first to organize against white supremacy, for example John LeFlore, who organized the city’s NAACP chapter in the 1920s, led the unionization of dock workers, and founded the local Nonpartisan Voters League shortly thereafter.⁸

Leaders like LeFlore become leaders in the heart of the struggle for voting rights in subsequent decades, especially when, like LeFlore, they were shielded from economic reprisal like that meted out against Black Belt organizers. Mobile became a hub of white resistance to school desegregation, and schools like Vigor went from all-white to nearly all-Black, just like public schools in the Black Belt. The fight for equitable access to elect candidates of choice was centered in Mobile, as the Supreme Court acknowledged in this case, citing to *Mobile v. Bolden* and the subsequent amendment of the Voting Rights Act. Similarly, the Voting Rights Act as originally conceived was the product of Justice Department cases targeted discrimination in the Alabama Black Belt.⁹

These are not coincidences or accidents of history. As Black state legislators explained during floor debate on S.B. 5, on July 19, 2023, their families and friends came to Mobile from the Black Belt. They still have family in the Black Belt. They experience the connections of migration that I discussed in my previous testimony in the case.¹⁰ Mobile representative Adline Clarke, for example, talked about a specialty bookstore that she operated in Mobile for over a decade. Rep. Clarke explained that she would regularly host book signings and that one of the most successful that she ever hosted was for J.L. Chestnut, a civil rights attorney who wrote the book, *Black in Selma: the Uncommon Life of J.L. Chestnut, Jr.*¹¹ Rep. Clarke indicated that many of those who attended the signing were Black Mobilians who had “strong ties” to Selma. She said that many of them wanted to “thank [Mr. Chestnut] for his contributions” to the civil and voting rights movements and to “tell him who their relatives were” in the Black Belt.¹²

To Rep. Clarke, these comments by patrons attending the Chestnut book signing represented examples of “ethnic, social, cultural, and kinship ties, among others” between the Black Belt and Black Mobile. She added, “A large part of Alabama’s population is isolated when Mobile’s Black population is left out of opportunity districts.” This echoed the sentiments of State Sen. Michael Figures, who said, during the 1990s redistricting cycle, that it was “foolish” to leave Mobile out of a potential majority Black or opportunity Black congressional district (none yet existed at that time).¹³

Representative Barbara Drummond made a similar argument during the July 19 floor debate. Rep. Drummond insisted that Black people living in metropolitan Mobile had more in common with people in the Black Belt than with the residents of Baldwin County. She observed that Baldwin was “affluent,” while

⁷ William Warren Rodgers and Robert David Ward, “Part 2: From 1865 through 1920,” in *Alabama: The History of a Deep South State*, Rodgers et al, Eds (Tuscaloosa: University of Alabama Press, 1994), pp. 234-409, see pp. 263-64.

⁸ Scotty E. Kirkland, “Pink Sheets and Black Ballots: Politics and Civil Rights in Mobile, Alabama, 1945-1985,” M.A. thesis, University of South Alabama, 2009.

⁹ Brian Landsberg, *Free At Last to Vote: The Alabama Origins of the 1965 Voting Rights Act*, Lawrence: University Press of Kansas, 2007.

¹⁰ Supplementary Declaration of Joseph Bagley, PhD., Rebuttal of Report of Thomas M. Bryan, pp. 2-3.

¹¹ New York: Farrar, Straus and Giroux, 1990.

¹² Alabama House of Representatives Floor Debate, S.B. 5, July 19, 2023, video available at *The Alabama Project*, League of Women Voters of Alabama - Education Fund, <https://alabamachannel.omppnetwork.org/embed/sessions/274070/alabama-house-of-represenataives> [hereinafter, “House Floor Debate, Alabama Project Video”].

¹³ House Floor Debate, *Alabama Project Video*; *Birmingham Post-Herald*, Jan. 4, 6, 1992.

Mobile had “pockets of poverty.” She asked Rep. Pringle, did the Black Belt not also have pockets of poverty? Rep. Pringle said that he could not answer that question, although the description of the Black Belt as a COI in the text of S.B. 5 uses poverty as one of three descriptors. Speaking of residents of Mobile County, Rep. Drummond added to “concentrated poverty” a lack of access to healthcare as commonalities shared by residents of Mobile County and the Black Belt. Drummond asked rhetorically, “Where did those Black folks come from; did they come from Baldwin County?” She noted that her mother was from Dallas County and her father was from Sumter County and that she would be attending family reunions in both places in the fall. She told Rep. Pringle, “Let me give you a little bit of history of the migration of the Black Alabamian from the Black Belt. They usually gravitate towards the hub of economic development,” meaning, for many of them, she argued, Mobile.¹⁴

Rep. Pringle countered that he was aware of people moving from Dallas County to Madison County in north Alabama and asked Rep. Drummond if that made Dallas and Madison a COI. Such argument ignores the strong historical and regional connections that I discussed in my previous supplementary report in this case. I described waves of migration from the Black Belt to Mobile – following the Civil War, in the early 20th century, and again after World War II. I noted that the eminent historian Wayne Flynt has described these migrations as a “hemorrhaging of people” that, along with massive white flight to the suburbs, left behind a “topography of despair” in both the Black Belt and Mobile.¹⁵ I also quoted the political scientist Richard Pride who, in his book on school desegregation in Mobile, explained that the city’s “roots followed the rivers north into the heart of the black belt.”¹⁶

III. MOBILE AND BALDWIN COUNTY

The drafters of S.B. 5 assert that Mobile and Baldwin Counties, “owing to Mobile Bay and the Gulf of Mexico coastline . . . comprise a well-known and well-defined community with a long history and unique interests.” They argue that the counties “have grown even more alike as the tourism industry has grown and the development of highways and bay-crossing bridges have made it easier to commute between the two counties.”¹⁷ Black legislators during the July 19, 2023 floor debate pushed back on the existence of these alleged connections, however.

Rep. Napoleon Bracy also questioned Rep. Pringle during the July 19 floor debate. He noted that the two Mobile and Baldwin counties were split in the State Board of Education map approved by the committee cochaired by Rep. Pringle in 2021 and, to Rep. Bracy’s knowledge, no one had challenged that division as representing the splitting of an inviolable COI. Rep. Bracy indicated, like previous Black legislators, that his parents had migrated to Prichard in Mobile County from Clarke County. He asked rhetorically how Baldwin County was a COI for them.¹⁸

Rep. Bracy represented that issues such as poverty, history, and economic interests were considerations when determining what constitutes a COI. He then produced what he indicated were figures from the 2020 U.S. Census to underscore a basic argument – Black Mobile is geographically compact and impacted by poverty relative to Baldwin County, which is, by contrast, affluent and white. He also compared Mobile in the same way to the Black Belt. Rep. Bracy pointed to Median Household Income (MHI), which

¹⁴ Id.

¹⁵ Wayne Flynt, *Alabama in the Twentieth Century* (Tuscaloosa: University of Alabama Press, 2004), pp. 115, 143, 177.

¹⁶ Richard Pride, *The Political Use of Racial Narratives: School Desegregation in Mobile, Alabama, 1954-1997* (Champaign: University of Illinois Press, 2002), p. 2.

¹⁷ S.B. 5, pp. 4-5.

¹⁸ House Floor Debate, *Alabama Project* Video.

he said ranged in Black Belt Counties from around \$27,000 to \$35,000. He indicated that the MHI in Prichard was \$32,000, whereas in cities of comparable size in Baldwin County, it was nearly three times higher. For example, in Fairhope, the MHI was \$83,000. He noted that the MHI for all of Baldwin County was roughly twice that of Prichard, at \$64,000.¹⁹

Rep. Bracy reported racial population statistics in the same vein. He noted that Baldwin County was 83 percent white but that many of its cities, especially those along the water, had much higher white populations than that. He noted that Orange Beach was 98 percent white. He compared that with Prichard, which was 91 percent Black. He noted again that comparable cities in the Black Belt like Selma (80 percent) were also predominantly Black. Rep. Bracy argued that “when you fold them together,” meaning the sharply contrasting racial statistics and economic statistics, the conclusion was that Baldwin and Mobile were not a COI at all. Finally, he asked Rep. Pringle how many Black elected officials were currently representing Baldwin County in the state legislature, in any countywide body, or any municipal governing body therein. Rep. Pringle noted that Senator Vivian Figures represented a sliver of the county on the eastern shore of the bay above Spanish Fort²⁰.

The proponents of S.B. 5 point to “a shared interest in tourism” as a unifying factor for the Mobile-Baldwin COI. But the idea of the region as a whole being a tourist destination is relatively recent phenomenon. Traditionally, the Gulf Coast beaches in Baldwin County have had a separate board of tourism from the City of Mobile. Indeed, if one looks at the Visit Coastal Alabama organization, a creation of the Regional Tourism Council, and the Coastal Alabama Partnership, one sees that this is a consortium comprised of three local tourism boards (Gulf Shores and Orange Beach Tourism, Visit Mobile, South Mobile County Tourism Authority), four chambers of commerce (Coastal Alabama Business Chamber, South Baldwin County Chamber of Commerce, North Baldwin Chamber of Commerce, and the Eastern Shore Chamber of Commerce), and the City of Foley. The organization was founded in 2013 with this stated objective: “Create a regional brand that identifies diverse attractions along the Gulf Coast.” Furthermore, both the Board of Directors and the Founding Entities Council of the Coastal Alabama Partnership are entirely white (and include former Congressman Bradley Byrne, who has run campaign ads featuring racial appeals), except for Mobile Airport Authority’s Chris Curry.²¹

S.B. 5 lists the Port of Mobile as a unifying factor for the Mobile-Baldwin COI. But, as I noted above, the Port also represented the point of entry for enslaved Black people in bondage who passed through to the Black Belt as well as a point of export for cotton and other cash crops which enslaved people, and their progeny who toiled as sharecroppers, produced in the Black Belt. It also represents a seminal site of civil rights struggle. John LeFlore led the organization of Black stevedores at the port in 1940s, years before he became a leading figure in the more widely recognized episodes of the civil rights movement, including school desegregation.²² Legislators point to the fact that many of those employed at the port reside in Baldwin, though by their own figures, that represents only 13 percent of the people currently employed there.

¹⁹ House Floor Debate, *Alabama Project Video*; American Community Survey, 2020 United States Census, <https://data.census.gov/table?q=alabama&tid=DECENNIALPL2020.P1>.

²⁰ House Floor Debate, *Alabama Project Video*.

²¹ “Leadership,” Coastal Alabama Partnership, <http://coastalalabama.org/>; Milligan v. Merrill, Memorandum Order and Opinion, 2:21-cv-01530-AMM, Document 107, Filed 01/24/22, p. 81, citing my testimony re: Rep. Byrne.

²² Scotty E. Kirkland, “[John LeFlore](#),” *Encyclopedia of Alabama* (Alabama Humanities Alliance, 2010); S.B. 5, p. 5.

Likewise, S.B.5 notes that “Mobile and Baldwin Counties also work together as part of the South Alabama Regional Planning Commission” (SARPC) and have for over 50 years. Indeed, the state’s regional commissions were created by the Wallace administration in the 1970s, and the SARPC represents Mobile, Baldwin, and Escambia counties. That said, of the 28 current members of the SARPC board of directors, only three are Black. Also, Alabama has 11 other regional commissions. Using the regional definitions in S.B. 5, the Wiregrass is split between the 5th (South Central Alabama Development Commission) and 7th regions (Southeast Alabama Regional Planning and Development Commission). The Black Belt is split among the 2nd (West Alabama Regional Commission), the 6th (Alabama Tombigbee Regional Commission), the 5th (South Central Alabama Development Commission), the 9th (Central Alabama Regional Planning and Development Commission), and the 7th (Southeast Alabama Regional Planning Commission). Though Pike, Crenshaw, and Barbour all fall within the legislation’s definition of both the Wiregrass and the Black Belt, they are not unified in either since, by way of the commissions, Pike and Crenshaw fall with Bullock, Butler, Lowndes, and Macon in the 5th, while Barbour lies with the core six counties of the Wiregrass in the 7th.²³

Legislators point to the University of South Alabama (USA) as another unifying factor. The institution’s main campus is in Mobile, while it maintains a satellite campus in Fairhope. USA is historically and currently a predominantly white institution. As of 2022, its student enrollment was 60 percent white and 22 percent Black. They also point to the need for federal appropriations as uniting the region, though Congressman Jerry Carl voted against the bipartisan Infrastructure Investment and Jobs Act and the Inflation Reduction Act. The only member of Congress to vote for those funding measures was Terri Sewell, who represents the Black Belt.²⁴

A demographic snapshot of schools in the two counties, and in two Black Belt counties, underscores the arguments that Black legislators made on July 19 on the House floor. Two formerly all-white schools in Mobile and Prichard – Murphy High and Vigor High – are now overwhelmingly Black and poor. In the 2021-22 school year, Vigor enrolled 530 students, 520 of whom were Black and 4 of whom were white; 457 students qualified for free or reduced lunch under Title I (86 percent). In the same year, Murphy enrolled 1,300 students, 925 Black and 216 white; 880 of those students qualified for free or reduced lunch (68 percent). Williamson High, a formerly all-Black school in the city of Mobile, enrolled 939 students, 863 Black and 10 white, with 887 qualifying for free or reduced lunch (94 percent).²⁵

On the Eastern Shore, Spanish Fort enrolled 1,196 students, 940 white and 84 Black, with 179 qualifying (15 percent). Daphne High enrolled 1,623, 1,076 white and 273 Black, with 434 qualifying (27 percent). And Fairhope High enrolled 1,627, 1,277 white and 113 Black, with 281 qualifying (23 percent). Comparing that to two nearby Black Belt counties, we see stark contrast with the Baldwin Schools and similarities with the Mobile schools. Monroe County High school in 2021-22 enrolled 333 students, 298 of whom were Black and 26 white; 273 of those students qualified for free or reduced lunch (82 percent). Bullock County High likewise enrolled 401 students, 341 Black and 7 white, with 331 qualifying (83 percent). The low overall number of students enrolled in the Black Belt schools is not simply the product of a more rural and sparsely dispersed population. In all of Alabama’s Black Belt counties, public school

²³ S.B. 5, p. 5; “The Councils,” Alabama Association of Regional Councils, 2023, <https://alarc.org/the-councils/>.

²⁴ University of South Alabama Demographics and Diversity Report, *College Factual*, <https://www.collegefactual.com/colleges/university-of-south-alabama/student-life/diversity/>; “How Every House Member Voted on the Infrastructure Bill,” *New York Times*, Nov. 5, 2021; Inflation Reduction Act, Ballotpedia, https://ballotpedia.org/Inflation_Reduction_Act_of_2022.

²⁵ [National Center for Education Statistics](https://nces.ed.gov/ipeds/datacenter/ipedsdatacenter/) (NCES).

enrollment is depressed by the number of students attending overwhelmingly white private schools, the vast majority of which were established as segregation academies.²⁶

A final consideration is that, although Mobile and Baldwin are together in the existing iteration of CD 1, this has not always been the case. Indeed, if we look at the history of congressional redistricting in Alabama, we can see that both the severance of Baldwin and Mobile counties in the 19th century and their unification in the 1970s were substantially motivated by race. Prior to the 1970s redistricting, Mobile and Baldwin Counties were in separate Congressional Districts, going back to 1876, with the exception of a short Interwar period of unification.²⁷ In 1874 CD 1 was won by a former slave named Jeremiah Haralson, a Republican, who managed to win despite widespread violence and fraud committed by white Democrats. Democrats during the campaign insisted that there were “but two parties” in Alabama at that time – “the negro party and the white man’s party. There is no middle ground between the two. ... Nigger or no nigger is the question.”²⁸

Following Haralson’s unlikely victory, according to the historians William Warren Rodgers and Robert David Ward, “The Democratic [Alabama] legislature gerrymandered congressional districts to destroy black majorities.” Mobile and Baldwin were split between CDs 1 and 2, and Haralson’s Dallas County was drawn in with another Black incumbent, James T. Rapier, in CD 4. The Black vote was split, and the white sheriff of Dallas County won the election to Congress.²⁹

Baldwin and Mobile were later reunited, in the 1970s, as a way of targeting Republican Bill Dickinson in his reelection bid. National Democratic support for civil rights, namely the passage of the Civil and Voting Rights Acts in 1964 and 1965, had given new life to the GOP in the South. While Democrats still controlled state legislatures and local governing bodies, white voters started to vote Republican in Presidential and in some Congressional elections. Of course, thanks to the Voting Rights Act and the ongoing efforts of Black activists and attorneys, Black people were able to exercise their right to the franchise for the first time since Reconstruction. The posture, then, was something of a mirror image of the Populist moment in the late 19th century, when Black voters were losing, but had not yet fully lost, their ability to vote, and two white parties were trying to use Black voters to their advantage. In the 1970s, some Democrats had begun to accept that limited Black political power was a fait accompli, while at the same time, some in the GOP were coming to the understanding that the whiter the district, the better were their chance of carrying it. Specific to Dickinson, Baldwin was a white flight destination and was considered to lean Republican. So the legislature took it from Dickinson and gave him, instead, counties in the more old-line white Democrat Wiregrass. This is all to say that, when the Democratic state legislature repaired Mobile and Baldwin, it did so not out of an overarching concern for those counties as a Gulf Coast COI, but rather because the politics of race had returned to Alabama.³⁰

²⁶ [National Center for Education Statistics](#) (NCES); Bagley, *The Politics of White Rights*, pp. 106-7, 188-93, 217, 226-28, 233.

²⁷ Singleton v. Merrill, 2:21-cv-01291-AMM, Document 57-7, Filed 12/15/21.

²⁸ William Warren Rodgers and Robert David Ward, “Part 2: From 1865 through 1920,” in *Alabama: The History of a Deep South State*, Rodgers et al, Eds (Tuscaloosa: University of Alabama Press, 1994), pp. 234-409, see pp. 263-64.

²⁹ Id.

³⁰ *Alabama Journal*, Nov. 23, Dec. 9, 15, 1971, Jan 22, 1972; *Montgomery Advertiser*, Dec. 2, 1971, Jan. 6, 20, 22, 23, 1972; *Anniston Star*, Dec. 8, 1971; *Selma Times-Journal*, Dec. 10, 1971, April 3, 1972; *Birmingham Post-Herald*, Nov. 8, 1972; Merle Black and Earl Black, *The Rise of Southern Republicans* (New York: Belknap Press of Harvard, 2002), pp. 126-28.

IV. THE WIREGRASS

In a 2009 dissertation completed at Auburn, historian William Byrd writes, “The southeast corner of Alabama is popularly known as the Wiregrass.” This term has been applied to neighboring portions of Georgia and Florida as well. Byrd writes, “The name was originally inspired by the native grass that pioneers found growing abundantly in the region’s longleaf pine forests. However, by the mid twentieth century the original forest and the region’s namesake wiregrass was all but gone from the region.” Byrd explains how, between 1880 and 1930, the region was “utterly transformed” such that by mid-century it scarcely resembled the region that begat the name. Today, the region is mostly characterized by the city of Dothan and surrounding cities of Ozark and Enterprise, which form a Combined Statistical Area per the U.S. Census, and Fort Novosel, which lies between Enterprise and Dothan. Dothan, like Mobile, has significant historical and socioeconomic connections to the Black Belt. Indeed, as S.B. 5 itself makes clear, there are areas where the Black Belt and Wiregrass not only connect but even perhaps overlap.³¹

S.B. 5 defines the Wiregrass as a region “characterized by rural geography, agriculture, and a major military base,” a rather broad characterization that might just as well apply to the Black Belt and any number of places. S.B. 5 mentions Troy University in Pike County, which has a satellite campus in Dothan. It lists, in addition to the six counties above, Pike, Barbour, and Crenshaw Counties.³² While Professor Braund included all these counties in her historical discussion of the Wiregrass, as did archivist Marty Oliff, Prof. Byrd lists only the aforementioned six, as I do in my book. Professor Wayne Flynt includes Houston, Geneva, Dale, Pike, and small slivers of Henry, Barbour, Bullock, and Covington. In their book on the career of Big Jim Folsom, Carl Grafton and Anne Permaloff write, “The Wiregrass was characterized by small farms, relatively few blacks, and strong populist traditions.”³³ The latter could hardly apply to large swaths of Pike, Barbour, and Crenshaw which, by S.B. 5’s own text, also fall within the “core counties” of the Black Belt.³⁴

As the ethnographer Jerrilyn McGregory wrote in her seminal 1997 book on the subject, “Inevitably, the phrase ‘Wiregrass County’ is historical, denoting a region of the South and specific to the past of that region. To establish the borders now entails a twentieth-century judgment of the ways in which nineteenth-century people defined themselves.”³⁵

Today, Black residents of Dothan and its environs are left with the same socioeconomic connections to the Black Belt. In 2021-22, Dothan High School enrolled 1,380 students, 852 Black and 393 white; 54 percent of students qualified for free or reduced lunch. Meanwhile, Houston Academy, founded in 1970, as

³¹ William N. Byrd Jr., “Wiregrass: The Transformation of Southeast Alabama, 1880-1930,” PhD. Dissertation, Auburn University (2009), pp. v-vi; Kathryn Braund, “‘Hog Wild’ and ‘Nuts’: Billy Boll Weevil Comes to the Alabama Wiregrass,” *Agricultural History*, Vol. 63, No. 3 (Summer, 1989): pp. 15-39, p. 17-26.

³² S.B. 5, p. 7.

³³ Braund, “‘Hog Wild and ‘Nuts,’” p. 16; Martin T. Oliff, “Wiregrass Region,” *Encyclopedia of Alabama* (Alabama Humanities Alliance, 2018); Byrd, “Wiregrass: The Transformation of Southeast Alabama, 1880-1930,” p. 1; Bagley, *The Politics of White Rights*, p. viii; Flynt, *Alabama in the Twentieth Century*, p. 293; Carl Grafton and Anne Permaloff, *Big Mules and Branchheads: James E. Folsom and Political Power in Alabama* (Athens: University of Georgia Press, 2008), p. 1.

³⁴ S.B. 5, p. 4.

³⁵ Jerrilyn McGregory, *Wiregrass County* (Oxford: University of Mississippi Press, 1997), pp. 8-9.

the county faced compulsory assignment desegregation orders by way of the *Lee v. Macon* litigation, enrolls 684 students, 87 percent of whom are white.³⁶

V. CONCLUSION

In conclusion, in my opinion, the Legislature goes too far in marking the “Gulf Coast,” as defined by Mobile and Baldwin counties, and the Wiregrass, as defined by the nine-county structure, as inviolable COIs, while ignoring the intimate connections between the Black Belt and the cities of Mobile and Dothan in the southern region of the state.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge:

Respectfully Submitted and Executed, this day, July 28, 2023,



JOSEPH BAGLEY, PhD

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³⁶ [National Center for Education Statistics](#) (NCES); Bagley, *The Politics of White Rights*, pp. 191-92; “Houston Academy,” Private School Review (2023), <https://www.privateschoolreview.com/houston-academy-profile>.