

In the Supreme Court of South Carolina

IN THE ORIGINAL JURISDICTION OF THE SUPREME COURT

**League of Women Voters of South
Carolina,**

Plaintiff,

v.

Thomas Alexander, in his official
capacity as President of the South
Carolina Senate; **Murrell Smith**, in his
official capacity as Speaker of the South
Carolina House of Representatives; and
Howard Knapp, in his official capacity
as executive director of the South
Carolina Election Commission.

Defendants.

CASE NO.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff League of Women Voters of South Carolina, on behalf of itself and its members,
respectfully brings forth this Complaint for declaratory and injunctive relief:

INTRODUCTION

1. Following the last census, Republican lawmakers deliberately manipulated congressional district boundaries to stack the deck in favor of their political party. This practice, known as “partisan gerrymandering,” is a form of anti-democratic political corruption that artificially entrenches the power of one political party and violates the fundamental constitutional rights of South Carolina voters.

2. In South Carolina, “[a]ll political power is vested in and derived from the people only.” S.C. Const. art. I, § 1. By constitutional design, the promise of popular sovereignty is achieved through “free and open” elections where “every inhabitant of this State” possessing the necessary qualifications “shall have an equal right to elect officers[.]” S.C. Const. art. I, § 5. This Court has recognized that “[u]nder such a guaranty,” “the vote of every elector must be granted *equal influence* with that of every other elector.” *Cothran v. W. Dunklin Pub. Sch. Dist. No. 1-C*, 189 S.C. 85, 200 S.E. 95, 97 (1938) (emphasis added).

3. South Carolina’s constitution provides other protections against partisan gerrymandering, too; namely, it prohibits viewpoint discrimination (S.C. Const. art. I, § 2) and needlessly splitting counties (S.C. Const. art. VII, § 13).

4. On January 26, 2022, Governor McMaster signed into law S. 865 (the “congressional redistricting plan”), which reapportioned South Carolina’s seven congressional districts. By any measure, S. 865—now codified at S.C. Code Ann. § 7-19-45 (1976)—is an extreme partisan gerrymander.

5. To start, evidence abounds that lawmakers *intended* to dilute the electoral influence of Democratic voters and to cement an extreme and artificial electoral advantage for Republican politicians.

6. Much of that evidence came to light in *South Carolina State Conference of the NAACP v. Alexander*, No. 3:21-cv-03302-MGL-TJH-RMG (D.S.C.), a federal lawsuit where the South Carolina State Conference of the NAACP and Taiwan Scott argued that these same Defendants intentionally sorted a substantial number of Black voters into different congressional districts without a compelling interest, *i.e.*, that Defendants enacted a racial gerrymander. At trial and at the U.S. Supreme Court, Defendants defended against those allegations by insisting that they targeted Democrats, not Black voters, for the purpose of entrenching Republican advantage.

7. Senate Majority Leader Shane Massey, for example, testified at trial that partisanship was “one of the most important factors” in the configuration of the congressional redistricting plan. When asked at trial if he focused on the “partisan lean” of CD1 when drafting the plan, Will Roberts, the lead cartographer for Senate Republicans and architect of the congressional redistricting plan, said he “one hundred percent” did. Representative Wallace “Jay” Jordan put it even more plainly, adding that the conscious goal of the congressional redistricting process was to “pull the first [congressional district] red.” Senator George E. “Chip” Campsen said that his “primary goal was to draw a Republican district.” Moreover, the South Carolina Senate refused to pass any plan unless it had *at least* a 53.5% Republican vote share in the First Congressional District (“CD1”), and they asked their cartographer to move heavily Democratic voting precincts from CD1 to the Sixth Congressional District (“CD6”).

8. Expert simulation evidence prepared by two mathematicians at Duke University, Drs. Jonathan Mattingly and Greg Herschlag, further confirms that the electoral boundaries created by the enacted congressional redistricting plan would never occur without intentional partisan gerrymandering.

9. Judged against thousands of simulated plans that each adhere to the Senate’s public redistricting criteria, the enacted congressional redistricting plan leaps out as an intentional partisan gerrymander. The overwhelming majority of ensemble plans produce five Republican districts, one Democratic district, and one competitive or slightly Democratic-leaning district. By contrast, it is only through the contortions in the enacted congressional redistricting plan that lawmakers managed to draw six strongly Republican districts. Using Trump/Biden vote share from the 2020 presidential election (the very data Defendants used to create the enacted congressional redistricting plan), the congressional redistricting plan is more favorable for Republicans than *any* of the more than 5,000 sample plans produced by an expert’s first ensemble of plans.

10. Beyond intent, it is equally clear that the congressional redistricting plan has the *effect* of diluting and nullifying Democratic votes and will reliably produce a congressional delegation that is far out of step with the political demographics of our State.

11. For example, the congressional redistricting plan surgically removes Democratic voting precincts from CD1, where they influenced electoral outcomes, and reassigns them to CD6, where they will not. Those voters include members of Plaintiff League of Women Voters of South Carolina (“LWVSC”).

12. As a result of packing and cracking, the vast majority of Democratic votes are wasted¹ under the congressional redistricting plan. According to an efficiency gap analysis conducted by Planscore.org, a non-profit website currently hosted in partnership with the Harvard Election Law Clinic that offers analysis for districting plans across the country, the congressional

¹ To allow the measurement of packing and cracking of voters in a redistricting plan, “wasted” votes are both those votes for the losing party in a district and those for the winning party in excess of the number needed to win (50%).

redistricting plan wasted 561,907 of the 667,308 Democratic votes in the 2022 congressional elections.

13. Plaintiff LWVSC represents many members who were the victims of Defendants' orchestrated effort to dilute the influence of Democratic voters.

14. By any established legal standard, the congressional redistricting plan is an unconstitutional partisan gerrymander. The plan subordinates traditional redistricting principles to create artificial and unfair partisan advantage. The predominant purpose of the legislature in drawing the plan was to entrench Republican advantage. The lines, as drawn, substantially dilute the votes of LWVSC members. The congressional redistricting plan is an egregious partisan gerrymander by objective metrics. The State has no valid, non-partisan justification for its partisan gerrymander and instead has doubled down on its partisan purpose in drawing the congressional redistricting plan under oath and before federal courts.

PARTIES

15. **Plaintiff League of Women Voters of South Carolina** is a nonprofit, nonpartisan membership organization that is dedicated to empowering voters and defending democracy. In South Carolina, LWVSC uses voter education and political advocacy to fight for a democracy where every person has the right, the knowledge, and the confidence to participate. Because of its mission, vision, and membership, LWVSC is a frequent plaintiff in cases seeking relief from unlawful restraints on voting. *See, e.g., LWVSC v. Andino*, 497 F. Supp. 3d 59 (D.S.C. 2020); *Georgetown Cnty. League of Women Voters v. Smith Land Co., Inc.*, 393 S.C. 350, 713 S.E.2d 287 (2011).

16. LWVSC is suing on its own behalf and on behalf of its members to seek a map that complies with the South Carolina Constitution.

17. L WVSC has over 1,100 members spread across each of South Carolina's seven congressional districts, including members in every district that vote for Democratic candidates.

18. L WVSC represents hundreds of members who were reassigned to a different congressional district during the 2021 redistricting cycle, including members moved from CD1 to CD6, and from the Second Congressional District ("CD2") to CD6.

19. L WVSC expends significant resources to further its mission, including by educating the public about the voting process and assisting voters who have questions or need help navigating the process.

20. L WVSC members engage in activities like hosting public forums and discussions on issues of importance to the community. They invest substantial time in getting out the vote, civic engagement training, and voter registration efforts statewide.

21. The congressional redistricting plan harms L WVSC's members. The map silences L WVSC members' voices and makes their elected officials less accountable to their needs and policy preferences.

22. Because of partisan gerrymandering, political races are less competitive and often noncompetitive. This harms L WVSC's work because voters are less motivated to engage in the political process.

23. Partisan gerrymandering also harms L WVSC by forcing it to divert resources it would otherwise use to provide core services to voters and further its mission to instead inform its members about the unfairness of the congressional redistricting plan, and to develop and propose fairer maps for consideration by the legislature.

24. **Defendant Thomas Alexander** is the President of the South Carolina Senate. Defendant Alexander is responsible for defending the constitutionality of the congressional

redistricting plan. *See generally* S.C. Code Ann. § 7-19-45 (editor's note). Under South Carolina law, Defendant Alexander is "authorized to initiate or otherwise participate in litigation . . . regarding redistricting," and "has an unconditional right to intervene on behalf of the Senate" if the constitutionality of the plan is challenged in state court. *Id.*

25. **Defendant Murrell Smith** is the Speaker of the South Carolina House of Representatives. As Speaker, Defendant Smith is the "chief administrative officer of the House of Representatives," S.C. Code Ann. § 2-3-110 (1976), and carries responsibility for defending the constitutionality of the congressional redistricting plan, *see generally* S.C. Code Ann. § 7-19-45 (editor's note). Under South Carolina law, Defendant Smith is "authorized to initiate or otherwise participate in litigation . . . regarding redistricting," and "has an unconditional right to intervene on behalf of the House of Representatives" if the constitutionality of the congressional redistricting plan is challenged in state court, *id.*

26. **Defendant Howard Knapp** is the executive director of the South Carolina Election Commission. In that capacity, Defendant Knapp is responsible for implementing and administering elections. Defendant Knapp is directly responsible for administering elections under the congressional redistricting plan. Although Plaintiff does not assert that Defendant Knapp is responsible for designing or enacting the congressional redistricting plan, an order enjoining future elections under that plan would be properly entered against Defendant Knapp in his official capacity.

JURISDICTION

27. This action arises under the South Carolina Constitution, which guarantees popular sovereignty, S.C. Const. art. I, § 1, an "equal right" to elect representatives in "free and open elections," *id.* § 5, equal protection of law, *id.* § 3, and freedoms of speech and assembly, *id.* § 2;

and which requires respect for county boundaries during congressional redistricting, S.C. Const. art. VII, § 13.

28. The South Carolina Supreme Court has original jurisdiction because “the public interest is involved” and “special grounds of emergency or other good reasons exist.” Rule 245, SCACR. This case concerns “the cornerstone of our constitutional republic,” *Bailey v. S.C. Election Comm’n*, 430 S.C. 268, 271, 844 S.E.2d 390, 391 (2020), and “a matter of great public importance,” *Anderson v. S.C. Election Comm’n*, 397 S.C. 551, 556, 725 S.E.2d 704, 706 (2012), and is therefore appropriately resolved in the first instance by this Court.

FACTUAL ALLEGATIONS

A. Partisan Gerrymandering

29. Partisan gerrymandering is “the practice of dividing a geographical area into electoral districts . . . to give one political party an unfair advantage by diluting the opposition’s voting strength.” *Gerrymandering Definition*, Black’s Law Dictionary (12th ed. 2024).

30. By suppressing competition, partisan gerrymandering reduces the accountability and responsiveness of elected officials, who have less incentive to respond to voters’ preferences.²

31. Across the political spectrum, voters view partisan gerrymandering negatively. A 2021 AP-NORC poll found that two thirds of all respondents across party lines felt that “drawing legislative districts that intentionally favor one political party” is a “*major* problem.”³ An additional 26% felt that it is a “minor problem,” with only 5% responding that it is “not a problem.”

32. Partisan gerrymandering makes it so that general election results are inevitable. As

² See, e.g., Kenny, et al., *Widespread partisan gerrymandering mostly cancels out nationally, but reduces electoral competition*, 120 PNAS 15 (2023).

³ *Public supportive of many voting reforms*, AP-NORC (Apr. 2, 2021) https://apnorc.org/projects/public-supportive-of-many-voting-reforms/?doing_wp_cron=1721954633.5319540500640869140625.

a result, the only voting that impacts candidate choice is in primary elections. Primary elections have far lower turnout than do general elections, so a very small subset of voters are actually determining the elected representatives. For instance, in South Carolina, the last seven statewide primary elections have averaged only 16% voter turnout, reducing the number of people who have a say in their elected representatives.⁴

B. History of Redistricting in South Carolina

33. Every ten years, the federal government conducts a nationwide census. Census results determine each state's congressional representation and require reapportionment of electoral districts, where needed, to comply with the one-person-one-vote (1P1V) principle. *See Wesberry v. Sanders*, 376 U.S. 1, 7-8 (1964) (“[A]s nearly as is practicable one man's vote in a congressional election is to be worth as much as another's.”).

34. In South Carolina, the state Constitution empowers the General Assembly to draw seven congressional seats. *See* S.C. Const. art. VII, § 13.

35. The House and Senate jointly have duties to enact a congressional redistricting plan that complies with the law. *See* S.C. Const. art. III, § 1.

36. After the 2010 Census, South Carolina redrew its congressional map because it gained a congressional seat, and its population grew by about 600,000 voters. *Backus v. South Carolina*, 857 F. Supp. 2d 553, 557 (D.S.C. 2012). The General Assembly enacted a seven-district plan in 2011, pre-cleared by the U.S. Department of Justice.

37. Between 2010 and 2021, the U.S. Supreme Court removed two federal guardrails from South Carolina's redistricting process.

⁴ *Voter Turnout in American Elections Since 2000*, States United Democracy (July 15, 2024), <https://statesuniteddemocracy.org/resources/voter-turnout-since-2000/#Methodology>

38. First, in *Shelby County v. Holder*, the U.S. Supreme Court functionally struck down Section 5 of the Voting Rights Act. 570 U.S. 529 (2013). As a result, South Carolina lawmakers were not required to obtain “preclearance” for their 2021 redistricting plans from the federal government. Prior to the *Shelby County* decision, South Carolina was a “covered” jurisdiction under Section 5 of the Voting Rights Act of 1965. *See* Determination of the Attorney General, 30 Fed. Reg. 9897, 9897 (Aug. 7, 1965). The 2021 redistricting cycle was the first conducted in South Carolina without protections from the federal preclearance process, freeing the South Carolina legislature to pass gerrymandered maps with no federal intervention.

39. Second, in *Rucho v. Common Cause*, the U.S. Supreme Court ruled that partisan gerrymandering claims are not justiciable in federal court. 588 U.S. 684 (2019). Specifically, a 5-4 majority of the Court determined that the text of the First and Fourteenth Amendments to the U.S. Constitution fail to provide sufficient guidance for adjudicating partisan gerrymandering claims. The *Rucho* Court made clear that in lieu of federal intervention against partisan gerrymandering, states can (and do) prohibit the practice. *Rucho*, 588 U.S. at 719 (“Provisions in state statutes and state constitutions can provide standards and guidance for state courts to apply.”). South Carolina’s Free & Equal Elections Clause (S.C. Const. art. I, § 5) is one such prohibition on partisan gerrymandering.

C. 2021 Redistricting Cycle

40. After the 2020 Census, South Carolina again redrew its congressional map and its State House and Senate maps.

41. The COVID-19 pandemic delayed the 2020 decennial census, and the redistricting data were not available to the states until August of 2021.

42. The 2020 Census count showed an increase in South Carolina’s total population,

such that the ideal district size for each of South Carolina’s seven congressional districts went from 660,766 to 731,204 persons.

43. Out of South Carolina’s seven congressional districts, the 2020 Census showed CD1, the Fourth Congressional District (“CD4”), and CD5 were over-populated and CD2, the Third Congressional District (“CD3”), CD6 and the Seventh Congressional District (“CD7”) were under-populated.

44. Most significantly, CD1 was over-populated by almost 12 percent and CD6 was under-populated by almost 12 percent. Below is a table showing population shifts from the 2010 Census to the 2020 Census across the seven congressional districts

| District | 2010 Population | 2020 Population | Shift | Deviation from Ideal 2020 Population | Percent Deviation |
|----------|-----------------|-----------------|----------|--------------------------------------|-------------------|
| 1 | 660,766 | 818,893 | +158,127 | +87,689 | 11.99% |
| 2 | 660,766 | 721,829 | +61,063 | -9,375 | -1.28% |
| 3 | 660,767 | 706,785 | +46,018 | -24,419 | -3.34% |
| 4 | 660,766 | 760,233 | +99,467 | +29,029 | 3.97% |
| 5 | 660,766 | 736,286 | +75,520 | +5,082 | 0.70% |
| 6 | 660,766 | 646,463 | -14,303 | -84,741 | -11.59% |
| 7 | 660,767 | 727,936 | +67,169 | -3,268 | -0.45% |

1. The House and Senate adopt redistricting criteria

45. In 2021, as part of the redistricting cycle, the South Carolina House and Senate each adopted their own independent redistricting criteria.

46. South Carolina law generally does not impose many explicit guidelines governing the shape and alignment of electoral districts. That said, the South Carolina Constitution does prioritize the preservation of county lines in the congressional redistricting process. S.C. Const.

art. VII, § 13; *see also S.C. State Conf. of NAACP v. Riley*, 533 F. Supp. 1178, 1180 (D.S.C. 1982) (holding that Article VII, § 13 evinces “a substantial state policy favoring drawing congressional districts along county boundaries”); *Colleton Cnty. Council v. McConnell*, 201 F. Supp. 2d 618, 648 (D.S.C. 2002) (recognizing “South Carolina’s strong preference for minimizing the splits of counties within her borders”). In previous litigation, the South Carolina legislature argued that preserving county lines is a requirement under the South Carolina Constitution. *See Riley*, 533 F. Supp. at 1180 (“Senate defendants would find in [art. VII, § 13] an implicit prohibition against any subdivision of any county.”).

a) House Redistricting Criteria

47. On August 3, 2021, the South Carolina House’s Redistricting Ad Hoc Committee (“House Redistricting Committee”)—the body responsible for preparing and developing redistricting plans for the House for the post-2020 redistricting cycle—adopted its guidelines and criteria (“House criteria”) for congressional redistricting.⁵

48. The House criteria were developed without public notice or comment.

49. The guidelines first demanded compliance with requirements under the U.S. Constitution, other federal law, and state law.

50. Besides legal compliance, the guidelines identified five additional criteria for redistricting. The first guideline listed is “equal population/deviation” which stated that congressional districts “shall be as nearly equal in population as is practicable.”

51. The next guideline was “contiguity” which states that each district must be “comprised of contiguous territory,” and although contiguity “by water is sufficient,” areas that

⁵ S.C. House of Rep. Judiciary Comm. Redistricting Ad Hoc Comm., *2021 Guidelines and Criteria for Congressional and Legislative Redistricting* (Aug. 3, 2021), <https://redistricting.schouse.gov/docs/2021%20Redistricting%20Guidelines.pdf>.

“meet only at the points of adjoining corners are not considered contiguous.”

52. The next guideline was “compactness” and stated that each district must also be “reasonably compact in form and should follow census geography” under the criteria.

53. The next guideline was “communities of interest.” That guideline stated that these communities should be “considered and balanced.” Under the criteria, “[c]ounty boundaries, municipality boundaries, and precinct lines (as represented by the Census Bureau’s Voting Tabulation District lines) may be considered as evidence of communities of interest to be balanced, but will be given no greater weight, as a matter of state policy, than other identifiable communities of interest.” The House Redistricting Committee provided that the following factors may contribute to a community of interest, “including, but not limited to the following: (a) economic; (b) social and cultural; (c) historic influences; (d) political beliefs; (e) voting behavior; (f) governmental services; (g) commonality of communications; and (h) geographic location and features.”

54. The guidelines also allowed “incumbency considerations” to be considered and instruct that “[r]easonable efforts may be made to ensure that incumbent legislators are not placed into districts where they will be compelled to run against other incumbent members of the South Carolina House of Representatives.” The guidelines made clear that “incumbency considerations shall not influence the redistricting plan to such an extent as to overtake other redistricting principles.”

55. The guidelines did not include partisanship or partisan considerations.

56. The guidelines included the instruction that the House Redistricting Committee “should make reasonable efforts to be transparent and allow public input into the redistricting process.” Moreover, “any deviation from the criteria shall not be any more than necessary to avoid

the violation of law, and the remainder of the redistricting plan shall remain faithful to the criteria.”

b) Senate Redistricting Criteria

57. The South Carolina Senate Judiciary Committee, Redistricting Subcommittee (“Senate Redistricting Subcommittee”)—the Senate body responsible for preparing and developing redistricting plans for the post-2020 redistricting cycle—adopted redistricting criteria on September 17, 2021 (“Senate criteria”).⁶

58. These guidelines started by listing requirements under the U.S. Constitution and federal law.

59. The next guideline was “contiguity” which stated that each district must be “composed of contiguous geography,” which could include point-to-point contiguity “so long as adjacent districts do not use the same vertex as points of transversal.”

60. The guidelines also identified additional considerations that “should be given consideration, where practical and appropriate, in no particular order of preference.” The first additional consideration was “communities of interest.” Under that guideline, “[a]reas defined by geographic, demographic, historic or other characteristics that cause people to identify with one another, including economic, social, cultural, language, political, and recreational activity interests common to the area’s population may constitute communities of interest.” And communities of interest could “be overlapping and may consist of one or more formally, or informally, defined geographic areas with unifying common interests.”

61. The next additional consideration was “constituent consistency,” which the guidelines defined as “[p]reserving the cores of existing districts, keeping incumbents’ residences

⁶ See S.C. Senate Judiciary Comm. Redistricting Subcomm. *2021 Senate Redistricting Guidelines* (Sept. 17, 2021), <https://redistricting.scsenate.gov/docs/Senate%20Redistricting%20Guidelines%20Adopted%209-17-21.DOCX>.

in districts with their core constituents, and avoiding contests between incumbent legislators.”

62. The next two additional considerations were “minimizing divisions of county boundaries” and “minimizing divisions of cities and towns.”

63. These additional considerations also included “minimizing divisions of voting precinct boundaries.” The guidelines stated “[b]oth existing lines and pending precinct boundary realignments should be considered.” But if “precincts are split, every effort should be made to divide precincts along recognizable and demonstrable boundaries.”

64. The final additional consideration was “district compactness.” The guidelines stated that to determine “the relative compactness of a district, consideration should be given to geography, demography, communities of interest, and the extent to which parts of the district are joined by roads, media outlets, or other means for constituents to communicate effectively with each other and with their representative.”

65. The guidelines did not include partisanship or partisan considerations.

66. Though there were minor differences, both the House and the Senate criteria included population equality; compliance with the Voting Rights Act and the Constitution; contiguity; communities of interest; constituent consistency; minimizing divisions of county, city, and voting precinct boundaries; and compactness.

2. South Carolinians weigh in against partisan gerrymandering

67. Before drawing maps, the House and Senate each solicited public input regarding redistricting.

68. The Senate Redistricting Subcommittee held ten public hearings between July and August of 2021. No congressional maps were considered or proposed during these meetings.

69. The House Redistricting Committee held eleven public hearings from September 8 through October 4, 2021, also without proposing any congressional plans.

70. The House Redistricting Committee's redistricting hearings were largely inaccessible to the public. Multiple hearings were scheduled on short notice. The Committee did not offer opportunities for remote testimony in most of the hearings, and even those which were conducted remotely were held during working hours, which meant many who wished to participate were not able to do so.

71. Even despite the barriers outlined above, across testimony and written comments, members of the public testified against partisan gerrymandering in South Carolina.

72. As one citizen put it, "Extreme partisan gerrymandering (safe democrat and republican districts) is alive and well in South Carolina. South Carolina state legislators do not reflect the will of all the citizens."

73. Numerous members of the public commented on the absurd appearance of South Carolina's districts, identifying how their communities had been divided to achieve partisan ends. As one participant put it, "no one could look at the current district lines in South Carolina and not be reminded of some abstract painting of Picasso's." Across public testimony, the previous cycles' districts were described as looking like "amoebas", "human organs", "a creature from a fantasy novel", "strange serpentine objects", "a Rorschach test", "an LSD trip", and "a terrible hernia."

74. Across testimony, members of the public made clear the effect of partisan gerrymandering on their constitutionally protected speech and voting rights. As one member of the public summarized, "[E]veryone who has spoken here has talked about how they don't feel heard in some way. How they want to advocate for their communities, which they feel the current maps don't allow for."

75. Public comments explained that partisan gerrymandering discourages voting, silences voters, makes recruiting candidates more difficult, leads to less accountable

representatives, and promotes polarization. As voters shared,

- a. “Why bother to vote when the lines that have been drawn so clearly favor one party or the other . . . When voters don’t go to the polls because they know their vote doesn’t matter, we all lose.”
- b. “Gerrymandering is one of the major reasons that our politics and democracy have been poisoned and public trust in governance has diminished so drastically.”
- c. “Noncompetitive electoral districts tend to lead to conflict rather than cooperation – and often diminish voter participation.”
- d. “You know, some of these districts you can have strong feelings but -- but you -- your vote is almost thrown away. . . . your vote doesn’t matter at all.”

76. More than just cementing one-party control over the state and particular districts, members of the public testified to the long-term impacts of partisan gerrymandering.

77. As one voter described, “Redistricting affects every aspect of our lives. It determines which elected official gets to vote on issues that we are concerned about. Issues such as health care and mental health, economics, education, and beyond, including racial profiling, police brutality, whatever concerns that we have.”

78. Another voter explained “[i]f our legislators really only need to pay attention to the small minority of the population that can hand them a primary victory or defeat, and they can safely ignore the opinions and preferences of a vast swath of their constituents” then “it makes a mockery of the idea of representative democracy.”

79. Through public comments, numerous community members expressed their desire for counties such as Charleston, Richland, and Sumter to be kept whole when drawing congressional districts. For example:

- a. A voter in Richland asked that districts “be geographically compact and have similar issues that drive the agenda of their elected officials. To that end, stop separating cities and counties. They should be kept together.”
- b. A voter in Sumter shared that “The historic district where I live, three blocks down, is a different congressional district. Two blocks up is a different congressional district . . . And I think there is a community of interest here in Sumter, and I would urge you to continue with your criteria that you’ve adopted years ago and, hopefully, keep counties together.”
- c. And a voter in Charleston urged that the legislature “consider [Charleston] county a community of interest and not split it so many ways . . . While I appreciate the idea of the coast as a group of residents with shared interests, I believe we would be better served by districts that don’t split so many county lines.”

80. Numerous members of the public shared that they felt voters should choose their representatives, rather than the representatives choosing their voters.

81. But map drawers did not rely on this public input in drawing the congressional map, instead resorting to an even more extreme partisan gerrymander than in previous years.

3. South Carolina passes the 2022 plans

82. On October 19, 2021, the Senate Redistricting Subcommittee announced it was actively soliciting proposed congressional maps from the public. On November 12, 2021, the Senate Redistricting Subcommittee met to hear public testimony on submitted congressional maps. At the end of the November 12 hearing, it approved a motion for its staff to begin preparing maps.

83. On November 23, 2021, the Senate Redistricting Subcommittee announced that it had released its “Staff Senate Congressional Plan” (the “Senate Staff” plan) for the congressional map, and on November 29, 2021, the Senate Redistricting Subcommittee held a hearing about this

plan.

84. At the November 29 hearing, the Subcommittee’s cartographer Will Roberts presented the Senate Staff plan.

85. In the Senate Staff plan, Mr. Roberts started with the previous cycle’s plan, and added to CD1 strongly Republican areas and specifically areas of Berkeley County and Daniel Island. He worked to remove Democrats by moving West Ashley, parts of the Charleston peninsula, and the Deer Park area into CD6. He would later testify under oath as part of the federal racial gerrymandering case that he did so in order to secure partisan advantage.

86. At the November 29 hearing, many witnesses testified that the map would make it easier for Republicans to win congressional seats, harder for Democrats to win, and that it constituted a partisan gerrymander. For example, former Congressman Joe Cunningham, a Democrat who represented CD1 from 2019 to 2021, testified that the plan “make[s] no sense unless, of course, the sole purpose of these maps is to make it harder for a Republican to lose,” and that since CD1 had become “a swing district,” “this proposed map moves the goalpost . . . to make it as hard as possible for a Democrat to win.” He testified that the map “makes no sense unless your sole objective is to rig an election so one side cannot win.” And he called the map a result of “partisan gerrymandering.”

87. The commitment to entrenching Republican advantage is well illustrated by the process of passing the congressional map in the House. On December 13, 2021, the House Redistricting Committee released its proposed congressional plan (the “House Staff” plan”).

88. House staff—including Patrick Dennis (Chief Counsel for the House) and Thomas Hauger (Data/GIS Director for the House)—drew the House Staff plan which they provided to the House Redistricting Committee. That plan tracked the 2011 congressional districts but moved

Beaufort County (a predominantly Republican county) to CD2 instead of keeping it in CD1.

89. The plan received an extremely negative reaction from Republicans and the Republican Party, who expressed concern about the district becoming more competitive for Democrats and giving Joe Cunningham an opportunity to win the district in 2022.

90. For example, South Carolina's Republican Congressmen urged the House to reject their own House Staff plan and instead support the Senate Staff plan.

91. As another example, a Republican Party State Executive Committee member reached out to Representative Weston Newton (a member of the House Redistricting Committee) saying that "most [of the] base would want to stay in CD1 to make sure Joe Cunningham won't succeed in 2022."

92. Under this pressure from Republican leaders, Representative Jordan, Chairman of the House Redistricting Committee guiding the House redistricting process, requested that the staff create another map improving CD1's Republican voting performance, because he knew the map would not pass otherwise. Specifically, he thought a map would not pass the Senate unless it had at least a 53.5% Republican vote share.

93. On December 22, 2021, the House Redistricting Committee posted a revised map on its website, the "House Staff Plan Alternative 1." This revised map was drawn by Mr. Dennis and Mr. Hauger with input from Chairman Representative Jordan, who instructed them to begin with the Senate Staff Plan and make tweaks to that plan.

94. The House Staff Plan Alternative 1 included Beaufort County wholly within CD1 and was substantially similar to the Senate Staff plan.

95. The House Staff Plan Alternative 1 accommodated requests made on behalf of the South Carolina Republican congressional delegation including by increasing Republican voting

power in CD1.

96. The House Redistricting Committee conducted a hearing on both maps on December 29, 2021.

97. There, participants raised concerns with the House Staff Plan Alternative 1, including that it constituted a partisan gerrymander. For example, Lynn Teague from Plaintiff LWVSC testified that the map was an “obvious racial and partisan gerrymander and should be rejected” and that it “scores worse on competitiveness, proportionality, compactness, and splitting than the first map considered by this Committee, and much worse than the League proposal.”

98. On January 10, 2022, the House Redistricting Committee had another meeting about the congressional maps. Only Committee members testified at that hearing, and the Committee voted to advance the House Staff Plan Alternative 1 to the full House Judiciary Committee.

99. Also on January 10, 2022, the House Judiciary Committee met to discuss the House Staff Plan Alternative 1. The House Judiciary Committee voted to advance the plan.

100. On January 12, 2022, the House read S. 865 which contained the House Staff Alternative Plan 1. The House debated the bills. Representative John King (a Democrat) opposed the House Staff Alternative Plan 1 because it was designed to ensure districts were not politically competitive. Representative King called the maps gerrymandered and explained that the maps reflected an effort to “make sure that no Democrat” could win and produced “party-driven lines.” He called it “dangerous” to produce “a congressional map that does nothing but empower[] one particular party for the next 10 years.”

101. So, too, Representative Kambrell Garvin (a Democrat) expressed concern that the House proposal “mirror[ed], with a few minor tweaks,” the Senate map, which was “wildly

criticized” for its districts that ignored communities of interest in Charleston. He questioned the role of partisan groups and congressional members in drafting the plan.

102. The House voted to adopt S. 865 as amended with House Staff Plan Alternative 1. On January 13, 2022, the House took a final reading on S. 865 and transmitted it back to the Senate.

103. On January 13, 2022, the Senate Redistricting Subcommittee held a hearing on two more proposed congressional maps—the Senate Amendment 1 Plan and the Senate Amendment 2 Plan. Senate Amendment 2 was subsequently modified to become Senate Amendment 2a, which is substantially the same plan but adjusted for deviation and to reduce the number of precinct splits.

104. Senator Campsen sponsored the plan in Senate Amendment 1, drafted by Senate staffers with Senator Campsen’s input.

105. The Senate Amendment 1 plan (like the Senate Staff plan and the House Staff Plan Alternative 1) moved majority-Democratic areas in Charleston County into CD6 to make CD1 more heavily Republican-leaning. The Senate Amendment 1 plan included all of Beaufort and Berkeley Counties—and a significant portion of Dorchester County—in CD1.

106. Senator Campsen would later testify in federal court that the goal of Senate Amendment 1, which eventually passed, was to make the district “more Republican” and that he “wanted to draw a district that would be Republican.”

107. Like Senate Amendment 1, Senate Amendment 2a kept Beaufort County whole in CD1. But unlike Senate Amendment 1, Senate Amendment 2a responded to public feedback by also keeping Charleston County whole in CD1. Although Senate Amendment 2a fared better on neutral criteria, including county splits and measures of compactness, it did not entrench Republican advantage in CD1.

108. More specifically: In contrast to Senate Amendment 1’s split of ten counties, the

Senate Amendment 2a plan split six counties. In contrast to Senate Amendment 1 plan's split of 22 municipalities, the Senate Amendment 2a plan split 15 municipalities. And the Senate Amendment 1 plan split 13 precincts, while the Senate Amendment 2a plan split ten. The Senate Amendment 2a plan also scored higher (better) on the Polsby-Popper measure of compactness and lower (better) on the Block cut edges measure of compactness than the Senate Amendment 1 plan.

109. During the January 13 Senate Redistricting Subcommittee hearing, members of the public, including the L WVSC, testified against Amendment 1 because it split communities of interest in service of partisanship. For example, the L WVSC highlighted that CD1 in the Senate Amendment 1 plan "receives poor ratings for proportionality, compactness, efficiency, and other standard redistricting measures" while CD2 "loops into Richland County sending an arm into" CD6, "cracking major Black communities in Northwest Richland County. This dilutes minority votes and makes no sense in terms of economic and social relationships." The L WVSC urged the Senate Judiciary Committee to support its own proposed plan or the Senate Amendment 2 plan, which avoided these problems and provided competitive districts in CD1 and CD5.

110. After the public comments, the Senate Redistricting Subcommittee voted to approve the Senate Amendment 1 and Senate Amendment 2 plans and send them to the Senate Judiciary Committee.

111. On January 19, 2022, the Senate Judiciary Committee met to consider the Senate Amendment 1 and Senate Amendment 2a plans.

112. At the end of the January 19 meeting, the Senate Judiciary Committee adopted the Senate Amendment 1 Plan.

113. On January 20, 2022, the Senate reconvened to consider a strike-all amendment incorporating the Senate Amendment 1 Plan into S. 865. Addressing "allegations of partisan

gerrymandering,” Senator Campsen defended the map but nonetheless admitted that the plan increased the share of the population that voted for Trump in CD1.

114. At the January 20 hearing, Democrats commented that the congressional plan constituted a partisan gerrymander. Senator Margie Bright Matthews, a Democrat, called the congressional plan a political gerrymander because of how it carved out the Democratic areas of Charleston. Senator Matthews described that Charleston County representatives had expressed an overwhelming preference to keep Charleston County whole in a single district, which the Senate Amendment 1 Plan would not do. Senator Marlon Kimpson, a Democrat, also called the map a politically-motivated gerrymander and said that CD1 in the plan was not competitive, and that it amounted to “weakening the people and the voices of South Carolina.”

115. The Senate then adopted the Senate Amendment 1 map. It voted to table strike-all amendments to propose other maps (including the Senate Amendment 2a map and a version of a map proposed by the LWVSC).

116. The Senate then approved S. 865 as amended and transmitted it back to the House.

117. On January 26, 2022, the House reconvened and voted to concur with S. 865 as amended by the Senate.

118. Democratic Representative Justin Bamberg, who voted against the bill, later testified that the plan was “hyper-partisan” in its intent and effects.

119. Hours later, Governor McMaster signed S. 865 into law.

4. South Carolina defends its map in federal court by arguing that it is a partisan gerrymander

120. The South Carolina NAACP and Taiwan Scott, an individual Black voter, brought claims challenging the enacted state House plan and congressional plan as racial gerrymanders in violation of the Fourteenth Amendment and also alleged intentional racial discrimination under

the Fourteenth and Fifteenth Amendments. *See S.C. State Conf. of NAACP v. Alexander*, No. 3:21-cv-03302-TJH-RMG-MGL (D.S.C.).

121. Plaintiffs first alleged that the House Plan constituted a racial gerrymander in violation of the Fourteenth Amendment and alleged intentional racial discrimination under the Fourteenth and Fifteenth Amendments, and after the passage of the congressional plan, amended their complaint to add a claim challenging the congressional plan as to CD1, CD2, and CD5 on the same grounds.

122. On May 5, 2022, the South Carolina NAACP and the Speaker of the House of Representatives, Rep. James Lucas, the Chairman of the Judiciary Committee, Rep. Chris Murphy, and Representative Jordan, Chairman of the House Redistricting Committee, reached a settlement agreement. The parties agreed that the House would pass a new House redistricting plan and that the South Carolina NAACP would dismiss its claims against the House Plan. The settlement plan included redrawn House districts in the Richland/Kershaw, Orangeburg, and Dillon/Horry areas. The settlement reunited Orangeburg into a single district; unpaired one set of previously paired incumbents; and made a change in Dillon/Horry which created greater electoral influence for Black voters in the area.

123. The racial gerrymandering claim as to the congressional districts proceeded to a two-week federal trial in October 2022. In January 2023, a three-judge panel unanimously ruled that the South Carolina legislature racially gerrymandered CD1 by drawing over 30,000 Black residents in Charleston County out of their previous district and placing them in CD6, a district anchored over 100 miles away. The panel found that Defendants made “a mockery” of traditional redistricting principles in CD1 and, though it accepted Defendants’ argument that the reconfiguration of CD1 was motivated by partisan advantage and not racial animus, ruled that the

selective movement of more than 30,000 Black voters in Charleston County showed that Defendants used race as a proxy for partisanship in violation of the Fourteenth Amendment.

124. South Carolina appealed the ruling to the U.S. Supreme Court. Again, Defendants stressed that they reconfigured CD1 to entrench Republican political power and protect Republicans' power against demographic changes at the coast, and that they accomplished that goal by selectively moving voters based on their political affiliation, not their race.

125. Arguments proceeded in October 2023. At argument, Justice Neil Gorsuch noted that "[e]verybody seem[ed] to take as a given that the legislature [sought] . . . a partisan gerrymander." Transcript of Oral Argument at 107, *Alexander v. S.C. State Conf. of the NAACP*, 144 S. Ct. 1221, 1242 (2024) (No. 22-807) (JUSTICE GORSUCH: "We start with that as a given.")).

126. In March 2024, the three-judge panel issued an order allowing the challenged map to remain in place for the 2024 elections in light of the pending ruling from the U.S. Supreme Court.

127. In May 2024, the U.S. Supreme Court reversed and remanded the decision of the trial court, stressing that the congressional map was a "political gerrymander." *Alexander v. S.C. State Conf. of the NAACP*, 144 S. Ct. 1221, 1242 (2024). The U.S. Supreme Court rejected the trial court's findings that redistricting choices were made on account of race, concluding instead that they were instead made with partisan intent. Assessing the record, the Supreme Court found "[t]he fact of the matter is that politics pervaded the highly visible mapmaking process from start to finish." These conclusions led to a reversal of the trial court decision as to plaintiffs' federal racial gerrymandering claim, and the U.S. Supreme Court noted that the state's "political gerrymander" is only permissible "as far as the Federal Constitution is concerned."

128. Throughout the racial gerrymandering litigation described above, Defendants explained their partisan purpose in passing the congressional redistricting plan, as explained further in subsection (D).

D. Defendants Intended to Artificially Entrench Republican Advantage in the Congressional Plan

129. The congressional redistricting plan was drafted, passed, and enacted for the purpose of entrenching Republican political power. It makes a mockery of traditional redistricting principles like contiguity, compactness, and minimizing county splits; produces extreme, statewide partisan bias; and subordinates the will of South Carolina voters.

1. Testimony as to Defendants' motives

130. Elections in 2018 and 2020 were competitive in CD1. In 2018, Joe Cunningham narrowly won the seat in a Democratic upset. Two years later, Nancy Mace narrowly reclaimed the seat for the Republican Party.

131. Following those elections, augmenting the Republican vote share in CD1 became the *sine qua non* of the congressional redistricting plan. As a federal court found: “the Republican majorities in both [the House and the Senate] sought to create a stronger Republican tilt to Congressional District [1].” *S.C. State Conf. of NAACP v. Alexander*, 649 F. Supp. 3d 177, 187-88 (D.S.C. 2023).

132. As explained above, the process of drafting the enacted congressional plan in the legislature reveals a textbook partisan gerrymander. The congressional map was drawn by employees of the Senate (including legislative counsel and a cartographer) with input from Senator Luke Rankin (a Republican) and Senator Campsen (also a Republican). By contrast, a Democrat in the Senate testified that Democrats on the Senate Redistricting Subcommittee were “non-participants. Our opinions didn’t matter.”

133. As Defendants later described of the trial in their proposed post-trial findings: “[e]very senator and staffer who participated in drawing and supporting the [congressional redistricting plan] testified that the General Assembly considered politics, and increasing District 1’s Republican vote share, in the [congressional plan].”

134. Senators Massey and Campsen, and Representative Jordan, testified at the federal racial gerrymandering trial that a plan that did not increase CD1’s Republican vote share would not have passed the Republican-controlled General Assembly.

135. As another example, the primary Senate mapdrawer, Mr. Roberts, testifying about drafting the Senate Staff plan, characterized his efforts as “one hundred percent” focusing on “the partisan lean” of CD1.

136. Mr. Roberts also testified that members of the Senate asked him specifically to achieve a more Republican-leaning map in drafting congressional plans. For example, Mr. Roberts testified that Senator Campsen “asked multiple times to look at the political numbers and to make the First Congressional District more Republican-leaning based on Trump/Biden numbers.” And Senator Larry Grooms reviewed two draft plans produced by Mr. Roberts and indicated that only the plan with the higher Trump number in CD1 would pass the legislature, according to Mr. Roberts. More generally, Senators asked Mr. Roberts “all the time” to see the Trump/Biden breakdown in the draft maps he produced.

137. As another example, Senate Majority Leader Massey also testified in federal court that partisanship “was one of the most important factors” in the process of drafting the enacted congressional redistricting plan and that “saying it was a factor is an understatement.” Majority Leader Massey testified that “the Senate was not going to pass a plan that sacrificed the 1st [Congressional District]” and that “we knew [partisanship] was something we could consider, and

so we did.”

138. Defendants’ arguments in the Supreme Court buttress the conclusion that the congressional redistricting plan is a partisan gerrymander. In their merits brief before the Supreme Court, they explained that the Republican-controlled General Assembly’s goal was to “create a stronger Republican tilt” in CD1. Brief of Appellants at 2, *Alexander v. S.C. State Conf. of the NAACP*, 144 S. Ct. 1221, 1242 (2024) (No. 22-807), 2023 WL 4497083, at *11.

139. They further argued that the “congressional redistricting plan achieved that goal by moving majority-Republican voting tabulation districts (VTDs) into, and majority-Democratic VTDs out of, District 1 based on their political composition.” And they argued that the plan was enacted because it was the only plan presented that achieved the “political goal” of “increas[ing] District 1’s Republican vote share.”

140. Defendants explained that the General Assembly “could (and did) use election data—which *perfectly* correlate with politics—to do the job” of redistricting.

141. Defendants explained, too, quoting Senator Matthews, that the congressional plan “was about packing Democratic voters into District 6 to make District 1 more electable . . . with Trump numbers.”

142. Defendants also highlighted that text messages showed that Senate Republicans set a “political target” of “at least a 53.5 Republican vote share” in CD1.

143. Defendants relied on testimony from House and Senate Republicans. From the Senate, Defendants argued that “Senators Massey and Campsen both testified that the General Assembly would pass only a plan that kept District 1 majority-Republican.” This “politics permeating the drawing process ‘wasn’t a secret.’”

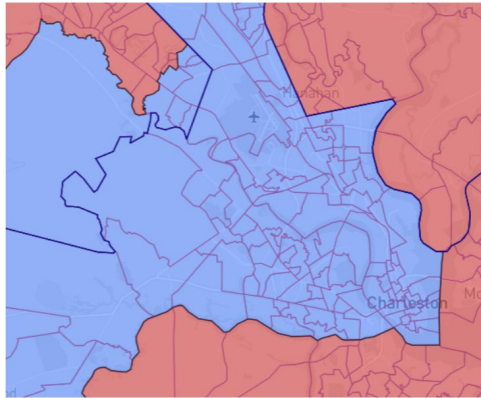
144. From the House, Defendants leaned on Representative Jordan's sworn testimony that the goal of the congressional redistricting plan was to "pull the first red," *i.e.*, to make CD1 "better" for Republicans.

2. Violations of traditional redistricting principles

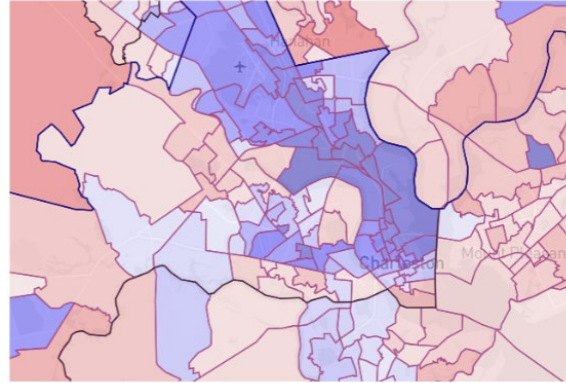
145. The census showed that CD1 was overpopulated by almost the same amount that CD6 was underpopulated. But rather than correcting the malapportionment by shifting roughly 85,000 voters from CD1 into CD6, the legislature instead moved an *additional* 53,000 voters from the already underpopulated CD6 into the overpopulated CD1, then moved a whopping 140,000 voters from CD1 into CD6. In the process of needlessly swapping nearly 200,000 voters between CD1 and CD6, the legislature eschewed its "least-change" principle (*i.e.*, the purported goal of changing the previous decade's maps as little as possible), dramatically reconfigured CD1, and entrenched an artificial Republican advantage in that District.

146. In 2011, CD6 approached the Charleston peninsula from the northeast through Berkeley County, but in the congressional redistricting plan, the district approaches the peninsula from the west through Dorchester County and the St. Andrews and West Ashley communities. The congressional redistricting plan splits Jasper County, which used to be intact in CD 6.

147. The prior CD1 included the City of Charleston, but in a drastic shift, the city was split up in the congressional redistricting plan. This meant Charleston was no longer the anchor of CD1 for the first time in over a century. The Charleston Port Authority, an economic engine of Charleston, was divided up, too.



CD1/CD6 Border in Charleston



Precinct-by-Precinct Partisan Data

148. The entire Charleston Peninsula was also placed in the same congressional district as downtown Columbia, even though those areas are separated by several rural counties and more than half the length of the state apart.

149. In line with these drastic changes, mapdrawer Mr. Roberts characterized CD1 as “not a least changed plan” even though he purported to have sought to minimize changes to the 2011 map across the board. And testifying under oath at trial, he called the changes to CD1 “dramatic.”

150. The reconfiguration of CD1 made a mockery of traditional districting principles including communities of interest and contiguity in particular.

151. Despite Charleston County having been split across congressional districts in recent cycles, in 2021, residents had renewed demands for the county to be reunited in a single district. Across public hearings and comments, residents expressed that the Charleston area forms a community of interest with shared concerns. The Charleston area has been a community of interest for centuries, historically united around the Port of Charleston, a transit hub, and has only become more united with recent economic growth in the area.

152. So too, members of the legislature testified that Charleston constituents wanted Charleston County made whole under the congressional map. Senator Dick Harpootlian testified

that “everybody from the Charleston area was outraged” and that “[a]lmost everybody [the Senate Committee] heard from wanted Charleston kept whole.” Representative Garvin explained that residents of Charleston County were concerned and confused about being separated between CD1 and CD6. Representative Gilda Cobb-Hunter called it “totally unreasonable to expect people in North Charleston” to share a community of interest with people in Richland County.

153. Legislators acknowledged at trial that it would have been possible to keep Charleston County whole but that they had declined to do so. As described above, other maps were proposed which would have kept Charleston County whole, which the legislature rejected.

154. So too, the Legislature flouted communities of interest principles in drawing CD1 by carving up coastal counties which form a community of interest, the Low Country (Charleston, Colleton, Jasper, and Beaufort).

155. Under the Senate Guidelines, a district may be connected by water only if it “is designed to meet the other criteria stated herein.” But CD1 is completely severed by land; there is no road route to get from one portion of the district to another. In other words, in some areas, a person in CD1 would have to go through CD6 to reach another part of CD1. This complete lack of contiguity and compactness serves no other traditional redistricting principle, and the Senate rejected other plans that would have maintained land contiguity or scored higher on compactness in order to enact a partisan gerrymander.

156. Even though South Carolina’s traditional redistricting principles prioritize keeping counties intact, the congressional redistricting plan splits more counties, county subdivisions, cities, and towns than several proposed plans the legislature considered and rejected. Of the maps presented to the legislature for consideration, S. 865 was the most extreme in its pro-Republican contortions.

157. The congressional redistricting plan splits Charleston, Colleton, Dorchester, Jasper, Orangeburg, Richland, Greenville, Spartanburg, Sumter, and Florence counties—ten in total.

158. By contrast, the legislature considered and rejected numerous plans that split fewer counties, municipalities, and voting precincts (as illustrated in the below chart presented by plaintiffs in the federal racial gerrymandering trial).

| | County Splits | Municipal Splits | VTD Splits |
|------------------|---------------|------------------|------------|
| Enacted Plan | 10 | 22 | 13 |
| Amendment 2A | 7 | 15 | 10 |
| House Staff Plan | 8 | N/A | 26 |
| LWV Plan | 6 | 11 | 12 |

159. The congressional redistricting plan is outperformed on compactness scores by several other plans submitted to the legislature (as illustrated in the below chart presented by plaintiffs in the federal racial gerrymandering trial).

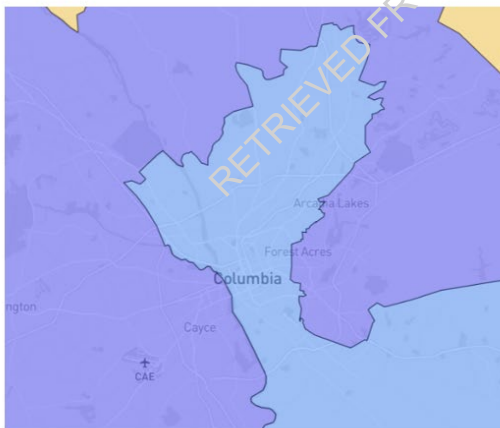
| | avg Polsky-Popper (higher is better) | avg Reock (higher is better) | Block cut edges (lower is better) |
|--------------|---|---------------------------------|--------------------------------------|
| Previous2012 | 0.202 | 0.369 | 3217 |
| Enacted2022 | 0.210 | 0.361 | 2843 |
| Harpootlian | 0.235 | 0.327 | 2227 |
| LWVSC | 0.224 | 0.379 | 2392 |
| SC-NAACP1 | 0.165 | 0.270 | 3578 |
| SC-NAACP2 | 0.240 | 0.371 | 2343 |
| Foster | 0.273 | 0.376 | 2313 |
| Muscatel | 0.216 | 0.371 | 2955 |
| Harrison | 0.289 | 0.443 | 2074 |
| Sukovich | 0.208 | 0.324 | 2636 |
| Roberts | 0.177 | 0.308 | 3091 |

160. In other districts, too, the congressional redistricting plan flouts traditional redistricting principles.

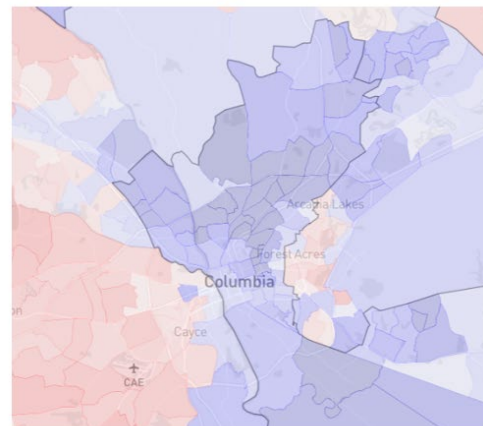
161. CD2 unnecessarily splits Richland County (and the city of Columbia within it) and Orangeburg County. Other plans such as the LWVSC plan, the Senate Amendment 2, and the House Staff Plan would have drawn those counties whole or nearly done so. As Ms. Teague from LWVSC and Representative Garvin (who serves Richland County) testified at the federal trial,

reuniting Richland County was a priority of Richland residents. Orangeburg County residents, too, shared that they preferred to be kept together in public testimony throughout the redistricting process. Orangeburg County is a small, majority-Black county that shares common interests.

162. CD2 has a hook that reaches into and carves out a piece of Richland County and Columbia, which (as witnesses described at the federal trial) resembles a dragon's head or a hand of the "Incredible Hulk." The hook wraps around and divides the city of Columbia, and it does not do so along lines of major roads or features of natural geography. Instead, it carves up neighborhoods with growing Black communities that share common interests. In particular, areas such as Eau Claire, Greenville, Dentsville, Keenan, and Edgewood—which are heavily Black neighborhoods—are separated from CD2 and placed in CD6. Fort Jackson is also placed in CD2, which is unjustified by traditional redistricting principles because Fort Jackson has much more in common with the rest of Columbia in CD6. In addition to severing communities of interest, the hook splitting Richland and Orangeburg counties is also a clear example of non-compactness.



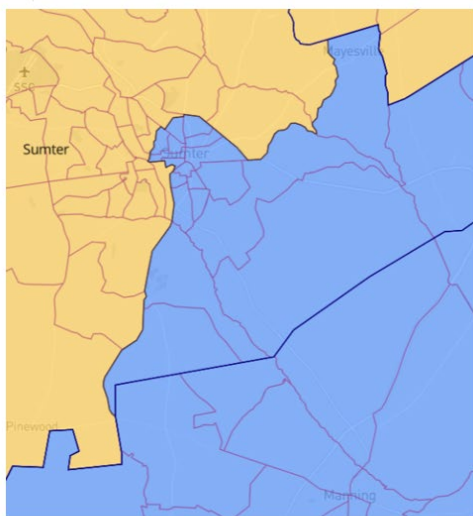
CD6/CD2 Boundary in Richland County



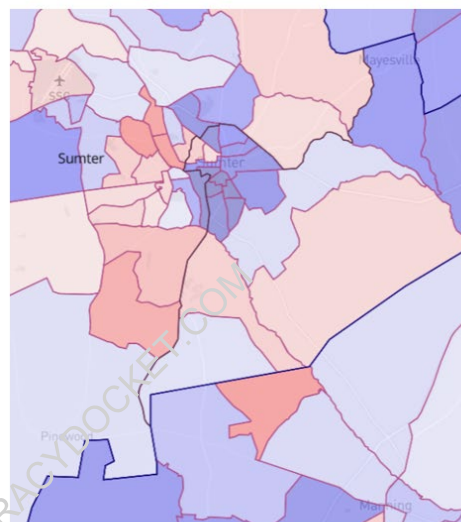
Precinct-by-Precinct Partisan Data

163. CD5 also saw traditional redistricting principles thrown to the wayside in service of partisan advantage. With respect to communities of interest, although residents of Sumter County and the city of Sumter submitted significant public testimony asking to be kept together as

a community of interest, the congressional redistricting plan split it across CD5 and CD6, including by splitting two majority Black neighborhoods, East Sumter and Mulberry. The split of Sumter County did not follow any logical municipal boundaries (instead splitting the county along a low-density residential road).



CD6/CD5 Boundary in Sumter County



Precinct-by-Precinct Partisan Data

164. CD6 is bizarre and misshapen and flouts traditional redistricting principles. CD6 is less compact than under the 2011 plan, as Defendants’ own expert testified at the federal racial gerrymandering trial. As mapdrawer of the Senate Amendment 2 Plan Joey Oppermann explained, when looking at the enacted CD6, “[t]wo dragon heads appear to stare one another down from across I-26, one nestled in a dismembered District One.” Defendants’ own expert at the federal trial noted that he had never seen a district that resembled this shape. The bizarre shape of CD6 affects the shape of the surrounding CD1, CD2, and CD5.

165. CD6 also does not respect communities of interest—it cuts into Charleston County and removes the Charleston Port Authority (the economic anchor of Charleston County) into CD6, which is anchored by Columbia and encompasses the culturally distinct Midlands region. This carving up of Charleston disregards historic Black communities living there and the common issues they share, also carving up the Gullah Geechee indigenous Black community in particular.

3. Simulations evidence

166. Simulations reveal, too, the state's inherent political geography does not produce a 6-1 Republican advantage in Congress. Simulations create thousands of redistricting plans that each comply with the state's actual redistricting criteria and the existing distribution of voters across the state.

167. Dr. Jonathan Mattingly and Dr. Greg Herschlag, mathematicians at Duke University, produced four ensembles of computer-generated redistricting plans, each of which contained thousands of sample plans that follow the state's redistricting criteria set forth above. Excluding from the ensembles all plans that split more counties than the enacted plans, the overwhelming majority of ensemble plans produce five districts with majorities of Republicans, one majority Democratic district, and one competitive or Democratic leaning district. The congressional plan is more favorable for Republicans than any of the more than 5,000 sample plans Drs. Mattingly and Herschlag produced in their first ensemble, using the Trump/Biden vote share from the 2020 Presidential Election (the data set that Defendants used to create the enacted plan).

168. Simulations evidence confirms that the congressional plan is the result of deliberate and extreme partisan gerrymandering.

169. Other than partisanship, Defendants offer no justification for the adoption of a plan that flouts traditional redistricting principles.

E. The Congressional Redistricting Plan Has the Effect of Suppressing the Influence of Democratic Voters

170. The congressional redistricting plan was extremely effective at entrenching Republican advantage in CD1. In 2018, Congressman Cunningham (a Democrat) narrowly won the seat, and in 2020, Congresswoman Mace (a Republican) won the seat by a slim majority (about 1.3 percent). But in 2022, the first election under the new congressional redistricting plan,

Congresswoman Mace won the seat by a massive fourteen-point margin.

171. South Carolina is politically diverse as demonstrated by voter registration data, public opinion polls, and by results in recent statewide and presidential elections. For example, on public opinion polls, about a third of South Carolinians identify as politically “moderate” with pluralities of South Carolinians identifying as “conservative” and “liberal.” *See* Political ideology among adults in South Carolina, Pew Research Center, <https://www.pewresearch.org/religion/religious-landscape-study/state/south-carolina/political-ideology/> (last visited July 28, 2024).

172. But due to the partisan gerrymander Defendants accomplished, in the congressional plan, Democrats, despite comprising about 43% of South Carolina voters (based on the share of votes Joe Biden received in 2020’s presidential election), can only meaningfully impact elections in one out of seven congressional districts. Conversely, Republicans, despite comprising only about 55% of South Carolina voters, have an unassailable advantage in 86% of the State’s congressional seats.

173. Several objective metrics help quantify the extreme partisan bias in the congressional redistricting plan.

174. PlanScore is a non-profit organization that uses political science metrics to assess the fairness of districting plans across the country. What is PlanScore?, PlanScore <https://planscore.org/about/> (last visited July 28, 2024). It publishes analyses about partisan gerrymandering under four measures of partisan bias: efficiency gap, partisan symmetry (alternatively called “partisan bias”), mean-median, and declination. All point to partisan gerrymandering here.

175. On the partisan symmetry metric: In a hypothetical, perfectly tied election under the congressional redistricting plan, Democrats would obtain 37.7 percent of congressional seats and Republicans would obtain 62.3 percent of seats—a partisan bias of 12.3 percent. *See* 2022 Redistricting Plan, PlanScore, https://planscore.org/south_carolina/#!2022-plan-ushouse-pb (last visited July 28, 2024). In other words, Republicans would win 62.3% of the congressional seats with only 50% of the votes.

176. On the efficiency gap metric: The efficiency gap measures whether a plan “wastes” more votes of a particular party and offers one way to evaluate the amount of packing and cracking in a plan. In other words, efficiency gap measuring the number of “wasted votes” assigned to each party. Unsurprisingly, the congressional redistricting plan—which intentionally packs and cracks Democratic voters—fares particularly poorly on this metric. If a plan packs and cracks voters of a one party at a higher rate than the other, the efficiency gap will depict that result as a high negative number (if it is biased in favor of Democrats) or high positive number (if it is biased in favor of Republicans). The congressional redistricting plan produces an efficiency gap score of 14% which makes it an extremely skewed map in favor of Republicans, among the most biased plans nationwide. The efficiency gap metric also reveals that the congressional plan wastes 561,907 Democratic votes in the plan; by contrast only 105,401 Democratic votes are *not* wasted. *See* 2022 Redistricting Plan, PlanScore, https://planscore.org/south_carolina/#!2022-plan-ushouse-pb (last visited July 28, 2024)

177. There are no competitive districts in the current congressional map (*i.e.*, districts where Democrats make up between 45 percent and 55 percent of seats). This is despite the fact that (as described above) simulations show that following traditional redistricting principles would have led mapmakers to draw a map with two competitive congressional districts.

178. In sum, objective analyses confirm and further reveal that the enacted plan is a deliberate partisan gerrymander.

CAUSES OF ACTION

First Cause of Action

S.C. Constitution art. I, § 5

Free and Open Elections Clause

179. Plaintiff repeats and realleges the allegations in previous paragraphs of this Complaint as if fully alleged herein.

180. The South Carolina Constitution provides that:

All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in this Constitution shall have an equal right to elect officers and be elected to fill public office.

S.C. Const., art. I, § 5.

181. As other courts have explained, a “free and open” election is one where “every qualified elector may freely exercise the right to vote without restraint or coercion of any kind and that his or her vote, when cast, shall have the same influence as that of any other voter.” *Grisham v. Van Soelen*, 2023-NMSC-027, ¶ 24, 539 P.3d 272, 282 (N.M. 2023) (quoting *Preisler v. Calcaterra*, 362 Mo. 662, 667 243 S.W.2d 62, 64 (Mo. 1951) (en banc)).

182. This Court has concurred, explaining that our Free and Open Elections Clause and its promise of “an equal right to elect officers” means that “the vote of every elector must be granted equal influence with that of every other elector.” *Cothran v. W. Dunklin Pub. Sch. Dist. No. 1-C*, 189 S.C. 85, 200 S.E. 95, 97 (1938).

183. By enacting a congressional redistricting plan that suppresses the influence of Plaintiff’s members’ votes in order to achieve a specific partisan goal, Defendants have violated

Plaintiff's right to vote in "free and open" elections where they are afforded "an equal right to elect officers." S.C. Const. art. I, § 5.

184. On this first cause of action, Plaintiff seeks a declaration that the congressional redistricting plan, S.C. Code Ann. § 7-19-45, violates S.C. Const. art. I, § 5.

185. On this first cause of action, Plaintiff also seeks prospective injunctive relief barring future elections under the congressional redistricting plan and ordering the adoption of a new congressional redistricting plan that affords equal electoral influence to all voters.

Second Cause of Action
S.C. Constitution art. I, § 3
Equal Protection Clause

186. Plaintiff repeats and realleges the allegations in previous paragraphs of this Complaint as if fully alleged herein.

187. The South Carolina Constitution provides that "[t]he privileges and immunities of citizens . . . shall not be abridged . . . nor shall any person be denied the equal protection of the laws."

188. "Equal protection 'requires that all persons be treated alike under like circumstances and conditions, both in privileges conferred and liabilities imposed.'" *Doe v. State*, 421 S.C. 490, 504, 808 S.E.2d 807, 814 (2017) (quoting *GTE Sprint Commc'ns Corp. v. Pub. Serv. Comm'n of S.C.*, 288 S.C. 174, 181, 341 S.E.2d 126, 129 (1986)).

189. In South Carolina, voting is a "fundamental" right that is "protected by heightened scrutiny." *Sojourner v. Town of St. George*, 383 S.C. 171, 176, 679 S.E.2d 182, 185 (2009).

190. Just as the Equal Protection Clause prohibits the State from providing disparate access to the ballot, it also prohibits laws and practices that result in "a debasement or dilution of the weight of a citizen's vote." *Burriss v. Anderson Cnty. Bd. of Educ.*, 369 S.C. 443, 451, 633

S.E.2d 482, 486 (2006) (explaining that vote dilution “is as nefarious as an outright prohibition on voting.”).

191. By enacting a congressional redistricting plan that is designed to selectively dilute the weight of Democratic votes, including Plaintiff’s members’ votes, without a compelling governmental interest, Defendants have violated Plaintiff’s right to equal protection of the law under Article I, Section 3.

192. By selectively moving Democrats into and out of different congressional districts for the purpose of diluting their electoral influence, Defendants intentionally treat Democratic and Republican voters (two similarly situated groups) differently with respect to their state constitutional right to vote and their “equal right to elect officers.”

193. On this second cause of action, Plaintiff seeks a declaration that the congressional redistricting plan, S.C. Code Ann. § 7-19-45, violates S.C. Const. art. I, § 3.

194. On this second cause of action, Plaintiff also seeks prospective injunctive relief barring future elections under the congressional redistricting plan and ordering the adoption of a new congressional redistricting plan that does not intentionally dilute the influence of specific voters or categories of voters.

Third Cause of Action
S.C. Constitution art. I, § 2
Viewpoint Discrimination

195. Plaintiff repeats and realleges the allegations in previous paragraphs of this Complaint as if fully alleged herein.

196. Article I, Section 2 of the South Carolina Constitution prohibits any law “abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government or any department thereof for a redress of grievances.”

197. Freedom of speech includes freedom from laws “burdening or penalizing citizens because of their participation in the electoral process, their voting history, their association with a political party, or their expression of political views.” *Vieth v. Jubelirer*, 541 U.S. 267, 314 (2004) (Kennedy, J., concurring in the judgment). Free speech is violated “when a State purposely subject[s] a group of voters or their party to disfavored treatment.” *Gill v. Whitford*, 585 U.S. 48, 80 (2018) (Kagan, J., concurring).

198. Here, Defendants admit that they used election data to identify voters that cast ballots for Joe Biden in 2020 and then moved those voters into another congressional district so that their future votes will matter less. If freedom from viewpoint discrimination protects against anything, it protects against that.

199. Defendants, by intentionally suppressing the electoral power of voters shown to have unfavorable political views, have violated S.C. Const. art. I, § 2.

200. On this third cause of action, Plaintiff seeks a declaration that the congressional redistricting plan, S.C. Code Ann. § 7-19-45, violates S.C. Const. art. I, § 2.

201. On this third cause of action, Plaintiff also seeks prospective injunctive relief barring future elections under the congressional redistricting plan and ordering the adoption of a new congressional redistricting plan that does not intentionally suppress the electoral influence of voters based on their political views.

Fourth Cause of Action
S.C. Constitution art. VII, § 13
Preservation of Counties in Congressional Redistricting

202. Plaintiff repeats and realleges the allegations in previous paragraphs of this Complaint as if fully alleged herein.

203. The South Carolina Constitution provides that “[t]he General Assembly may at any time arrange the various Counties into . . . Congressional Districts.” S.C. Const. art. VII, § 13.

204. Although this Court has not interpreted Article VII, Section 13, federal courts have held that the text reflects “a substantial state policy favoring drawing congressional districts along county boundaries,” *Riley*, 533 F. Supp. at 1180, and that “preserving county lines should enjoy a *preeminent role* in South Carolina’s redistricting process,” *Burton on Behalf of Republican Party v. Sheheen*, 793 F. Supp. 1329, 1341 (D.S.C. 1992) (emphasis added), *vacated sub nom. Statewide Reapportionment Advisory Comm. v. Theodore*, 508 U.S. 968 (1993), and *vacated sub nom. Campbell v. Theodore*, 508 U.S. 968 (1993). *See also* S.C. Const. art. VII, § 9 (“Each County shall constitute one election district.”).

205. At times, the state constitutional preference for preserving county boundaries must yield to superseding federal law, such as the 1-person-1-vote principle of *Wesberry v. Sanders*, 376 U.S. 1 (1964). *See, e.g., Riley*, 533 F. Supp. at 1180 (noting the unlikelihood that drafters of Section 13 would have foreseen the 1P1V principle). That said, counties cannot be split “unless there [is] good reason for it.” *Id.*

206. In the 2021 redistricting cycle, there was significant public support for uniting Charleston County in CD1 and Richland County in CD6. Indeed, several congressional redistricting plans considered by Defendants—including the plan submitted by Plaintiff LWVSC—made those counties whole and split fewer counties overall. Defendants rejected those plans because they did not create the artificial partisan advantage that they sought to achieve.

207. Defendants, by needlessly splitting South Carolina counties in service of their partisan goals, violated S.C. Const. art. VII, § 13. Manipulating electoral outcomes is itself constitutionally infirm, *see* S.C. Const. art. I, §§ 3, 5, and is not a “good reason” for splitting

counties, *see Riley*, 533 F. Supp. at 1180.

208. On this fourth cause of action, Plaintiff seeks a declaration that the congressional redistricting plan, S.C. Code Ann. § 7-19-45, violates S.C. Const. art. VII, § 13.

209. On this fourth cause of action, Plaintiff also seeks prospective injunctive relief barring future elections under the congressional redistricting plan and ordering the adoption of a new congressional redistricting plan that only splits counties to the degree necessary to ensure compliance with the Fourteenth Amendment, the Voting Rights Act, or other state or federal law.

Respectfully submitted,

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