

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ALABAMA LEGISLATIVE BLACK *
CAUCUS; BOBBY SINGLETON; *
ALABAMA ASSOCIATION OF BLACK *
COUNTY OFFICIALS; FRED *
ARMSTEAD, GEORGE BOWMAN, *
RHONDEL RHONE, ALBERT F. *
TURNER, JR., and JILES WILLIAMS, JR., *
individually and on behalf of others *
similarly situated, *

Plaintiffs,

v.

THE STATE OF ALABAMA; JOHN H. *
MERRILL in his official capacity as *
Alabama Secretary of State, *

Defendants. *

ALABAMA DEMOCRATIC *
CONFERENCE et al., *

Plaintiffs, *

v. *

THE STATE OF ALABAMA et al., *

Defendants. *

* Civil Action No.
* 2:12-CV-691-WKW-MHT-WHP
* (3-judge court)

* Civil Action No.
* 2:12-cv-1081-WKW-MHT-WHP
* (3-judge court)

**ALBC PLAINTIFFS’ NOTICE OF INTERVENING CASE LAW
AND REPLY TO DEFENDANTS’ BRIEF
IN RESPONSE TO AUGUST 28, 2015, ORDER**

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Plaintiffs Alabama Legislative Black Caucus et al., through undersigned counsel, submit this brief to call to this Court's attention *Bethune-Hill v. Virginia Bd. of Elections*, __ F.Supp.3d __, 2015 WL 6440332 (E.D. Va., Oct. 22, 2015) (three-judge court),¹ decided after filing plaintiffs' brief explaining their 1% House and Senate plans, Doc. 285, and in reply to defendants' brief in response to plaintiffs' post-remand plans, Doc. 295. *Bethune-Hill* is the first case to apply to state legislative districts the racial gerrymandering standards set out in *Alabama Legislative Black Caucus v. Alabama*, 135 S.Ct. 1257 (2015). An earlier decision, *Page v. Virginia State Bd. of Elections*, __ F.Supp.3d __, 2015 WL 3604029 (E.D. Va., June 5, 2015) (three-judge court), probable jurisdiction noted, sub nom. *Wittman v. Personhuballah*, No 14-1504 (Nov. 13, 2015), applied *ALBC v. Alabama* to Congressional districts. Senior District Judge Robert E. Payne, who dissented in *Page*, wrote the majority opinion in *Bethune-Hill*. His detailed analysis of *ALBC v. Alabama* and the racial gerrymandering standards of *Shaw v. Reno*, 509 U.S. 630 (1993), provides a template this Court may consider using in its analysis of the 36 majority-black districts in Acts 2012-602 and 603.

The defendants' responsive brief provides little assistance to this Court,

¹ Appeal filed, Doc. 110 in CA No. 3:14-cv-00852-REP-GBL-BMK (E.D. Va., October 26, 2015).

because it fails to analyze each of the challenged majority-black districts individually, and this Court's task is to determine whether "race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without *a particular district*." *ALBC v. Alabama*, 135 S.Ct. at 1265 (quoting *Miller v. Johnson*, 515 U.S. 900, 916 (1995)) (emphasis added by the Supreme Court). Instead, defendants' generalized arguments once again take what the Supreme Court has said is the wrong approach, addressing the 2012 House and Senate districts "of the State *considered as a whole*." 135 S.Ct. at 1265 (emphasis supplied by the Court).

Defendants erroneously assert that the only purpose of the 1% plans this Court ordered plaintiffs' to produce is "to show that the Legislature could have achieved significantly greater racial balance through a plan that still achieved its political goals." Defendants' brief, Doc. 295, at 43. The specifications set out in this Court's August 28, 2015, order, Doc. 283, are intended to test the contentions in defendants' remand brief, Doc. 263, that the large number of county and precinct splits in Acts 602 and 603 were "driven by the tighter population deviation [of $\pm 1\%$], not race." Doc. 263 at 28, 36-37. This Court has ruled it is irrelevant whether these hypothetical 1% plans are "politically viabl[e]." Defendants' motion to conduct discovery, Doc. 288; Order, Doc. 293, at 3.

Nevertheless, one of Defendants' principal claims is that "Plaintiffs' plans do not observe the Legislature's legitimate political objectives...." Doc. 295 at 18.

Plaintiffs include in this brief a table that attempts to summarize the main objective evidence plaintiffs rely on and defendants responses to that evidence, with respect to each challenged majority-black district in the 2012 House and Senate plans. We hope the summary will assist this Court when it undertakes the kind of careful district-by-district analysis that Judge Payne conducted in *Bethune-Hill*.

I. ANALYSIS OF *BETHUNE-HILL V. VIRGINIA BD. OF ELECTIONS*.

The Virginia Assembly, like the Alabama Legislature, adopted a racial target for its majority-black districts, but it applied an across-the-board 55% BVAP floor for every majority-black district, not the district-specific total population percentages Alabama attempted to maintain. 2015 WL 6440332 at *9-*10. The Bethune-Hill plaintiffs and the dissenting judge read the Supreme Court's decision in *ALBC v. Alabama* to render every targeted district an unconstitutional racial gerrymander when the racial floor is "the most important criterion." *Id.* at *14; *id.* at *63 (Keenan, J., dissenting). This is similar to the argument in *Alabama* that the constitutional analysis "should be applied to the

state’s policy, not to the design of each particular district one-by-one,” which was rejected by all members of the Court except perhaps Justice Thomas. Compare 135 S.Ct. at 1278 (Scalia, J., dissenting) (citation omitted); *id.* at 1287-88 (Thomas, J., dissenting) with *id.* at 1267 (majority opinion) (“[N]either the use of statewide evidence nor the effort to show widespread effect can transform a racial gerrymandering claim about a set of individual districts into a separate, general claim that the legislature racially gerrymandered the State ‘as’ an undifferentiated ‘whole.’”). The dissenters did not disagree with the statement of the correct racial gerrymandering standards in Justice Kennedy’s majority opinion; rather, they contended that the plaintiffs had waived their *Shaw* claims in this Court. 135 S.Ct. at 1266.

Judge Payne’s majority opinion in *Bethune-Hill* interprets the remand of *ALBC v. Alabama* for district-by-district analysis to have rejected any “per se predominance rule.” 2015 WL 6440332 at *14. Instead, the *Bethune-Hill* majority opinion says, while “evidence of such thresholds is still significant when examining those districts that exhibit deviations from traditional, neutral districting principles,” *id.* at *22, “*Alabama*, like its predecessors in the *Shaw–Miller* line, holds that racial thresholds constitute evidence, not dispositive proof, of racial predominance. If the thresholds employed by the legislators

crafting the bill do not manifest in the formation of the enacted district, then there is no facial classification equivalent upon which to rest *Shaw*'s 'analytically distinct' framework." *Id.* at 23.

A. Traditional Districting Principles.

Bethune-Hill emphasizes the importance of traditional, race-neutral districting principles, which "are informed by, but not defined by, state law." *Id.* at *24. "**A State's deviation from its own constitutional, statutory, or adopted criteria** does, however, constitute evidence that is probative of subordination." *Id.* at *30 (bold emphasis added). It notes the Supreme Court's emphasis in *Alabama* on transgressions of **the Legislature's own redistricting guidelines**. *Id.* at 23. But Judge Payne distinguishes between "transgression" and "subordination": "the drafters' transgression of their own redistricting guidelines—like their informal use of a racial threshold—is evidence of predominance, not dispositive proof. That is because 'subordination' is not the same as a 'violation' or 'transgression.' Subordination requires a balancing of degree to determine whether non-racial criteria or racial criteria predominated." *Id.* at *23.

"A common and significant neutral districting criterion is **respect for political subdivisions, such as counties** or cities ... 'particularly when the

subdivision plays an important role in the provision of governmental services,” 2015 WL 6440332 at *28 (quoting *Karcher v. Daggett*, 462 U.S. 725, 758 (1983) (Stevens, J., concurring)) (bold emphasis added), and particularly where avoiding splitting county boundaries has been “repeatedly voiced during ... public forums.” 2015 WL 6440332 at *28.

“Of course, the legislature may, and often will, need to deviate from political subdivision borders to comply with federal- or state-mandated population constraints. In such situations, the Court will look to whether another neutral criterion – such as **compactness, geographic boundaries, precinct boundaries, or communities of interest** – helps to explain the method of departure. In this manner, neutral criteria can often form a ‘backstop’ for one another when one criterion cannot be fully satisfied, thus ensuring that neutral criteria are still predominating in the balance. *Id.* at *28 (bold emphasis added).

“Given their small size, compliance with precinct or **VTD boundaries alone** will rarely be sufficient to show adherence to neutral criteria. This is because VTDs can easily be strung together into grotesque formations having little regard for compactness, contiguity, political subdivisions, or other important neutral criteria advancing democratic values. In short, a district could avoid splitting any VTDs but remain highly suspicious on its face. For these same

reasons, however, VTD splits will often provide a flag for further inquiry. The **unexplained splitting of several VTDs in a single district** can call into question the criteria guiding that district's construction." Id. at *29 (bold emphases added).

"The Court's analysis does not change just because the State has decided to adopt a **lower percentage deviation threshold** than constitutionally required. ... Where apportionment by political subdivision must be sacrificed to equal population goals, for example, other neutral principles such as **compactness and precinct boundaries** can often pick up the slack. A substantial deviation from neutral principles, therefore, only admits of answer by other, non-neutral criteria, such as race or political affiliation." Id. at *31 (bold emphases added).

"[A] district's **impact on an incumbent** may be a legitimate criterion for the legislature to consider." Id. at *32 (citing *Alabama*, 135 S.Ct. at 1270).

"However, as with political deviations, deviations from neutral districting principles for incumbency purposes are not always permissible. In *Bush [v. Vera]*, the Court recognized incumbency protection, at least in the limited form of **avoiding contests between incumbent[s]**, as a legitimate state goal." Id. (citing 517 U.S. 952, 964–65 (1996)) (internal quotation marks omitted) (bold emphasis added). But **incumbents' approval cannot "somehow 'rescue' a plan from a finding of racial predominance.** . . . The [VRA] and the Equal Protection

Clause are intended to protect the rights of the individual voter, not to promote the self-interest of incumbents in majority-minority districts.” Id. at *32 (citations omitted) (bold emphasis added).

“For example, if legislators attempt to **pack minority voters** into a particular majority-minority district **for the purpose of protecting the incumbent** ... this would still constitute racial sorting regardless of the goal of incumbency protection....” Id. at *33 (internal quotation marks omitted) (bold emphasis added).

Political objectives cannot use race “as a proxy for political characteristics....” Id. at *34 (citing *Bush*, 517 U.S. at 968) (bold emphasis added).

“Evidence of **a racial floor** will also lend support to the argument that race, rather than politics, can be attributed for particular deviations from neutral principles. ... if evidence is provided that demonstrates **legislators held a false belief** that certain artificial criteria – such as fixed BVAP floor – were necessary to comply with federal law, then statements by those particular legislators regarding compliance are relevant evidence in the predominance inquiry.” Id. at *35 (bold emphases added).

“**[C]ore preservation** ... is not directly relevant to the origin of the new district inhabitants.” Id. at *35 (quoting *Alabama*, 135 S.Ct. at 1271) (bold

emphasis added). “Moreover, core retention may be used to insulate the original basis for the district boundaries.” 2015 WL 6440332 at *35. On the other hand, where a district has retained an elongated shape over several decades, its continuance may be justified “if the familiarity of the boundaries has ‘allow[ed for the] development of relationships and communities of interest relative to election of delegates.’” Id. at *55 (citation omitted).

B. Application to Particular Districts.

Judge Payne concluded that race predominated over traditional districting principles in only one of the twelve majority-black districts challenged by plaintiffs, and that Virginia’s justification of racial predominance in that one district survived strict scrutiny. But the evidentiary factors he relied on to find all twelve districts constitutional demonstrate why almost all of the 36 challenged districts before this Court are racially gerrymandered.

1. Evidence of racial predominance.

Judge Payne evaluated the evidence relating to racial predominance for each challenged majority-black district in **three steps**:

First, the Court will review the district on the basis of its compliance with traditional, neutral districting criteria, including, but not limited to, compactness, contiguity, nesting, and adherence to boundaries provided by political subdivisions and natural geographic features.

Second, the Court will examine those aspects of the Challenged District that appear to constitute “deviations” from neutral criteria. These may be particular, isolated areas along the district’s boundary, or – on occasion – the district itself may seem facially questionable. Based on the evidence submitted and testimony provided, the Court will examine the record to ascertain the underlying rationale for those deviations. In determining the reasons for deviations from the traditional neutral criteria, it will be necessary to determine whether a deviation was caused in part or entirely by the need to comply with the one-person, one-vote precepts or by political circumstances such as protection of incumbents.

Third, the Court will weigh the totality of the evidence and determine whether racial considerations qualitatively subordinated all other non-racial districting criteria.

2015 WL 6440332 at *24-*25.

The most important evidence that led Judge Payne to find that the districts complied with traditional districting criteria was the fact the number of **county and precinct splits** increased only slightly in some districts and either stayed the same or declined in other districts.

District 63: split Dinwiddie County and “a number of precincts.”

2015 WL 6440332 at *43-*44.

District 69: “the number of county and city splits remained the same, redistricting increased the number of split VTDs from 2 to 4.” *Id.* at *49.

District 70: “Although the number of county and city splits remained the same, redistricting increased the number of split VTDs from 2 to 3.” *Id.* at

*50.

District 71: “Although the number of county and city splits remained the same, redistricting increased the number of split VTDs from 1 to 3.” Id. at

*52. “HD 71 does not substantially disregard traditional, neutral districting principles, and that is sufficient for the Court to find that these principles were not subordinated to race. The existence of a 55% BVAP floor does not disturb that fact.” Id. at *53.

District 74: “This decreased the number of county and city splits from 4 to 2, with the number of split VTDs remaining the same.” Id. at *54.

District 77: “The number of county and city splits remained the same, and the number of split VTDs decreased from 4 to 3.” Id. at *55.

District 80: “This increased the number of county and city splits from 3 to 4 but decreased the number of split VTDs from 2 to 1.” Id. at *56.

District 89: “There were no county or city splits and the number of split VTDs remained the same....” Id. at *58.

District 90: “This decreased the number of county and city splits from 3 to 2 and the number of split VTDs remained the same.” Id. at *59.

District 92: “The district contains no county or city splits, and redistricting lowered the number of split VTDs in the district from 3 to 0.” Id. at

*60. “On the whole, the Court finds it hard to imagine a better example of a district that complies with traditional, neutral districting principles.” Id.

District 95: “Although the number of county and city splits remained the same, redistricting increased the number of split VTDs from 1 to 6.” Id. at *60.

By contrast, in District 75, the one district where racial predominance was found, the drafters “increased the number of county and city splits from 5 to 8 and increased the number of split VTDs from 4 to 13.” Id. at *45.

Where the number of county or precinct splits was small, yet there were other irregular shapes or appendages, Judge Payne weighed other legitimate race-neutral criteria that in the balance led him to conclude that race was not the predominant explanation for the deviations. To begin with, each of these majority-black districts was negotiated with its incumbent. The deviations were explained with factors like **increasing contiguity** across water crossings, id. at *44; increasing **compactness**, id. at *50, *53, *54; adhering to **municipal boundaries**, id. at *50; respecting **urban and suburban communities of interest**, id. at *51; adherence to irregularly shaped **precinct boundaries**, id. at *52; and (most frequently) **avoiding incumbent conflicts**, id. at *51, *52, *53, *57, *61.

The court also credited **partisan political** justifications for deviations from traditional districting principles, but only where they were based on **specific party performance data** that the drafters **consistently accessed**. Id. at *53, *54, *55, *58, *59, *61. But it rejected any political justification for deviation from traditional districting principles in HD 75, because race was used as a proxy for party allegiance. “When a legislator sorts voters by political affiliation or performance, then the deviation from neutral principles is a political one. But, when a legislator sorts voters by race, for whatever purpose, then the deviation is a racial one.” Id. at *47.

2. *Evidence that satisfied strict scrutiny.*

The *Bethune-Hill* majority held that the one majority-black district in which race was the predominant factor, HD 75, nevertheless satisfied the requirements of strict scrutiny.

[A]s to HD 75, the 55% BVAP floor is grounded in a “strong basis in evidence” because the primary source of the 55% BVAP threshold appears to have been **an analysis of HD 75 itself**. For example, Delegate Jones [the chief drafter] testified that he did not feel a 52% BVAP threshold across all districts would be acceptable “based on ... the functional analysis that I had done using the [HD 75 incumbent] Tyler primary, for example, and the Tyler general election in 2005.” These were close races, prompting “real concerns.” Delegate Jones met with Delegate Tyler “probably half a dozen times to configure her district as she felt it needed to be configured for ... [minority voters] to elect a candidate of their choice for her district.”

Delegate Jones examined **turnout rates** in HD 75, an issue about which Delegate Tyler was particularly concerned. In addition, Delegate Jones considered the district's **prison population** and relied upon his knowledge of **the district's electoral history**. **These are precisely the kinds of evidence that legislators are encouraged to use** “[i]n determining whether the **ability to elect** exists in the benchmark plan and whether it continues in the proposed plan[.]” (76 Fed.Reg. Vol. 27 (Feb. 9, 2011) at 7471) (“[E]lection history and voting patterns within the jurisdiction, voter registration and turnout information, and other similar information are very important to an assessment of the actual effect of a redistricting plan.”).

2015 WL 6440332 at *48 (citations omitted) (bold emphases added).

II. SUMMARY OF THE DISTRICT-BY-DISTRICT EVIDENCE.

The kind of district-specific data that established in *Bethune-Hill* a strong basis in evidence for determining the BVAP needed to provide black voters the ability to elect a candidate of their choice is totally absent in the instant action. This Court made a finding of fact that “not substantially reducing” the total black population percentage in each majority-black district was chosen by the Alabama Legislature as “the only option available” for complying with Section 5 of the Voting Rights Act. 989 F.Supp.2d at 1310. The Supreme Court held this “mechanically numerical view” was an erroneous interpretation of the Section 5 non-retrogression requirement and cannot support “the District Court’s ‘compelling interest/narrow tailoring’ conclusion” needed to survive strict

scrutiny. 135 S.Ct. at 1273-74. Thus the only task for this Court now is to determine in which of the 36 majority-black districts does the State’s “policy of prioritizing mechanical racial targets above all other districting criteria (save one-person, one-vote)” subordinate traditional districting principles and thus establish racial predominance. 135 S.Ct. at 1267. The following table will attempt to summarize the evidence relevant to racial predominance for each challenged district.

SUMMARY OF DISTRICT-BY-DISTRICT EVIDENCE²

BTP = single-race black total population

BVAP = single-race black voting-age population

“white” = single-race white + Hispanic white

NHWVAP = non-Hispanic white voting-age percentage

The defendants’ responses in this summary are taken from defendants’ remand brief, Doc. 263, and their brief responding to plaintiffs’ 1% plans, Doc. 295. This summary does not include plaintiffs’ replies to the arguments in Doc. 263, which are set out in the ALBC and ADC plaintiffs’ remand reply briefs, Docs. 271 and 272, and in their briefs explaining their 1% plans, Docs. 285 and 287.

² The BVAP figures for Acts 602 and 603 in APX 16 and 18 are based on federal census categories of non-Hispanic black and any-part black. The BVAP percentages in DSX 65 are based on the single-race black census category. To make comparisons consistent, plaintiffs are filing APSX 685 and 686, which provide black/white total pop and VAP figures using the same census categories as in the defendants’ exhibits: black = single-race black, and white = single-race white + Hispanic white. These are the figures used in this table, unless expressly noted otherwise.

District	Plaintiffs' Evidence	Defendants' Responses
Madison County House	<p>Act 602: County boundary split by 3 districts. (32 county splits North Alabama.) DX 404.</p> <p>48 precincts split. APSX 483.</p> <p>ALBC 1% County boundary split by 5 districts. (23 county splits North Alabama.) DSX 80.</p> <p>14 precincts split. APSX 483.</p> <p>ADC 1% County boundary split by 3 districts. DSX 78.</p> <p>11 precincts split. DSX 79.</p>	<p>The precinct splits do not reveal any pattern. Some precinct splits do place a higher percentage of blacks in a majority-black district, and a higher percentage of whites in a majority-white district, but that is hardly true across the board. In many cases, the difference is insignificant. For example the Legislature split Harvest Bapt Ch precinct between HD19 and HD6, putting more whites (2,093) than blacks (1,292) (35%) in HD19, and it had a very similar makeup to the part placed in majority-white district HD6, which was 31.2% black. Doc. 263 at 39. ADC also moved HD 53 to Madison County. Doc. 295 at 3, 30, 34.</p>
HD 19	<p>Act 602: Did not reach its 69.82% target, because its black pop had to be shared with HD 53. APSX 398.</p> <p>61.25% BTP 60.26% BVAP 33.57% NHWVAP 2,701 total pop added -1,976 black</p>	<p>HD 19 failed to hit its 69.82% target.</p> <p>The core of HD19 was preserved and remains in Huntsville, including the residence of the incumbent. It is reasonably compact, preserves an urban community of interest,</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>+4,673 white APSX 491, 685; SDX 403, 406.</p> <p>14 split precincts APSX 632; SDX 405.</p> <p>ALBC 1% 53.60% BTP 50.66 BVAP 38.39% NHWVAP 2,760 total pop added -5,393 black +6,578 white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>5 split precincts APSX 633, 636.</p> <p>ADC 1% 52.5% BTP 50.13 BVAP 3,233 total pop added -10,263 black +9,267 white DSX 65, 76; SDX 406.</p> <p>1 split precinct DSX 79.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632): 1266, APSX 143 1228, APSX 144 1269, APSX 146</p>	<p>follows roads and water features and is not highly irregular in shape. Doc. 263 at 105, 108.</p> <p>50.13% BVAP is not a "sufficient" black majority to comply with the VRA. Doc. 295 at 14.</p> <p>Most of the black and white population is assigned to majority-white districts. Id. at 106.</p> <p>"Unsplitting" the precincts raises the %black. Id. at 108.</p> <p>The precincts split between HD 19 and HD 53 are not racial gerrymanders. Id. at 106.</p> <p>Both Act 602 and ADC 1% HD 19 are "jigsaw puzzles." Doc. 295 at 33.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>1265, APSX 147 1230, APSX 151 1276, APSX 152 1257, APSX 156 1244, APSX 158 1233, APSX 161</p> <p>Some of these splits dredged black pop out of majority-white precincts. Doc. 271 at 45-46.</p> <p>Precincts 1212 and 1220 were split between HD 19 and HD 53 to help HD 53 reach its 55.7% target.</p> <p>22,949 persons, 50.9% of the district population, reside in a split precinct, including 36% of the 27,614 blacks.</p> <p>ALBC 1% precinct splits are not split along racial lines. See APSX 659, 660, 661, 662, 663. One precinct was split to avoid incumbent conflict.</p>	<p>This is not a significant enough number to be a racial gerrymander. Doc. 263 at 104.</p>
HD 53	<p>Act 602: Reached 55.7% black target (based on 2001 HD 53 in Jefferson County) by only 0.13% (59 persons). APSX 398.</p> <p>55.83% BTP 53.11% BVAP 33.01% NHWVAP APSX 491, 685; SDX 403, 406. No Madison County HD</p>	<p>It made sense to move HD 53 to Madison County. Doc. 295 at 30.</p> <p>Both Act 602 and ADC 1% HD 53 are “jigsaw puzzles.” Doc. 295 at 33.</p> <p>“Unsplitting” the precincts raises the %black. Id. at 108.</p> <p>HD 53 is compact,</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>53 to compare pop added.</p> <p>13 split precincts APSX 632; SDX 405.</p> <p>ALBC 1% (HD 6) 55.12% BTP 53.47 BVAP 36.97% NHWVAP 4,227 total pop added +13,741 black -14,472 white APSX 491, 634, 462; DSX 65; SDX 412.</p> <p>2 split precincts APSX 633, 636.</p> <p>ADC 1% 52.93% BTP 50.39% BVAP No Madison County HD 53 to compare pop added. DSX 65, 76; SDX 412.</p> <p>1 split precinct</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632): 1190, APSX 148 1210, APSX 150 1227, APSX 159 1226, APSX 160 1211, APSX 163</p>	<p>preserves an urban community of interest, and its boundaries follow readily recognizable road or water features. It is not highly irregular on its face. Doc. 263 at 108.</p> <p>Plaintiffs have not shown that a significant number of persons were placed in HD19 or HD53 on account of race, or that race predominated in a way that conflicts with traditional districting criteria. Doc. 263 at 108.</p> <p>50.39% BVAP is not a "sufficient" black majority to comply with the VRA. Doc. 295 at 14.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>Precincts 1212 and 1220 were split between HD 19 and HD 53 to help HD 53 reach its 55.7% target.</p> <p>29,438 persons, 65.3% of the district population, reside in a split precinct, including 62.3% of the 25,184 blacks.</p> <p>ALBC 1% precinct splits are not split along racial lines. See APSX 633, 636, 664, 662.</p>	
HD 32	<p>Act 602: Reached and exceeded its 59.34% target by only 0.71% (323 persons). APSX 398.</p> <p>60.05% BTP 57.80% BVAP 38.02% NHWVAP 6,704 total pop added +4,304 black +1,810 white APSX 491, 685; SDX 403, 406.</p> <p>13 split precincts APSX 632; SDX 405.</p> <p>HD 32 splits Calhoun and Talladega Counties. Overall, 5 districts split the Calhoun County boundary and 4 districts</p>	<p>“the drafters preserved the core of the district and added contiguous population where it could be found.” Doc. 263 at 110.</p> <p>HD 32 retains its long, narrow shape. Id. As it does in the ALBC and ADC 1% plans. Doc. 295 at 34.</p> <p>The black incumbent (Rep. Barbara Boyd) lives on the northeastern border. Doc. 263 at 111.</p> <p>HD 32 remains near 60% black due to “demographic reality.” Id.</p> <p>The precinct splits protect a black community of interest</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>split the Talladega County boundary. APSX 477.</p> <p>ALBC 1% 52.52% BTP 50.82 BVAP 45.01% NHWVAP 7,101 total pop added +1,084 black +5,465 white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>8 split precincts APSX 633, 636.</p> <p>HD 32 splits Calhoun and Talladega Counties. Overall, 4 districts split the Calhoun County boundary and 3 districts split the Talladega County boundary. APSX 477.</p> <p>ADC 1% 55.01% BTP 55.0 BVAP 6,739 total pop added +2,027 black +4,182 white DSX 65, 76; SDX 406.</p> <p>8 split precincts, DSX 79</p>	<p>in Talladega County and fail to show a significant number of voters were moved into HD 32 based on race. Id. at 112.</p> <p>HD 32 “looks remarkably similar” in all three 1% plans. Doc. 295 at 3.</p> <p>50.39% BVAP in ALBC 1% HD 32 is insufficient to comply with the VRA. Id. at 14.</p> <p>Mr. Cooper intentionally split two precincts to maintain a black majority, and Mr. Fairfax sorted people by race by retaining 5 split precincts from the 2001 plan. Id. at 27-28.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>HD 32 splits Calhoun and Talladega Counties.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632):</p> <p>165, APSX 60 157, APSX 61 167, APSX 61A 1813, APSX 259 1808, APSX 260 1802, APSX 261 1812, APSX 262 1807, APSX 263 1806, APSX 264 1811, APSX 265 1804, APSX 266 1814, APSX 267 1813, APSX 259</p> <p>All 45,504 persons, 100% of the district population, reside in a split precinct.</p> <p>ALBC 1% precinct splits are not split along racial lines. See APSX 633, 642, 644, 645, 679-82. Precincts 165 and 1810 were split to create a majority-black district.</p>	
<p>Jefferson County House</p>	<p>All but two of the 8 Jefferson County majority-black districts met and exceeded their racial goals by less than 1%. APSX 398.</p> <p>This Court found that Hinaman</p>	<p>The Republicans wanted to move a Democratic district out of Jefferson County. Doc. 263 at 113.</p> <p>The majority-black districts</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>moved HD 53 out of Jefferson County to avoid reducing the other black majorities below their percentage targets. 989 F.Supp.2d at 1317.</p> <p>By moving black population out of majority-white districts to reach the racial targets for the majority-black districts, while maintaining 18 House districts, 6 of the 10 majority-white districts split the Jefferson County boundary to achieve population equality. Doc. 194 at 34 (citing APX 75 at 62:16-19, 66:2-7) (cited by the Supreme Court, 135 S.Ct. at 1267).</p> <p>Jefferson County's black population increased by 35,973 while the white population declined by 15,917. If population equality was the only concern, one of the 6 majority-white districts already crossing the county boundary should have been moved out of Jefferson County.</p> <p>Both the ALBC and ADC 1% plans return 9 majority-black districts to Jefferson County.</p> <p>Act 602 splits 56 precincts in Jefferson County. APSX 483 at 6-8. The ALBC 1% plan splits only 8 precincts, id., and the ADC 1% plan splits only 5 precincts, DSX 79.</p>	<p>were all underpopulated. Id.</p> <p>The HD 53 incumbent was "seriously ill." Id. at 114.</p> <p>Plaintiffs cannot draw 9 majority-black districts in Jefferson County in a statewide 2% max deviation plan. Id. at 114-15.</p> <p>The size of the black majorities in Jefferson County "merely reflect the demographics of the local area." Id. at 115.</p> <p>The incumbents of HD54, HD58, and HD59 were directly involved in drawing their districts, and the drafters accepted their revisions. Id. (citing Tr. 3.135-37, 230-33).</p> <p>The black percentages in the ALBC and ADC 1% plans are retrogressive. Doc. 295 at 3-4.</p> <p>Mr. Cooper and Mr. Fairfax admitted to imposing "a racial quota on the</p>

District	Plaintiffs' Evidence	Defendants' Responses
		<p>percentage of white persons in a majority-black district.” Id. at 6-8.</p> <p>The ALBC and ADC 1% plans make changes in the districts of Republican incumbents they would not vote for. Id. at 18.</p> <p>It made sense to move HD 53 and HD 73. Id. at 30.</p> <p>Starting with the black-majority districts was a good idea. Id. at 31.</p>
HD 52	<p>Act 602: Reached and exceeded its 60.11% target by only 0.02%. APSX 398.</p> <p>60.13% BTP 57.37% BVAP 34.03% NHWVAP 1,924 total pop added +1,165 black +373 white APSX 491, 685; SDX 403, 406.</p> <p>6 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 56.64% BTP 55.99 BVAP 33.64% NHWVAP</p>	<p>The demographics of HD 52 are similar to the demographics of the plaintiffs’ alternate plans. Doc. 263 at 116.</p> <p>The number of blacks in the two precincts split with majority-white districts “is insufficient to affect the demographics of either district.” Id. at 117.</p> <p>“Unsplitting” the precincts would increase HD 52 from 60.13% to 64.50% black. Id.</p> <p>Mr. Fairfax testified that</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>1,980 total pop added -378 black +1,225 white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>1 split precinct APSX 633, 636.</p> <p>ADC 1% 57.87% BTP 56.39 BVAP 2,350 total pop added +390 black +1,223 white DSX 65, 76; SDX 406.</p> <p>0 split precincts DSX 79.</p> <p>Act 602: Precincts 930 and 933 show most blacks going to HD 55 (73.55% on the nose). In precincts 923 and 925, drafters took whites OUT of HD 52. APSX 632, 103, 125, 94, 128.</p> <p>7,428 persons, 16.5% of HD 52's population, reside in split precincts, including 10.1% of the district's black population. SDX 405.</p> <p>The single ALBC 1% precinct split is not split along racial lines. APSX 633, 636, 655.</p>	<p>the decisions he and Mr. Hinaman made to expand the majority-black districts outward were "mostly equally valid choices." Doc. 295 at 34-35.</p>
HD 54	Act 602: Reached and exceeded	The plaintiffs' racial

District	Plaintiffs' Evidence	Defendants' Responses
	<p>its 56.73% target by only 0.10%. APSX 398.</p> <p>56.83% BTP 52.54% BVAP 42.46% NHWVAP 10,165 total pop added +5,811 black +4,036 white APSX 491, 685; SDX 403, 406.</p> <p>19 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 60.64% BTP 55.72 BVAP 40.01% NHWVAP 10,842 total pop added +7,939 black +2,856 white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>0 split precincts APSX 633, 636.</p> <p>ADC 1% 60.6% BTP 55.56 BVAP 10,539 total pop added +7,737 black +2,255 white DSX 65, 76; SDX 406.</p>	<p>gerrymandering claims directed at HD54 should be denied for three district-specific reasons and because the district satisfies strict scrutiny. First, the district was drawn to satisfy the incumbent, whose district was largely preserved. Second, the demographics of the legislative plan are similar to the demographics of the plaintiffs' alternate plans, even though the plaintiffs' plans do not comply with the population deviation. Third, the precinct splits the ADC identify show that more white voters overall went into each of the related districts, and unsplitting the precincts increases the black population percentage of HD54. Doc 263 at 118-19.</p> <p>Patricia Todd (HD 54), Oliver Robinson (HD 58), and Mary Moore (HD 59) made final changes with Hinaman in the Reapportionment Office. Doc. 217, Tr. Vol. III, 08-12-13, at 231. Hinaman</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>0 split precincts DSX 79.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632): 862, APSX 104 868, APSX 115 861, APSX 119</p> <p>Precincts split between majority-black districts to help reach racial targets: 871, APSX 99 863, APSX 102 948, APSX 105 872, APSX 106 995, APSX 109 942, APSX 117 1010, APSX 120 997, APSX 121 1004, APSX 122 998, APSX 126 941, APSX 131 936, APSX 133 945, APSX 134</p> <p>26,151 persons, 58.9% of HD 54's population, reside in split precincts, including 56.3% of the district's black population. SDX 405.</p>	<p>hit his racial target for HD 54 but not for HD 58 and HD 59.</p> <p>Mr. Fairfax testified that the decisions he and Mr. Hinaman made to expand the majority-black districts outward were "mostly equally valid choices." Doc. 295 at 34-35.</p>
HD 55	<p>Act 602: Hit its racial target on the nose at exactly 73.55% and a deviation of -0.99%. APSX 398.</p>	<p>The population of this portion of Jefferson County has been becoming more and more black. HD55 is almost entirely bordered by</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>73.55% BTP 70.68% BVAP 23.08% NHWVAP 9,499 total pop added +6,988 black +1,037 white APSX 491, 685; SDX 403, 406.</p> <p>9 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 57.85% BTP 54.45 BVAP 43.08% NHWVAP 9,639 total pop added -6 black +9,447 white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>1 split precinct APSX 633, 636.</p> <p>ADC 1% 55.6% BTP 53.45% BVAP 9,675 total pop added -1,004 black +10,653 white DSX 65, 76; SDX 406.</p> <p>0 split precincts DSX 79.</p> <p>Act 602:</p>	<p>other majority-black districts. Doc. 263 at 120.</p> <p>According to Rep. McClendon's notebook, because of conversations with incumbents, portions of HD15 and a portion of HD60 were added to HD55. Id. (SDX 459 at 123, 129).</p> <p>"Unsplitting" the precincts "would have a <i>de minimis</i> effect on the black population. Id. at 120-21.</p> <p>Mr. Fairfax testified that the decisions he and Mr. Hinaman made to expand the majority-black districts outward were "mostly equally valid choices." Doc. 295 at 34-35.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>All 9 precincts are split between majority-black districts. Four of the split precincts had been in HD 53 in the 2001 plan: 930, Ctr Street Mid Sch, 931, Glen Iris Elem Sch, 926, Legion Field Lobby, and 933, Ramsey HS. SDX 413 at 31. Doc. 256 at 55-56.</p> <p>19,416 persons, 43.1% of HD 55's population, reside in split precincts, including 27.1% of the district's black population. SDX 405.</p>	
HD 56	<p>Act 602: Reached and exceeded its 62.13% target by only 0.01% APSX 398.</p> <p>62.14% BTP 59.72% BVAP 34.57% NHWVAP 4,007 total pop added +2,495 black +972 white APSX 491, 685; SDX 403, 406.</p> <p>4 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 63.04% BTP 60.37% BVAP 35.48% NHWVAP 4,299 total pop added +3,085 black +1,387white</p>	<p>The district's population merely reflects the demographics of the area. Doc. 263 at 121.</p> <p>"Unsplitting" the precincts would reduce the black percentage by only 0.08%. Id.</p> <p>Mr. Fairfax testified that the decisions he and Mr. Hinaman made to expand the majority-black districts outward were "mostly equally valid choices." Doc. 295 at 34-35.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>0 split precincts APSX 633, 636.</p> <p>ADC 1% 58.9% BTP 56.58 BVAP 4,036 total pop added +1,058 black +2,817 white DSX 65, 76; SDX 406.</p> <p>0 split precincts DSX 79.</p> <p>Act 602: In precincts 956 and 876 the drafters took whites OUT of HD 56. APSX 101, 114. Precinct 992 was split to move 106 blacks and only 1 white to HD 57 to hit its racial target. APSX 118.</p> <p>5,220 persons, 11.6% of HD 56's population, reside in split precincts, including 5.8% of the district's black population. SDX 405.</p>	
HD 57	<p>Act 602: Reached and exceeded its 68.42% target by only 0.05% APSX 398.</p> <p>68.47% BTP 66.03% BVAP 31.39% NHWVAP</p>	<p>“McClendon’s notebook reflects the movement of a portion of HD 15 and a portion of HD 56 into HD 57. (See SDX 459 at 125). In the district that resulted from those moves, the black</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>8,872 total pop added +6,092 black +2,752 white APSX 491, 685; SDX 403, 406.</p> <p>5 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 72.51% BTP 71.05% BVAP 25.59% NHWVAP 9,447 total pop added +8,330 black +649white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>0 split precincts APSX 633, 636.</p> <p>ADC 1% 66.1% BTP 64.43 BVAP 8,882 total pop added +5,016 black +3,747 white DSX 65, 76; SDX 406.</p> <p>2 split precincts DSX 79.</p> <p>Act 602: 4 of the 5 precincts are split between majority-black districts. The split of precinct 992, APSX 118, added 106</p>	<p>population of HD 57 is slightly higher than Hinaman's so-called target." Doc. 263 at 122.</p> <p>"Unsplitting" the precincts "would be minimal, moving the black percentage from 68.5% to 66.6%. It would result in the net movement of only 289 black residents from HD 57." Id.</p> <p>Mr. Fairfax testified that the decisions he and Mr. Hinaman made to expand the majority-black districts outward were "mostly equally valid choices." Doc. 295 at 34-35.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>blacks and only 1 white to HD 57, enough to reach its racial target.</p> <p>Precinct 851, APSX 124, is clearly split along racial lines.</p> <p>14,030 persons, 31.1% of HD 57's population, reside in split precincts, including 26.4% of the district's black population. SDX 405.</p>	
HD 58	<p>Act 602: HD 58 fell short of its highest of all 77.86% black target by -5.10%. APSX 398.</p> <p>72.76% BTP 68.03% BVAP 28.26% NHWVAP 7,645 total pop added +3,653 black +3,690 white APSX 491, 685; SDX 403, 406.</p> <p>12 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 64.07% BTP 59.02% BVAP 36.49% NHWVAP 8,173 total pop added +71 black +7,463 white APSX 491, 634, 462; DSX 65; SDX 406.</p>	<p>“[T]his district was drawn to suit the incumbent.” Doc. 263 at 122. Patricia Todd (HD 54), Oliver Robinson (HD 58), and Mary Moore (HD 59) made final changes with Hinaman in the Reapportionment Office. Doc. 217, Tr. Vol. III, 08-12-13, at 231. Hinaman hit his racial target for HD 54 but not for HD 58 and HD 59.</p> <p>“HD58 has been growing in black population because of demography.” Doc. 263 at 123.</p> <p>The two precincts split between HD 58 and majority-white districts were split to stay within \pm 1% deviation. Id. (Defendants' remand brief</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>1 split precinct APSX 633, 636.</p> <p>ADC 1% 63.7% BTP 58.54 BVAP 7,707 total pop added +6,726 black +7,660 white DSX 65, 76; SDX 406.</p> <p>0 split precincts DSX 79.</p> <p>Act 602: 10 of the 12 precincts are split between majority-black districts.</p> <p>Precincts 862, APSX 104, and 908, APSX 123, are clearly split along racial lines.</p> <p>31,418 persons, 69.7% of HD 58's population, reside in split precincts, including 71.6% of the district's black population. SDX 405.</p>	<p>does not include all the districts in these precinct splits. See Doc. 271 at 60- 61.)</p> <p>“Unsplitting” all the precincts would make a minimal difference in the black percentage. Doc. 263 at 124.</p> <p>Mr. Fairfax testified that the decisions he and Mr. Hinaman made to expand the majority-black districts outward were “mostly equally valid choices.” Doc. 295 at 34-35.</p>
HD 59	<p>Act 602: HD 59 reached and exceeded its 67.03% black target by +9.69%. APSX 398.</p> <p>76.72% BTP 74.38% BVAP 19.85% NHVVAP 12,380 total pop added +12,679 black</p>	<p>“The record reflects that Hinaman helped Rep. Mary Moore, the incumbent in HD59, work out changes to her district with Rep. Patricia Todd (HD54) and Oliver Robinson (HD58). (Tr. 3.135-137, 230-33). In addition, then-Rep. McClendon's notebook</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>-780 white APSX 491, 685; SDX 403, 406.</p> <p>12 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 58.55% BTP 55.06% BVAP 38.59% NHWVAP 12,346 total pop added +4,442 black +7,364 white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>1 split precinct APSX 633, 636.</p> <p>ADC 1% 62.8% BTP 60.84 BVAP 12,255 total pop added +6,294 black +4,698 white DSX 65, 76; SDX 406.</p> <p>1 split precinct DSX 79.</p> <p>Act 602: 11 of the 12 precincts are split between majority-black districts. HD 58 got the lion's share of black population in 6 of the 8 precincts it split with HD 59, which shows that</p>	<p>reflects that portions of HDs 51 and 58 were moved into HD59. (SDX 459 at 128)." Doc. 263 at 124.</p> <p>"[T]he black population percentage of the new district is nowhere close to the percentage of the old district." Id.</p> <p>"Unsplitting" all the precincts would increase the black percentage. Id. at 125.</p> <p>Mr. Fairfax testified that the decisions he and Mr. Hinaman made to expand the majority-black districts outward were "mostly equally valid choices." Doc. 295 at 34-35.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>the drafters tried to reach HD 58's 78% black target. APSX 632; SDX 405.</p> <p>Precinct 908, APSX 123, is clearly split along racial lines.</p> <p>20,711 persons, 45.8% of HD 59's population, reside in split precincts, including 47.7% of the district's black population. SDX 405.</p>	
HD 60	<p>Act 602: HD 59 reached and exceeded its 67.41% black target by only +0.27%. APSX 398.</p> <p>67.68% BTP 65.66% BVAP 30.18% NHWVAP 8,380 total pop added +5,771 black +2,127 white APSX 491, 685; SDX 403, 406.</p> <p>11 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 53.49% BTP 51.59% BVAP 44.75% NHWVAP 8,480 total pop added -572 black +8,630 white APSX 491, 634, 462;</p>	<p>HD 60 was to protect incumbent Juandalyn Givan and to get within $\pm 1\%$ deviation. Doc. 263 at 125.</p> <p>“Unsplitting” all the precincts would increase the black percentage. Id. at 125-26.</p> <p>Mr. Fairfax testified that the decisions he and Mr. Hinaman made to expand the majority-black districts outward were “mostly equally valid choices.” Doc. 295 at 34-35.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>DSX 65; SDX 406.</p> <p>2 split precincts APSX 633, 636.</p> <p>ADC 1% 56.0% BTP 53.75 BVAP 8,416 total pop added +532 black +7,876 white DSX 65, 76; SDX 406.</p> <p>1 split precinct DSX 79.</p> <p>Act 602: 9 of the 11 precincts are split between majority-black districts. APSX 632; SDX 405.</p> <p>Precincts 1006, APSX 107, and 901, APSX 108, are clearly split along racial lines. APSX 632; SDX 405.</p> <p>11,391 persons, 25.3% of HD 60's population, reside in split precincts, including 24.9% of the district's black population. SDX 405.</p>	
HD 67	<p>Act 602: HD 67 reached and exceeded its 69.14% black target by only +0.01%. APSX 398.</p> <p>69.15% BTP 65.89% BVAP</p>	<p>“HD67 is compact, preserves the core of the existing district, follows county lines for most of its border, obviously protects the incumbent, and preserves communities of</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>32.70% NHWVAP 7,200 total pop added +4,984 black +2,124 white APSX 491, 685; SDX 403, 406.</p> <p>4 split precincts. APSX 632.</p> <p>ALBC 1% 67.28% BTP 64.06% BVAP 34.46% NHWVAP 7,465 total pop added +4,318 black +3,025 white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>0 split precincts APSX 633, 636.</p> <p>ADC 1% 67.3% BTP 64.06% BVAP 7,465 total pop added +4,318 black +3,025 white DSX 65, 76; SDX 406.</p> <p>0 split precincts DSX 79.</p> <p>Act 602 HD 67 crosses the Dallas County/Perry County boundary.</p>	<p>interest.” Doc. 263 at 129.</p> <p>The precinct splits “make no material difference in the district’s racial composition.” Id. at 130.</p> <p>“HD67 is the result of demographic facts, not an attempt to meet a prescribed level of black population. All the alternative plans, even with ±5% deviation, also proposed that HD67 be about 69% black.” Id.</p> <p>“There is no reason why Chilton County is a better choice (unless one believes that purposefully finding “whiter” areas is a better choice), and the Legislature was more observant of communities of interest.” Doc. 295 at 35.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>The ALBC and ADC 1% HD 67 crosses the Dallas County/Chilton County boundary.</p> <p>Act 602 HD 67 splits 4 of 5 small precincts in Perry County between majority-black districts in order to reach its racial target. SDX 405.</p> <p>HD 67 in the ALBC and ADC 1% plans both add to Dallas County the same whole precinct in Chilton County in order to get with \pm 1% deviation. APSX 636, DSX 79.</p> <p>656 residents of HD 67 live in a split precinct, 443 blacks and 201 whites. SDX 405.</p>	
HD 68	<p>Act 602: HD 68 reached and exceeded its 62.55% black target by +2.10%. APSX 398.</p> <p>64.56% BTP 61.98% BVAP 36.01% NHWVAP 8,835 total pop added +6,434 black +2,109 white APSX 491, 685; SDX 403, 406.</p> <p>Washington, Clark, Monroe and Conecuh Counties are into 2</p>	<p>HD 68 needed to add the most population of all the Black Belt House districts. Doc. 263 at 131.</p> <p>It was designed to prevent incumbent conflicts. Id. at 131-32.</p> <p>It maintains the core of the old district and is at least as compact as the 2001 district. Id. at 132.</p> <p>“The demographics of area counties drove the demographics of HD68.”</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>districts, and Marengo County is split into 4 districts, when they are small enough to be whole in a single district. No county is kept whole. APX 38 and APSX 477.</p> <p>37 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 53.10% BTP 50.28% BVAP 47.50% NHWVAP 8,890 total pop added +1,298 black +7,188 white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>Washington and Clarke Counties are into 2 districts and Monroe County into 3 districts, when they are small enough to be whole in a single district, but Marengo and Conecuh Counties are kept whole. DSX 80.</p> <p>2 split precincts APSX 633, 636.</p>	<p>Id.</p> <p>Clarke, Conecuh, Marengo, and Monroe Counties each lost population and became relatively more black. Id.</p> <p>“The surrounding population that could be used to bring HD68 close to ideal population was mostly black.” Id. at 133.</p> <p>“ADC’s HD 68 and 69 are similar to the Legislature’s. HD 68 is irregular in both the 2012 and ADC plan. Instead of moving into Conecuh and Baldwin County, as the Legislature did, Mr. Fairfax moved into Choctaw County.” Doc. 295 at 35.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>ADC 1% 57.2% BTP 54.84% BVAP 9,059 total pop added +3,236 black +5,719 white DSX 65, 76; SDX 406.</p> <p>HD 68 splits Choctaw, Clarke, Marengo, and Monroe Counties. No counties are kept whole. DSX 78.</p> <p>1 split precinct DSX 79.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632): 19, APSX 52 20, APSX 53 254, APSX 66 256, APSX 67 238, APSX 68 245, APSX 69 239, APSX 70 242, APSX 71 239, APSX 70 242, APSX 71 249, APSX 72 344, APSX 73 365, 366, APSX 74 356, APSX 75 350, APSX 76 351, APSX 77</p>	

District	Plaintiffs' Evidence	Defendants' Responses
	<p>353, APSX 78 1285, APSX 165 1292, APSX 167 1293, APSX 169 1287, APSX 172 1282, APSX 173 1502, APSX 209 1496, APSX 210 1495, APSX 211 1504, APSX 213 1503, APSX 214 1507, APSX 215 1497, APSX 216 1500, APSX 218 1493, APSX 219 1942, APSX 283 1939, APSX 284 1936, APSX 285 1935, APSX 286</p> <p>Precincts split between majority-black districts to help reach racial targets: 1280, APSX 166 1281, APSX 166</p> <p>22,761 persons, 50.5% of HD 68's population, reside in split precincts, including 49.7% of the district's black population. SDX 405.</p>	
HD 69	Act 602: HD 69 reached and exceeded its 64.16% black target by only +0.05%. APSX 398.	“HD69 is at least as compact as its predecessor, follows county lines for most of its boundary, preserves the core of the

District	Plaintiffs' Evidence	Defendants' Responses
	<p>64.21% BTP 61.99% BVAP 35.14% NHWVAP 7,905 total pop added +5,096 black +2,048 white APSX 491, 685; SDX 403, 406.</p> <p>HD 69 splits the boundaries of Autauga and Montgomery Counties. Lowndes County is kept whole. APX 38 and APSX 477.</p> <p>11 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 54.54% BTP 52.75% BVAP 45.53% NHWVAP 7,516 total pop added +487 black +6,698 white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>The splits of all four counties in ALBC 1% HD 69, Autauga, Lowndes, Wilcox, and Butler, are made necessary to separate incumbents Colston</p>	<p>former HD69, protects its incumbent, and preserves communities of interest.” Doc. 263 at 133-32.</p> <p>Mr. Hinaman “also used some of the former HD 73 population [in Montgomery County] to repopulate HD 69.” Id. at 135.</p> <p>“For HD 69, instead of taking a row of precincts in Montgomery County, as the Legislature did, ADC takes an odd incursion into Butler County and then on into Conecuh County. Doc. 287-18 at 4. The majority of the District is the same in both [Act 602 and ADC] plans.” Doc. 295 at 35.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>residing in Lowndes County and Newton residing in Butler County. The ALBC remand plan (\pm 5% deviation), keeps Lowndes and Butler Counties whole, splitting only Autauga County in HD 69, but it puts the new incumbents, Lawrence and Sells, who also reside in Lowndes and Butler, in the same district. See APSX 37.</p> <p>2 split precincts APSX 633, 636.</p> <p>ADC 1% 58.9% BTP 56.65% BVAP 7,784 total pop added +2,610 black +4,935 white DSX 65, 76; SDX 406.</p> <p>HD 68 splits Autauga, Butler, and Conecuh Counties, but Lowndes County is kept whole. DSX 78.</p> <p>0 split precincts DSX 79.</p>	

District	Plaintiffs' Evidence	Defendants' Responses
	<p>Act 602: Black/White sorting is clear in these split precincts (APSX 632): 8, APSX 50 14, APSX 51 1564, APSX 240 1565, APSX 241</p> <p>Precincts split between majority-black districts to help reach racial targets: 1524, APSX 223 1528, APSX 225 1529, APSX 226 1530, APSX 227 1532, APSX 229 1574, APSX 244</p> <p>10,177 persons, 22.4% of HD 69's population, reside in split precincts, including 26.3% of the district's black population. SDX 405.</p>	
HD 70	<p>Act 602: HD 70 reached and exceeded its 61.83% black target by only +0.20%. APSX 398.</p> <p>62.03% BTP 57.14% BVAP 37.68% NHWVAP 6,717 total pop added +4,245 black +1,935 white APSX 491, 685; SDX 403, 406.</p>	<p>“HD70 was and remains an urban district in the City of Tuscaloosa.” Doc. 263 at 136.</p> <p>“HD70 is at least as compact, if not more compact, than its predecessor.” Id.</p> <p>“The demographics of HD70 are mostly explained by the demographics of the</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>HD 70 is wholly contained inside Tuscaloosa County. APX 38 and APSX 477.</p> <p>9 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 57.52% BTP 52.73% BVAP 42.10% NHWVAP 6,022 total pop added +1,773 black +3,721 white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>0 split precincts APSX 633, 636.</p> <p>ADC 1% 61.9% BTP 56.79% BVAP 5,823 total pop added +3,633 black +2,020 white DSX 65, 76; SDX 406.</p> <p>1 split precinct. DSX 79.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632): 1879, APSX 271 1850, APSX 274</p>	<p>area. The percentage-black population of HD70 as drawn is in line with that proposed by the McClammy and Buskey plans (even though they, like the other alternatives, are not drawn to $\pm 1\%$)." Id.</p> <p>"Without precinct splits, HD70 would increase to 63.1% black. Precinct splits were not used to increase the black population of HD70." Id. at 137.</p> <p>"Moreover, a study of the people added to and removed from HD70, according to ADC Supp. Ex. 4, reveals no racial sorting. ... [P]laintiffs do not point to a single precinct, or portion thereof, that would have been a better choice to add to HD70 using traditional districting criteria." Id.</p> <p>"There is zero proof that an alternative exists that would protect the area incumbents and keep HD70 and surrounding districts within deviation. HD70 is</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>1849, APSX 275 1852, APSX 277 1851, APSX 279</p> <p>Precincts split between majority-black districts to help reach racial targets:</p> <p>1878, APSX 280 1856, APSX 281</p> <p>39,586 persons, 86.1% of HD 70's population, reside in split precincts, including 86.9% of the district's black population. SDX 405.</p>	<p>reasonably compact, preserves the core of the former HD70 and an urban community of interest, and protects the incumbent.” Id.</p> <p>“ Plaintiffs’ plans show that getting close to the “target” – the size of the black majority under the 2000 district lines using 2010 census data – is not evidence of race-consciousness. In HD 70, for example, the “target” was 61.83%. Doc. 263-2. The Legislature’s plan has HD 70 at 62.03% (a difference of .20%), and ADC’s new plan has HD 70 at 61.9% black (a difference of only .07%).” Doc. 295 at 26.</p>
HD 71	<p>Act 602: HD 71 reached and exceeded its 64.28% black target by only +2.62%. APSX 398.</p> <p>66.90% BTP 64.59% BVAP 33.25% NHWVAP 7,254 total pop added +5,582 black +1,157 white</p>	<p>“HD71 is reasonably compact. While its overall shape changed to accommodate neighboring districts, the core of the former HD71 and the communities of interest therein were preserved, and the new district protected the incumbent.” Doc. 263 at 138.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>APSX 491, 685; SDX 403, 406.</p> <p>Act 602 splits Pickens, Sumter, and Choctaw Counties into 2 districts, Greene County into 3 districts, and Marengo County into 4 districts, when they are each small enough to be whole inside a single district, and it has 3 districts that split the Tuscaloosa County boundary, leaving none of these counties whole. APX 38 and APSX 477.</p> <p>23 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 59.54% BTP 57.33% BVAP 40.97% NHWVAP 7,182 total pop added +2,472 black +4,603 white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p>ALBC 1% HD 71 plan splits Pickens, Sumter, and Wilcox Counties, leaving Marengo County</p>	<p>Mr. Hinaman did not “hit the bullseye squarely....” Id. at 139-40.</p> <p>“Unsplitting” the precincts increases black pop by 0.6% to 67.5%. Id. at 140.</p> <p>“Plaintiffs split precincts and counties in an uneven fashion, with the portion going to a black-majority district having a significantly larger percentage of black voters than the portion going to a white-majority district. For example, Pickens County is split in the new ALBC plan. The portion of Pickens County that Cooper put in majority-black HD 71 is 60.61% black, and the portion of the county going to majority-white HD 61 is only 24.95% black. Def. Supp. Ex. 66. Cooper split the Aliceville 5 National Guard precinct between HD 71 and HD 61, giving HD 71 a portion that is 55.6% black and HD 61 a portion that is 9.5% black. Def. Supp. Ex. 67.” Doc. 295 at 26.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>whole. DSX 80.</p> <p>2 split precincts APSX 633, 636.</p> <p>ADC 1% 59.8% BTP 57.25% BVAP 7,009 total pop added +2,479 black +4,157 white DSX 65, 76; SDX 406.</p> <p>HD 71 splits Marengo and Tuscaloosa Counties, but Greene and Sumter Counties are kept whole. DSX 79.</p> <p>1 split precinct. DSX 79.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632): 231, APSX 62 228, APSX 63 230, APSX 64 227, APSX 65 728, APSX 81 1294, APSX 168 1639, APSX 249 1646, APSX 250 1879, APSX 271 1843, APSX 272 1863, APSX 273</p>	<p>“ HD 71 in the ADC plan contains a protrusion into Tuscaloosa County, just as in the 2012 plan. Doc. 287-18 at 5.” Id. at 32, 35.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>1875, APSX 278</p> <p>Precincts split between majority-black districts to help reach racial targets:</p> <p>715, APSX 79 708, APSX 80 1280, APSX 166 1796, APSX 257 1797, APSX 258 1867, APSX 276</p> <p>20,190 persons, 44.5% of HD 71's population, reside in split precincts, including 46.0% of the district's black population. SDX 405.</p>	
HD 72	<p>Act 602: HD 72 reached and exceeded its 60.2% black target by +4.40%. APSX 398.</p> <p>64.60% BTP 62.00% BVAP 36.20% NHWVAP 5,932 total pop added +5,566 black +197 white APSX 491, 685; SDX 403, 406.</p> <p>HD 72 splits Bibb, Greene, Marengo, Perry, and Sumter Counties, leaving only Hale County whole. Doc.</p>	<p>“If the drafters had a “target” for this district, then they missed it by quite a bit.” Doc. 263 at 141.</p> <p>“HD72 suffered from the same pressures and effects of underpopulation as HDs 67-71.” Id. at 141-42.</p> <p>“The result in 2012 was a more compact HD72, which included for the first time parts of Greene and Sumter Counties, and lacked the peninsula that was a prominent feature of 2001 HD72. But as the next map21 shows, the new</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p data-bbox="586 279 654 310">404.</p> <p data-bbox="586 365 919 443">15 split precincts. APSX 632; SDX 405.</p> <p data-bbox="396 497 915 835">ALBC 1% 60.88% BTP 58.27% BVAP 40.01% NHWVAP 6,401 total pop added +4,165 black +2,075 white APSX 491, 634, 462; DSX 65; SDX 406.</p> <p data-bbox="586 890 943 1094">ALBC 1% HD 72 splits only Bibb County, leaving Greene, Hale, and Perry Counties whole. DSX 80.</p> <p data-bbox="586 1148 834 1226">0 split precincts APSX 633, 636.</p> <p data-bbox="396 1281 935 1535">ADC 1% 54.0% BTP 51.58% BVAP 5,836 total pop added +716 black +4,849 white DSX 65, 76; SDX 406.</p> <p data-bbox="586 1589 935 1751">HD 71 splits Marengo and Bibb Counties, but Hale County is kept whole. DSX 79.</p>	<p data-bbox="992 279 1406 659">HD72 generally followed county lines and natural boundaries, such as a river. It also preserved numerous small-town communities of interest scattered across an otherwise sparsely populated district.” Id. at 142-43.</p> <p data-bbox="992 714 1406 1094">“Unsplitting” the precincts “results in a district with a black population of only 2.0% less than if there were no splits. In fact, eliminating splits puts us closer to the “target” of 60.2% than the drafters’ plan <i>with splits</i>” Id. at 143.</p> <p data-bbox="992 1148 1406 1799">“If they recognize this area of the State as such a community of interest, one would presume ALBC would try to preserve communities of interest by keeping those boundaries intact. ALBC did not even try to do that, though, because HD 65, HD 72, HD 72, HD 67, HD 88, HD 84, SD 14 SD 23, SD 24, SD 26, SD 31, and SD 28 each cross the bold line in the ALBC plans. SD 14</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>0 split precincts. DSX 79.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632): 80, APSX 54 89, APSX 55 79, APSX 56, 57 85, APSX 58, 59</p> <p>Precincts split between majority-black districts to help reach racial targets: 715, APSX 79 708, APSX 80 1280, APSX 166 1620, APSX 245 1629, APSX 246 1625, APSX 247 1623, APSX 248 1796, APSX 257 1797, APSX 258</p> <p>16,859 persons, 37.2% of HD 72's population, reside in split precincts, including 36.4% of the district's black population. SDX 405.</p>	<p>inexplicably connects north Shelby County with Black Belt Perry County, an admitted "mistake" in the ALBC plan. Cooper depo. 138:4-19." Doc. 295 at 17.</p> <p>ALBC also came within 1% of the target. Doc. 295 at 26 n.7.</p> <p>"ADC kept the core of what the Legislature did. Doc. 287-18 at 7. Instead of going west into Sumter County to get additional population, ADC opted to go east to take more of Perry and Bibb Counties. The differences are not so stark that the Court should draw any conclusions from them." Id. at 35-36.</p>
<p>Montgomery County House</p>	<p>Montgomery County at 229,363 total population can be drawn whole with 5 House districts averaging +0.77% deviation. The Act 602 House plan has 7 districts in Montgomery County, 3 of which split the county boundary. APX 51 and APSX 477.</p>	<p>The Montgomery County districts were designed by Rep. McClammy. Doc. 263 at 145. (But the McClammy plan had only 5 districts and kept Montgomery County</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>The ALBC 1% House plan has 5 districts in Montgomery County, none of which crosses the county boundary. DSX 80.</p> <p>The ADC 1% House plan has 7 districts in Montgomery County, two of which, HD 75 and HD 90, split the county boundary. DSX 78.</p> <p>The Act 602 House plan splits 26 precincts in Montgomery County. APSX 483 and 492; SDX 404.</p> <p>The ALBC 1% House plan splits 4 precincts in Montgomery County. APSX 483 and 636.</p> <p>The ADC 1% House plan splits 6 precincts in Montgomery County. DSX 79.</p>	<p>whole.)</p> <p>All of the alternative plans also move HD 73 out of Montgomery County. Id. at 146; DSX 78, 80.</p> <p>Neither HD 76, HD 77, nor HD 78 came within 4 points of their targets. Doc. 263 at 147. (Defendants' table is backwards; the correct table can be found in Doc. 271 at 77. And, as defendants concede, Doc. 263 at 135, some of HD 73's population was used to help HD 69 hit its target.)</p> <p>"Unsplitting" the precincts would raise the black percentages in HD 76 and HD 77 and would "tick down from 69.9% to 69.0%." Doc. 263 at 147.</p> <p>"Alternative plans (although they did not observe the Legislature's other criteria) show that these districts have high minority percentages because of where people live, not because of a 'quota.'" Doc. 263 at 137.</p>

District	Plaintiffs' Evidence	Defendants' Responses
HD 76	<p>Act 602: HD 76 reached and exceeded its 69.54% black target by +4.25%. APSX 398.</p> <p>73.79% BTP 71.29% BVAP 21.66% NHWVAP 1,078 total pop added +2,706 black -2,912 white APSX 491, 685; SDX 403, 406.</p> <p>HD 76 is wholly contained inside Montgomery County. SDX 404.</p> <p>10 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 63.99% BTP 63.18% BVAP 29.94% NHWVAP 1,023 total pop added -1,838 black +1,483 white APSX 491, 634, 462; DSX 65, 80; SDX 406.</p> <p>ALBC 1% HD 76 is wholly contained inside Montgomery County. DSX 80.</p>	See responses to Montgomery County supra.

District	Plaintiffs' Evidence	Defendants' Responses
	<p>1 split precinct. APSX 633, 636.</p> <p>ADC 1% 59.3% BTP 56.47% BVAP 958 total pop added -4,016 black +3,717 white DSX 65, 76; SDX 406.</p> <p>HD 76 is wholly contained inside Montgomery County. DSX 79.</p> <p>0 split precincts. DSX 879.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632): 1573, APSX 243 1537, APSX 230 The APSX 632 table misses the 702 persons, 493 white and 202 black, in precinct 1562, 5B Snowdoun Womens Club, placed in majority-white HD 75.</p> <p>Precincts split between majority- black districts to help reach racial targets: 1519, APSX 220 1523, APSX 222</p>	

District	Plaintiffs' Evidence	Defendants' Responses
	<p>1524, APSX 223 1526, APSX 224 1531, APSX 228 1565, APSX 241 1574, APSX 244</p> <p>37,159 persons, 80.8% of HD 76's population, reside in split precincts, including 84.3% of the district's black population. SDX 405.</p>	
HD 77	<p>Act 602: HD 77 fell short of its 73.52% black target by - 6.48%. APSX 398.</p> <p>67.04% BTP 64.32% BVAP 31.90% NHWVAP 10,925 total pop added +5,077 black +5,351 white APSX 491, 685; SDX 403, 406.</p> <p>HD 77 is wholly contained inside Montgomery County. SDX 404.</p> <p>10 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 65.43% BTP 62.43% BVAP 34.80% NHWVAP 10,853 total pop added</p>	See responses to Montgomery County supra.

District	Plaintiffs' Evidence	Defendants' Responses
	<p>+4,270 black +6,482 white APSX 491, 634, 462; DSX 65, 80; SDX 406.</p> <p>ALBC 1% HD 77 is wholly contained inside Montgomery County. DSX 80.</p> <p>2 split precincts. APSX 633, 636.</p> <p>ADC 1% 63.5% BTP 60.35% BVAP 10,893 total pop added +3,426 black +7,473 white DSX 65, 76; SDX 406.</p> <p>HD 77 is wholly contained inside Montgomery County. DSX 78.</p> <p>2 split precincts. DSX 79.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632): 1520, APSX 221 1537, APSX 230</p> <p>Precincts split between majority-</p>	

District	Plaintiffs' Evidence	Defendants' Responses
	<p>black districts to help reach racial targets:</p> <p>1519, APSX 220 1523, APSX 222 1526, APSX 224 1549, APSX 232 1551, APSX 233 1552, APSX 234 1558, APSX 236</p> <p>25,359 persons, 55.2% of HD 77's population, reside in split precincts, including 48.7% of the district's black population. SDX 405.</p>	
HD 78	<p>Act 602: HD 78 fell short of its 74.26% black target by - 4.27%. APSX 398.</p> <p>69.99% BTP 67.55% BVAP 25.91% NHWVAP 15,077 total pop added +9,237 black +4,214 white APSX 491, 685; SDX 403, 406.</p> <p>HD 78 is wholly contained inside Montgomery County. SDX 404.</p> <p>13 split precincts. APSX 632; SDX 405.</p>	See responses to Montgomery County supra.

District	Plaintiffs' Evidence	Defendants' Responses
	<p>ALBC 1% 66.76% BTP 64.67% BVAP 28.43% NHWVAP 15,080 total pop added +7,754 black +5,511 white APSX 491, 634, 462; DSX 65, 80; SDX 406.</p> <p>ALBC 1% HD 78 is wholly contained inside Montgomery County. DSX 80.</p> <p>1 split precinct. APSX 633, 636.</p> <p>ADC 1% 77.5% BTP 75.67% BVAP 14,490 total pop added +6,227 black +1,940 white DSX 65, 76; SDX 406.</p> <p>HD 78 is wholly contained inside Montgomery County. DSX 78.</p> <p>1 split precinct. DSX 79.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632):</p>	

District	Plaintiffs' Evidence	Defendants' Responses
	<p>1542, APSX 231</p> <p>Precincts split between majority-black districts, HD 78 and HD 69, to reach HD 69's racial target:</p> <p>1528, APSX 224 1529, APSX 226 1530, APSX 227 1532, APSx 229</p> <p>21,830 persons, 47.5% of HD 78's population, reside in split precincts, including 48.2% of the district's black population. SDX 405.</p>	
HD 82	<p>Act 602: HD 82 reached and exceeded its 57.13% black target by +5.01%. APSX 398.</p> <p>62.14% BTP 60.61% BVAP 35.56% NHWVAP 2,469 total pop added +3,707 black -988 white APSX 491, 685; SDX 403, 406.</p> <p>HD 82 splits Lee and Tallapoosa County, leaving Macon County whole. SDX 404.</p> <p>6 split precincts. APSX 632; SDX 405.</p>	<p>“HD82 is reasonably compact, generally follows county lines, preserves communities of interest, protects the incumbent, and preserves the core of the former HD82.” Doc. 263 at 150.</p> <p>“The demographics of this district are driven by the demographics of the Black Belt itself.” Id. at 151.</p> <p>“In the first three of the precinct splits, substantially more whites than blacks were put in HD82.” Id. at 152.</p> <p>Trying (unsuccessfully) to</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>ALBC 1% 60.57% BTP 60.27% BVAP 36.37% NHWVAP 2,403 total pop added +2,948 black -285 white APSX 491, 634, 462; DSX 65, 80; SDX 406.</p> <p>ALBC 1% HD 82 splits Elmore County, leaving Macon and Bullock Counties whole. DSX 80.</p> <p>0 split precincts. APSX 633, 636.</p> <p>ADC 1% 57.9% BTP 57.04% BVAP 2,434 total pop added +1,762 black +819 white DSX 65, 76; SDX 406.</p> <p>HD 82 splits Lee and Tallapoosa Counties, leaving Macon County whole. DSX 78.</p> <p>3 split precincts. DSX 79.</p> <p>Act 602: Black/White sorting is clear in these</p>	<p>“unsplit” the precincts results in a higher black percentage. Id.</p> <p>“In the ADC plan, HD 82 is much the same, except omitting a portion of Lee County and taking a larger portion of Tallapoosa County.” Doc. 295 at 36.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>split precincts (APSX 632): 1130, APSX 136 1131, APSX 137 1126, APSX 140 1839, APSX 268 1824, APSX 269 1822, APSX 270</p> <p>16,754 persons, 36.5% of HD 82's population, reside in split precincts, including 24.8% of the district's black population. SDX 405.</p>	
HD 83	<p>Act 602: HD 83 reached and exceeded its 56.92% black target by +0.60%. APSX 398.</p> <p>57.52% BTP 55.67% BVAP 38.76% NHWVAP 4,934 total pop added +3,086 black +1,595 white APSX 491, 685; SDX 403, 406.</p> <p>HD 83 splits Lee and Russell Counties. SDX 404.</p> <p>11 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 37.79% BTP 35.63% BVAP</p>	<p>“HD83 preserves the core of the former district, protects the incumbent, is compact, and preserves communities of interest. People were moved out of the district to repopulate HD84 to the south, and were moved in to repopulate HD83 from the north. The shape of the district is the same as it was in 2001 and is driven by the need to join the population centers of Opelika and Phenix City. HD83 has two main population centers: Opelika, to the northwest — where the incumbent lives — and the southern part of Phenix City. Between these population</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>58.27% NHWVAP 4,875 total pop added -6,008 black +10,363 white APSX 491, 634, 462; DSX 65, 80; SDX 406.</p> <p>ALBC HD 83 lost its black majority for the sake of reducing the number of splits in Lee and Russell Counties. The ADC HD 83 preserves the general shape of Act 602 HD 83, along with its additional splits of the Lee/Russell County boundary. Tallapoosa County is split among 3 districts in all three plans. If the ADC HD 83 is sufficiently compact geographically, the ALBC HD 83 may violate the VRA.</p> <p>ALBC 1% HD 83 splits Lee and Tallapoosa Counties. DSX 80.</p> <p>The 3 precincts split in ALBC 1% HD 83 are not listed in APSX 633 because it is not a majority-black district. Precincts 1126 and 1130 in Lee County and precinct 1820 in Tallapoosa County can be viewed in APSX 483 at pdf pages 8, 9, and 18, and the split precinct map is APSX 617. All three precincts were split to get within 1% deviation.</p>	<p>centers, the shape of the district is explained by the requirement of contiguity: the two population centers must be connected.” Doc. 263 at 153.</p> <p>“The ALBC complains about precinct splits: in six instances, it complains that more whites than blacks were put into HD83, and in three it complains that more blacks than whites were put into the district. (Doc. 256 at 118-22). The ALBC’s argument makes no sense at all; if some precinct splits drive the black population percentage down and others drive it up, the right inference is that precincts were split for reasons that have nothing to do with race.” Id. at 155.</p> <p>“In the 2012 plan, HD 83 contains a section of Russell County and an extension into Lee County, with HD 80 straddling the border of the counties and scooping into HD 83. In the ADC Plan, HD 83 contains a section of Russell County</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>ADC 1% 55.0% BTP 53.39% BVAP 4,919 total pop added +1,922 black +2,867 white DSX 65, 76; SDX 406.</p> <p>HD 83 splits Lee and Russell Counties. DSX 78.</p> <p>5 split precincts. DSX 79.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632; SDX 405):</p> <ul style="list-style-type: none"> 1131, APSX 137 1133, APSX 138 1132, APSX 139 1126, APSX 140 1136, APSX 141 1709, APSX 251 1710, APSX 252 1708, APSX 253 1700, APSX 254 1701, APSX 255 1714, APSX 256 <p>34,823 persons, 75.7% of HD 83's population, reside in split precincts, including 68.9% of the district's black population. SDX 405.</p>	<p>and an extension into Lee County, with HD 80 straddling the border of the counties and scooping into HD 83. Doc. 287-18 at 9. Mr. Fairfax said that there was nothing about the nature of the precincts he "dropped" versus the precincts he grabbed that led to the differences. Fairfax depo. 2092:10. That is, he did not say that redistricting principles required different decisions from those made by the Legislature." Doc. 295 at 36-37.</p>
HD 84	Act 602: HD 84 reached and	"HD84 is not a

District	Plaintiffs' Evidence	Defendants' Responses
	<p>exceeded its 50.61% black target by +1.74%. APSX 398.</p> <p>52.35% BTP 51.10% BVAP 43.11% NHWVAP 4,652 total pop added +3,155 black +1,370 white APSX 491, 685; SDX 403, 406.</p> <p>HD 84 splits Russell County, leaving Bullock and Barbour Counties whole. SDX 404.</p> <p>1 split precinct. APSX 632.</p> <p>ALBC 1% 54.32% BTP 52.81% BVAP 42.10% NHWVAP 3,810 total pop added +3,595 black +498 white APSX 491, 634, 462; DSX 65, 80; SDX 406.</p> <p>ALBC 1% HD 84 splits Russell County, leaving Barbour County whole. DSX 80.</p>	<p>gerrymandered district. It contains two whole counties and half of another. HD84 needed an additional 3,092 people to reach ideal population, and this was accomplished by giving the district all of Bullock County and a little more of Russell County. The resulting district is compact, mostly follows county lines, preserves communities of interest, protects the incumbent, and maintains the core of the previous district.” Doc. 263 at 155.</p> <p>“HD 84 is so similar in the Legislature’s plan and ADC’s plan, it is difficult to find the slivers of difference in the overlay map. Doc. 287-18 at 10. The only change is an omission of two small portions of a single precinct.” Doc. 295 at 37.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>4 split precincts. APSX 633, 636.</p> <p>ADC 1% 52.3% BTP 51.07% BVAP 4,624 total pop added +3,128 black +1,370 white DSX 65, 76; SDX 406.</p> <p>HD 84 splits Russell County, leaving Barbour and Bullock Counties whole. DSX 78.</p> <p>0 split precincts. DSX 79.</p> <p>Act 602: Precinct 1714, Seale Cthse, is split between majority-black districts, apparently to get within \pm 1% deviation.</p>	
HD 85	<p>Act 602: HD 85 reached and exceeded its 47.94% black target by +2.14%. APSX 398.</p> <p>50.08% BTP 47.23% BVAP 49.02% NHWVAP 3,912 total pop added +2,311 black +308 white APSX 491, 685; SDX</p>	<p>“The new HD85 maintains the core of the previous district, preserves communities of interest, protects the incumbent, mostly follows county lines, and is compact. It takes up the entirety of Henry County and parts of the City of Dothan in Houston County. It is also barely a majority-black</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>403, 406.</p> <p>HD 85 splits Houston County, leaving Henry County whole. SDX 404.</p> <p>9 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 49.03% BTP 46.32% BVAP 49.89% NHWVAP 2,647 total pop added +1,762 black +699 white APSX 491, 634, 462; DSX 65, 80; SDX 406.</p> <p>ALBC 1% HD 85 splits Houston County, leaving Henry County whole. DSX 80.</p> <p>5 split precincts. APSX 633, 636.</p> <p>ADC 1% 48.3% BTP 45.57% BVAP 3,046 total pop added +1,614 black +1,226 white DSX 65, 76; SDX 406.</p> <p>HD 85 splits Houston</p>	<p>district at 50.08% black.” Doc. 263 at 157.</p> <p>“As for precinct splits, there were nine. Putting those precincts back together results in a district that is only 35.8% black. (Ex. 3). It appears to be impossible to preserve the district as a majority-black district and not split precincts. Given that the district has always been roughly 50% black, this is a good indication that these precincts have always been split and that the drafters were (more or less) following preexisting lines.” Id. at 158.</p> <p>“Although HD 85 is not a black-majority district in the ADC plan, it is worth noting that in both the ADC Plan and the 2012 Plan, HD 85 is made up of Henry County with a small extension into Houston County. Doc. 294-3. ADC just chose a slightly different extension and eliminated an easily-drawn black-majority district (a</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>County leaving Henry County whole. DSX 78.</p> <p>7 split precincts. DSX 79.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632):</p> <ul style="list-style-type: none"> 794, APSX 82 793, APSX 83 792 APSX 84 786, APSX 85 795, APSX 86 787, APSX 87 791, APSX 88 790, APSX 89 788, APSX 90 <p>27,927 persons, 61.7% of HD 85's population, reside in split precincts, including 78.2% of the district's black population. SDX 405.</p>	<p>move that, had the Legislature done it, would have invited a Section 2 suit by the ADC plaintiffs)." Doc. 295 at 37.</p>
<p>Mobile County House</p>	<p>Mobile County at 412,992 total population can be drawn whole with 9 House districts (and thus 3 Senate districts) averaging +0.81% deviation.</p> <p>the Act 602 House plan drew 10 House districts in Mobile County, 1 of which, HD 97, splits the county boundary. APSX 432; SDX 404.</p> <p>113,286 of the 147,695 black</p>	<p>"All of these districts prevent incumbent conflicts. And they all [sic: all but one] have a lesser percentage of black population than Hinaman's alleged target. If Hinaman were trying to reach a target, he missed it by more than 5% for HD98, by almost 8% for HD99, and more than 4% for HD103.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>residents of Mobile County were placed in one of the majority-black districts, leaving only 34,409 blacks to be shared by five majority-white districts, including HD 96, which splits the Mobile County boundary and lies mostly in Baldwin County. SDX 405 at 189, 191, 193, 195, 196, 197, 199, 200, 201, 202. To avoid receding further from their racial targets in the four majority-black House districts in Mobile County, the drafters were constrained in removing white population from them by their +1% rule, because HD 97 was 5 persons above -1% deviation, HD 98 was 3 persons above -1%, HD 99 was 3 persons above -1%, and HD 103 was 9 persons above -1%. SDX 403 at 8. Doc. 256 at 127.</p> <p>The removal of white population from the majority-black districts left all 5 majority-white districts lying wholly within Mobile County also underpopulated at -0.99%, -0.95%, -0.99%, -0.99%, and -99%. SDX 403. This left 7,335 persons along the northeast border of Mobile County, 6,497 white and 519 black, that had to be moved to HD 96 in Baldwin County. SDX 404 at 23.</p> <p>Even after this systematic removal of</p>	<p>(Ex. 2). Moreover, the percentage of black population in these districts does not differ significantly from the percentages for the same districts in the alternative plans drawn by the plaintiffs.” Doc. 263 at 159.</p> <p>“These similarities strongly suggest that the districts merely match the demographics of the area.” Id. at 160.</p> <p>Defendants’ brief responding to plaintiffs’ 1% plans does not defend the Act 602 Mobile County House districts at all, other than to criticize Mr. Cooper for splitting precinct 1434, Friendship Missionary Baptist Church allegedly along racial lines. Doc. 295 at 26. [But see ALBC 1% plan brief, Doc. 285 at 80 and APSX 667. This precinct was split to get within \pm 1% deviation.]</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>white population from the precincts added to the majority-black districts, Hinaman was able to reach his racial target only in one district, HD 97, which hit 60.66% black on the nose. APSX 398.</p> <p>HD 97 and HD 98 were less than 5 persons above -1% deviation. SDX 403 at 8. Majority-white HD 96, on the other hand, was only 6 persons under +1% deviation and had about 900 mostly white population it could have donated to the majority-black districts. Id. But doing so would have caused HD 97 to fall short of its racial target, and would have caused HD 98 to recede farther below its target.</p>	
HD 97	<p>Act 602: HD 97 hit its 60.66% black target on the nose. APSX 398.</p> <p>60.66% BTP 56.81% BVAP 40.22% NHWVAP 9,665 total pop added +5,863 black +3,532 white APSX 491, 685; SDX 403, 406.</p> <p>HD 97 is contained wholly inside Mobile County. SDX 404.</p>	<p>“There were 14 precincts split in the 2001 House plan in HD97 (SDX 413), and only 10 in the 2012 plan (SDX 405). The effect of unsplitting those 10 precincts, while maintaining the overall deviation for HD97, would be to increase the minority percentage of the total population of HD97 by 4.1%, bringing it to 64.8% of the district total.” Doc. 263 at 160.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>9 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 55.91% BTP 53.07% BVAP 44.19% NHWVAP 10,549 total pop added +4,219 black +6,163 white APSX 491, 634, 462; DSX 65, 80; SDX 406.</p> <p>ALBC 1% HD 97 is wholly contained inside Mobile County. DSX 80.</p> <p>4 split precincts. APSX 633, 636.</p> <p>ADC 1% 56.2% BTP 53.37% BVAP 10,533 total pop added +4,347 black +6,030 white DSX 65, 76; SDX 406.</p> <p>HD 97 is wholly contained inside Mobile County. DSX 78.</p> <p>2 split precincts. DSX 79.</p> <p>Act 602:</p>	<p>The 2 precincts split between HD 97 and majority-white districts move more whites than blacks into HD 97. Id. at 160-61.</p> <p>“In some of the other precincts, like 100 Black Men of Greater Mobile (10 whites total), Figures Recreation Center (40 whites total), Rock of Faith Baptist Church (85 whites total), and Vigor High School (126 whites total), the number of white residents is so minimal that the racial composition of the split is completely irrelevant. In other cases, like Augusta Evans School, St. Andrew’s Episcopal, and Murphy High School Library, the only result is that white residents went into one black-majority district instead of another majority-black district.” Id. at 161.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>Black/White sorting is clear in these split precincts (APSX 632): 1394, APSX 179 1393, APSX 197</p> <p>Precincts split between majority-black districts to help reach racial targets: 1415, APSX 174 1424, APSX 175 1417, APSX 182 1454, APSX 196 1473, APSX 202 1411, APSX 207 1423, APSX 194</p> <p>23,876 persons, 53.0% of HD 97's population, reside in split precincts, including 55.9% of the district's black population. SDX 405.</p>	
HD 98	<p>Act 602: HD 98 fell short of its 65.22% black target by - 5.20%. APSX 398.</p> <p>60.66% BTP 56.81% BVAP 39.07% NHWVAP 7,238 total pop added +2,376 black +4,492 white APSX 491, 685; SDX 403, 406.</p> <p>HD 98 is contained wholly inside Mobile</p>	<p>“We know from Rep. McClendon’s notebook that the incumbents from HD102 and HD98 agreed to swap precincts or parts of precincts between these districts. (See SDX 459 at 001517). And we know that the black population of HD98 is 5.2% below the drafters’ alleged target. (Ex. 2). If the drafters were trying to hit a target, they missed it by a significant margin.” Doc. 263 at 162.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>County. SDX 404.</p> <p>13 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 60.40% BTP 57.51% BVAP 39.83% NHWVAP 8,056 total pop added +3,043 black +4,709 white APSX 491, 634, 462; DSX 65, 80; SDX 406.</p> <p>ALBC 1% HD 98 is wholly contained inside Mobile County. DSX 80.</p> <p>0 split precincts. APSX 633, 636.</p> <p>ADC 1% 60.4% BTP 57.51% BVAP 8,056 total pop added +3,043 black +4,709 white DSX 65, 76; SDX 406.</p> <p>HD 98 is wholly contained inside Mobile County. DSX 78.</p> <p>0 split precincts. DSX 79.</p>	<p>“Precinct splits in HD98 do not show racial gerrymandering. The effect of unsplitting the precincts, while maintaining the overall deviation for HD98, would be to increase the minority population of HD98 by 4.9%, from 60.02% to 64.9% of the total. (See Ex. 3). Moreover, while these splits place more black residents in HD98 in total than were placed in the neighboring white-majority districts in total, more white residents than black residents were placed in both districts. (Doc. 258-1 at 13). In other words, these splits did not help create a majority-black district—these splits lowered the black population percentage of the district.” Id.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>N.B. ALBC and ADC 1% HD 98 are identical.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632):</p> <p style="padding-left: 40px;">1394, APSX 179 1388, APSX 180 1452, APSX 183 1387, APSX 186 1407, APSX 190 1397, APSX 193 1393, APSX 197 1391, APSX 198 1392, APSX 200 1441, APSX 205</p> <p>Precinct 198, Satsuma City Hall, especially shows how HD 96 was brought over from Baldwin County to take away as many whites as possible.</p> <p>Precincts split between majority-black districts to help reach racial targets:</p> <p style="padding-left: 40px;">1409, APSX 188 1411, APSX 207</p> <p>25,088 persons, 55.7% of HD 98's population, reside in split precincts, including 54.6% of the district's black population. SDX 405.</p>	
HD 99	Act 602: HD 99 fell short of its 73.35% black target by -	"The black population of HD99 is more than 7%

District	Plaintiffs' Evidence	Defendants' Responses
	<p>7.74%. APSX 398.</p> <p>65.61% BTP 62.19% BVAP 34.35% NHWVAP 5,278 total pop added +386 black +4,587 white APSX 491, 685; SDX 403, 406.</p> <p>HD 99 is contained wholly inside Mobile County. SDX 404.</p> <p>13 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 58.24% BTP 54.69% BVAP 40.06% NHWVAP 6,152 total pop added -2,431 black +7,631 white APSX 491, 634, 462; DSX 65, 80; SDX 406.</p> <p>ALBC 1% HD 99 is wholly contained inside Mobile County. DSX 80.</p> <p>1 split precinct. APSX 633, 636.</p>	<p>below Hinaman's alleged target. (Ex. 2). At 65.61% black, the district is only slightly higher than that proposed in the alternative plans. (Ex. 1). The effect of unsplitting the split precincts in HD99, while maintaining the overall deviation for HD99, would be to increase the minority population of HD99 by 3.4%, from 65.61 to 69.0% of the total." Doc. 263 at 162-63.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>ADC 1% 58.2% BTP 54.63% BVAP 6,133 total pop added -2,462 black +7,723 white DSX 65, 76; SDX 406.</p> <p>HD 99 is wholly contained inside Mobile County. DSX 78.</p> <p>1 split precinct. DSX 79.</p> <p>N.B. ALBC and ADC 1% HD 99 are nearly identical. They split a different precinct to get within $\pm 1\%$ deviation.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632): 1400, APSX 176 1388, APSX 180 1434, APSX 185 1407, APSX 190 1406, APSX 192 1402, APSX 199 1429, APSX 203 1432, APSX 206</p> <p>Precincts split between majority-black districts to help reach racial targets: 1424, APSX 175</p>	

District	Plaintiffs' Evidence	Defendants' Responses
	<p>1417, APSX 182 1409, APSX 188 1423, APSX 194 1448, APSX 195</p> <p>26,286 persons, 58.3% of HD 99's population, reside in split precincts, including 53.7% of the district's black population. SDX 405.</p>	
<p>HD 103</p>	<p>Act 602: HD 103 fell short of its 69.64% black target by - 4.58%. APSX 398.</p> <p>65.06% BTP 60.26% BVAP 33.69% NHWVAP 4,464 total pop added +1,043 black +2,554 white APSX 491, 685; SDX 403, 406.</p> <p>HD 103 is contained wholly inside Mobile County. SDX 404.</p> <p>10 split precincts. APSX 632; SDX 405.</p> <p>ALBC 1% 62.61% BTP 57.24% BVAP 37.83% NHWVAP 5,279 total pop added +451 black +4,344 white</p>	<p>The black population of HD103 is 4.58% below Hinaman's alleged target for that district. (Ex. 2). The proposed alternative plans contain an HD103 that is only slightly lower than in the plan as passed. (Ex. 1). And the effect of unsplitting the eight split precincts, while maintaining the overall deviation for HD103, would be to increase the minority population of HD103 by 3.2% to 68.3% of the total." Doc. 263 at 163.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>APSX 491, 634, 462; DSX 65, 80; SDX 406.</p> <p>ALBC 1% HD 103 is wholly contained inside Mobile County. DSX 80.</p> <p>1 split precinct. APSX 633, 636.</p> <p>ADC 1% 62.3% BTP 56.87% BVAP 5,340 total pop added +330 black +4,515 white DSX 65, 76; SDX 406.</p> <p>HD 103 is wholly contained inside Mobile County. DSX 78.</p> <p>1 split precinct. DSX 79.</p> <p>Act 602: Black/White sorting is clear in these split precincts (APSX 632): 1446, APSX 177 1462, APSX 181 1461, APSX 184 1475, APSX 187 1459, APSX 189 1476, APSX 201 1445, APSX 204</p>	

District	Plaintiffs' Evidence	Defendants' Responses
	<p>Precincts split between majority-black districts to help reach racial targets:</p> <p style="padding-left: 40px;">1448, APSX 195 1454, APSX 196 1473, APSX 202</p> <p>13,273 persons, 29.4% of HD 103's population, reside in split precincts, including 22.2% of the district's black population. SDX 405.</p>	
Jefferson County Senate	<p>Jefferson County at 658,466 total population can be drawn whole with 5 Senate districts averaging -3.57% deviation. NPX 328. Jefferson County's boundary must be split at least once to satisfy the $\pm 1\%$ requirement.</p> <p>The Act 603 Senate plan placed 8 districts in Jefferson County, 3 majority-black, all of which were inside Jefferson County, and 5 majority-white, all of which crossed the county boundary. APX 43 and APSX 478, 491; SDX 401.</p> <p>The ALBC 1% Senate plan places 6 districts in Jefferson County, 3 majority-black, all of which are inside Jefferson County, and 3 majority-white, 2 of which, SD 15 and SD 17, cross the county boundary. APSX 533B; DSX 81.</p>	<p>"[T]he drawing of the Birmingham Senate districts. This is unsurprising: the incumbent legislators in SD18, SD19, and SD20 proposed the lines that became their 2012 districts. The population percentages are similar across proposed alternative plans, highlighting the fact that the demographics in these districts result from the demographics of the Birmingham area. And the population percentages remain almost identical even when the split precincts are reunited." Doc. 263 at 63-64 and et seq.</p> <p>"The plaintiffs do not argue about county splits here</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>The ADC 1% Senate plan places 7 districts in Jefferson County, 3 majority-black, all of which are inside Jefferson County, and 4 majority-white, all of which cross the county boundary. DSX 74.</p> <p>In the 2010 census there were only 280,082 black residents of Jefferson County, and the Act 2012-603 Senate plan placed 253,635 (90.5%) of them in majority-black SD 18, SD 19, and SD 20. SDX 401.</p> <p>The ALBC 1% Senate plan places a total of 174,142 blacks in SD 18, 19, and 20. DSX 81.</p> <p>The ADC 1% Senate plan places a total of 249,361 blacks in SD 18, 19, and 20. DSX 74.</p>	<p>because they cannot: SD18, SD19, and SD20 are all within Jefferson County (but the ADC appears to complain that these districts were not extended into other counties.” Doc. 263 at 68.</p> <p>“Even if all the precincts in these districts were unsplit, the population changes would be negligible.” Doc. 263 at 68.</p> <p>“The ADC plan contains three majority-black Senate districts in Jefferson County with roughly the same configuration as the Legislature’s plan. The black majorities in that district, compared to the Legislature’s plans, are different by only.04%, -3.2%, and -.09%. Def. Supp. Ex. 64. In the ALBC plan, SD 18, 19, and 20 differ from the Legislature’s plan by only 3.14, -.37, and .17%. Id. Plaintiffs have not shown that there is an alternative that would result in “significantly greater racial</p>

District	Plaintiffs' Evidence	Defendants' Responses
		<p>balance” in these districts. Easley, 532 U.S. at 258.” Doc. 295 at 37-38.</p> <p>See additional responses below.</p>
SD 18	<p>Act 603: SD 18 fell short of its 59.92% black target by only -0.82%. APSX 398.</p> <p>59.10% BTP 56.50% BVAP 36.20% NHWVAP 22,786 total pop added +12,550 black +9,290 white APSX 491, 686; SDX 400, 402.</p> <p>SD 18 is contained wholly inside Jefferson County. SDX 401. Because only 26,447 black persons, less than 10% of Jefferson County’s black population, were not placed in one of the majority-black districts, SD 18, with the lowest racial target, is the only district which added more blacks than whites to reach \pm 1% deviation.</p> <p>6 split precincts. APSX 632; SDX 475.</p>	<p>“ The Legislature preserved the core of the districts. (SDX 476, 477). Because these districts cover most of the city limits of Birmingham, they are necessarily majority black. The City of Birmingham itself (212,113 total population) is 73.4% black. (Def. Supp. Ex. 8 at 74). As for surrounding municipalities, the City of Bessemer is 71.2% black. (Id. at 67). Fairfield is 94.6% black. (Id. at 287). Midfield is 81.6% black. (Id. at 549). Lipscomb is 61% black. (Id. at 478). And Brighton is 81% black. (Id. at 97).</p> <p>“By contrast, Jefferson County as a whole, including these municipalities, is 42.5% black. (APX 19). Districts that cover these areas will necessarily reflect the area demographics.” Doc. 263</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>ALBC 1% 55.96% BTP 53.59% BVAP 37.83% NHWVAP 23,982 total pop added +8,970 black +13,901 white APSX 470, 491, 637; DSX 65, 81; SDX 402.</p> <p>ALBC 1% SD 18 is wholly contained inside Jefferson County. DSX 81.</p> <p>0 split precincts. APSX 633, 639.</p> <p>ADC 1% 59.5% BTP 57.00% BVAP 22,935 total pop added +13,227 black +8,499 white DSX 65, 72; SDX 402.</p> <p>SD 18 is wholly contained inside Jefferson County. DSX 75.</p> <p>0 split precincts. DSX 75.</p> <p>Act 603: The 3 precincts split with majority-white districts show clearly</p>	<p>at 66.</p> <p>“Although SD18 (59.10%) is within a percentage point of black population percentages of the 2001 plan using 2010 Census data (59.93%), it is not meaningfully different than it is in the plaintiffs’ proposed maps. In fact, in the new map ALBC proposes, SD18 is 59.8% black, which is even closer to the “target.” (APSX 27).” Id.</p> <p>“In SD18, a net total of 22,786 voters were added to SD18: 12,456 blacks and 9091 whites. (ADC Supp. Ex. 5). Thus, roughly 55% of the voters added to SD18 were black, and the additions lowered the percentage of minority voters in the district.” Id. at 68-69.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>Hinaman's effort to strip white population out of the population added to HD 18. (APSX 632): 881, APSX 321 884, APSX 324 925, APSX 317</p> <p>Precincts split between majority-black districts to help reach racial targets: 966, APSX 326 967, APSX 326 998, APSX 329</p> <p>Precinct 998, Robinson Elem, clearly shows the effort to shift black population from HD 20 to HD 18 to try reaching its target.</p> <p>10,136 persons, 7.5% of SD 18's population, reside in split precincts, including 5.8% of the district's black population. SDX 475.</p>	
SD 19	<p>Act 603: SD 19 fell short of its 71.59% black target by - 6.28%. APSX 398.</p> <p>65.31% BTP 62.75% BVAP 34.09% NHWVAP 26,053 total pop added +10,165 black +15,282 white APSX 491, 686; SDX 400, 402.</p>	<p>"Randy Hinaman testified that he incorporated Sen. Smitherman's map. (Tr. 3.121, 126-27). Hinaman described only one change: because he removed a few precincts from SD19 and added them to neighboring SD5 at that incumbent's request, he had to add a few other precincts to SD19 to equalize population. (Tr. 3.127). But all of these</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>SD 19 is contained wholly inside Jefferson County. SDX 401. Because only 26,447 black persons, less than 10% of Jefferson County's black population, were not placed in one of the majority-black districts, and because SD 18, with the lowest racial target, is the only district which added more blacks than whites to reach $\pm 1\%$ deviation, it was impossible for SD 19 to reach its racial target.</p> <p>6 split precincts. APSX 632; SDX 475.</p> <p>ALBC 1% 64.94% BTP 62.44% BVAP 34.28% NHWVAP 26,610 total pop added +10,024 black +15,829 white APSX 470, 491, 637; DSX 65, 81; SDX 402.</p> <p>ALBC 1% SD 19 is wholly contained inside Jefferson County. DSX 81.</p> <p>1 split precinct. APSX 633, 639.</p>	<p>precincts were majority-white, and Hinaman testified that any other changes to Smitherman's plan were "unintentional. (Id.) There is no evidence that Sen. Smitherman focused on racial targets when he drew these districts. Sen. Smitherman testified at trial. He did not dispute the use of the plan he drew, and his complaints about the 2012 plans were primarily about their purported effect on the makeup of local delegations. (Tr. 2.6–39). And to this point, Sen. Smitherman testified that he believed the alleged changes to the county delegations were done for partisan purposes. (Tr. 2.40)." Doc. 263 at 65.</p> <p>"In SD19, a net total of 26,053 persons were added to get the district within acceptable distance of the "ideal" population, 10,141 blacks and 15,188 whites. (ADC Supp. Ex. 5). That is, the group of voters added to SD19 was only 39% black."</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>ADC 1% 62.1% BTP 59.81% BVAP 26,493 total pop added +6,089 black +20,173 white DSX 65, 72; SDX 402.</p> <p>SD 19 is wholly contained inside Jefferson County. DSX 75.</p> <p>0 split precincts. DSX 75.</p> <p>Act 603: The 2 precincts split with majority- white districts show clearly Hinaman's effort to strip white population out of the population added to HD 19. (APSX 632): 854, APSX 331 976, APSX 322</p> <p>Precincts split between majority- black districts to help reach racial targets, moving most blacks to SD 18: 966, APSX 326 967, APSX 326 998, APSX 329 856, APSX 328</p> <p>11,799 persons, 8.7% of SD 19's population, reside in split precincts,</p>	<p>Id. at 69.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	including 3.0% of the district's black population. SDX 475.	
SD 20	<p>Act 603: SD 20 fell short of its 77.82% black target by - 14.67%. APSX 398.</p> <p>63.15% BTP 59.03% BVAP 36.02% NHWVAP 27,836 total pop added +1,828 black +23,510 white APSX 491, 686; SDX 400, 402.</p> <p>SD 20 is contained wholly inside Jefferson County. SDX 401. Because only 26,447 black persons, less than 10% of Jefferson County's black population, were not placed in one of the majority-black districts, and because SD 18, with the lowest racial target, is the only district which added more blacks than whites to reach $\pm 1\%$ deviation, it was impossible for SD 20 to reach its racial target.</p> <p>7 split precincts. APSX 632; SDX 475.</p> <p>ALBC 1% 63.32% BTP 59.53% BVAP</p>	<p>"The net additions to SD20 were only 6.53% black. Ultimately, the plaintiffs have not shown that a significant number of voters were placed in or out of SD18, SD19, and SD20 because of their race, and, as a result, they have failed to show that strict scrutiny applies in these districts." Doc. 263 at 69.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>35.79% NHWVAP 28,294 total pop added +2,356 black +23,807 white APSX 470, 491, 637; DSX 65, 81; SDX 402.</p> <p>ALBC 1% SD 20 is wholly contained inside Jefferson County. DSX 81.</p> <p>0 split precincts. APSX 633, 639.</p> <p>ADC 1% 62.2% BTP 58.25% BVAP 28,283 total pop added +684 black +27,396 white DSX 65, 72; SDX 402.</p> <p>SD 20 is wholly contained inside Jefferson County. DSX 75.</p> <p>0 split precincts. DSX 75.</p> <p>Act 603: The 7 precincts split with majority-white districts show clearly Hinaman's effort to strip white population out of the population</p>	

District	Plaintiffs' Evidence	Defendants' Responses
	<p>added to HD 20. (APSX 632 Robinson Elementary and Hillview Fire Station #1 are inadvertently omitted from this list):</p> <p style="padding-left: 40px;">860, APSX 330 861, APSX 325 901, APSX 319 908, APSX 327 1020, APSX 318 1021, APSX 320</p> <p>Precincts split between majority-black districts to help reach racial targets, moving most blacks to SD 18:</p> <p style="padding-left: 40px;">998, APSX 329</p> <p>19,526 persons, 14.4% of SD 20's population, reside in split precincts, including 10.3% of the district's black population. SDX 475.</p>	
SD 23	<p>Act 603: SD 23 reached and exceeded its 64.76% black target by +0.08%. APSX 398.</p> <p style="padding-left: 40px;">64.54% BTP 61.85% BVAP 36.57% NHWVAP 23,399 total pop added +15,265 black +7,841 white APSX 491, 686; SDX 400, 402.</p>	<p>“The drafters were extremely limited in their available choices for how to expand and repopulate SD23 and SD24.” Doc. 263 at 71.</p> <p>“SD23 could not have moved further west into Clarke County, because that would have created a conflict with the incumbent representing SD22, who resided in Clarke County</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>SD 23 splits Clarke, Conecuh, Marengo, Monroe, and Washington Counties. Perry, Dallas, Lowndes, Wilcox, and Butler Counties are kept whole. DSX 401.</p> <p>27 split precincts. APSX 632; SDX 475.</p> <p>ALBC 1% 53.80% BTP 51.06% BVAP 46.23% NHWVAP 23,588 total pop added +418 black +21,096 white APSX 470, 491, 637; DSX 65, 81; SDX 402.</p> <p>ALBC 1% SD 23 splits Clarke and Washington Counties, leaving Butler, Conecuh, Dallas, and Monroe Counties whole. DSX 81.</p> <p>0 split precincts. APSX 633, 639.</p> <p>ADC 1% 58.9% BTP 55.98% BVAP 24,886 total pop added +8,124 black +16,074 white DSX 65, 72; SDX 402.</p>	<p>near the boundary of SD23 and SD22. (Def. Supp. Ex. 5). The ADC plaintiffs criticize the drafters' removal of Autauga County from SD23, but the incumbent legislator in SD23 requested changes to his district lines, wanting his district to cover all of Lowndes County and none of Autauga County. (Doc. 258 at 30; Tr. 1.37–39). Id. at 71.</p> <p>“As this Court found, the need to expand and contract districts in the Mobile area and the decision not to cross Mobile Bay also affected these districts.” Id. at 71-72.</p> <p>Plaintiffs “offer no map showing a workable alternative (and that observes the Legislature’s criteria, including the ±1% rule).” Id. at 72.</p> <p>“SD23, at 64.84% black, is close to the racial makeup of SD23 in the 2001 plan using 2010 Census data (64.76% black). (See</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>SD 23 splits only Autauga County, leaving Butler, Conecuh, Dallas, Lowndes, Monroe, Perry, and Wilcox Counties whole. DSX 74.</p> <p>0 split precincts. DSX 75.</p> <p>Act 603: The 26 precincts split with majority- white districts show clearly racial sorting (APSX 632): 238, APSX 296 239, APSX 298 242, APSX 299 245, APSX 297 249, APSX 300 252, APSX 295 359, APSX 301 365, APSX 303 368, APSX 305 371, APSX 304 354, APSX 302 1485, APSX 344 1499, APSX 350 1500, APSX 351 1501, APSX 343 1502, APSX 345 1503, APSX 348 1509, APSX 346 1507, APSX 349 1511, APSX 347</p>	<p>C29).” Id.</p> <p>“considering the racial composition of the counties in that part of the State, it would require a racial gerrymander to have districts that are significantly different.” Id. at 73.</p> <p>“There is no way to divide these counties into Senate districts without creating majority-black districts, regardless of the race-neutral principles applied. For this reason, competing plans also have high black percentages in these districts, lowered only by ignoring the drafters’ race-neutral criteria.” Id.</p> <p>“If the drafters of the State’s plans could have ignored the residence of SD22’s incumbent in Clarke County, then they might have decided to put that entire County in SD24, as Sen. Sanders’ plan suggests. If the drafters of the State’s plans could have expanded SD23 into</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>1493, APSX 352 1935, APSX 374 1936, APSX 375 1937, APSX 376 1939, APSX 373 1942, APSX 372</p> <p>Precincts split between majority-black districts to help reach racial targets: 1285, APSX 337</p> <p>15,603 persons, 11.5% of SD 23's population, reside in split precincts, including 9,971 or 11.4% of the district's black population. SDX 475.</p>	<p>Autauga County, even though the incumbent opposed that expansion, then they might have adopted a plan like the ADC's plan for SD23. But the drafters had to reject these possibilities because they were applying race-neutral criteria, not because they were focused on a racial target." Id. at 74.</p> <p>"The evidence does not establish that the drafters split counties on the basis of race." Id. at 74-76. "The evidence does not establish that the drafters split precincts in contravention of race-neutral principles." Id. at 76-77.</p>
SD 24	<p>Act 603: SD 24 reached and exceeded its 62.78% black target by +0.44%. APSX 398.</p> <p>63.22% BTP 59.84% BVAP 37.21% NHWVAP 18,892 total pop added +12,443 black +5,702 white APSX 491, 686; SDX</p>	<p>See responses to SD 23.</p> <p>"SD24, at 63.22% black, is close to the racial makeup of SD24 in the 2001 plan using 2010 Census data (62.78% black)." Doc. 263 at 72.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>400, 402.</p> <p>SD 24 splits Choctaw, Clarke, Hale, Marengo, Pickens, and Tuscaloosa Counties. Greene and Sumter Counties are kept whole. DSX 401.</p> <p>21 split precincts. APSX 632; SDX 475.</p> <p>ALBC 1% 57.31% BTP 54.50% BVAP 42.82% NHWVAP 18,927 total pop added +4,345 black +14,141 white APSX 470, 491, 637; DSX 65, 81; SDX 402.</p> <p>ALBC 1% SD 24 splits Tuscaloosa and Washington Counties, leaving Choctaw, Greene, Hale, Marengo, and Sumter Counties whole. DSX 81.</p> <p>0 split precincts. APSX 633, 639.</p> <p>ADC 1% 59.3% BTP 56.34% BVAP 16,434 total pop added +5,672 black</p>	

District	Plaintiffs' Evidence	Defendants' Responses
	<p>+10,461 white DSX 65, 72; SDX 402.</p> <p>SD 24 splits Choctaw and Tuscaloosa Counties, leaving Greene, Hale, Marengo, Pickens, and Sumter Counties whole. DSX 74.</p> <p>8 split precincts. DSX 75.</p> <p>Act 603: The 21 precincts split with majority- white districts show clearly racial sorting (APSX 632; precincts 249, 252, and 1285 are inadvertently omitted from this list): 231, APSX 289 232, APSX 287 233, APSX 292 235, APSX 288 225, APSX 291 226, APSX 289 227, APSX 290 249, APSX 300 252, APSX 295 254, APSX 293 743, APSX 306 734, APSX 307 735, APSX 308 1285, APSX 337 1646, APSX 360</p>	

District	Plaintiffs' Evidence	Defendants' Responses
	<p>1849, APSX 369 1850, APSX 368 1851, APSX 371 1852, APSX 370 1861, APSX 367 1862, APSX 366</p> <p>There are no precincts split between majority-black districts to help reach racial targets.</p> <p>40,564 persons, 29.5% of SD 24's population, reside in split precincts, including 22,077 or 25.4% of the district's black population. SDX 475.</p>	
SD 26	<p>Act 603: SD 26 reached and exceeded its 72.69% black target by +2.44%. APSX 398.</p> <p>75.13% BTP 72.81% BVAP 21.46% NHWVAP 15,785 total pop added +14,806 black +36 white APSX 491, 686; SDX 400, 402.</p> <p>SD 26 is contained wholly inside Montgomery County. SDX 401.</p> <p>7 split precincts.</p>	<p>“SD26 has consistently had a high black population percentage over the years and throughout alternative plans because of Montgomery’s demographics, not because of racial gerrymandering. The lines of SD26 are consistent with race neutral principles. And precinct splits had little effect on the population percentages, as shown by unsplitting them.” Doc. 263 at 78.</p> <p>“The district lines had to change significantly because of population</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>APSX 632; SDX 475.</p> <p>ALBC 1% 57.59% BTP 55.94% BVAP 39.37% NHWVAP 16,753 total pop added -8,572 black +25,521 white APSX 470, 491, 637; DSX 65, 81; SDX 402.</p> <p>ALBC 1% SD 26 splits Autauga and Montgomery Counties. DSX 81.</p> <p>0 split precincts. APSX 633, 639.</p> <p>ADC 1% 60.7% BTP 57.70% BVAP 17,141 total pop added -4,121 black +20,887 white DSX 65, 72; SDX 402.</p> <p>SD 26 is wholly contained inside Montgomery County. DSX 75.</p> <p>0 split precincts. DSX 75.</p> <p>Act 603:</p>	<p>changes, but both the incumbent of SD26 and the incumbent in adjacent SD25 remained in their respective districts. SD26 is entirely within Montgomery County and, therefore, does not cross county lines. And, as explained in more detail below, SD26 is almost entirely composed of residents of a single city—Montgomery. This Court has already made detailed factual findings about the reasons for changes to SD26's lines." Id. at 78.</p> <p>"The district has 36 more whites net than it had before, but to say that the Legislature added only 36 whites without mentioning the "net" part of the equation is misleading." Id. at 79.</p> <p>"This Court has already made detailed factual findings about the district, findings that it need not reconsider, tracing the cause of the current shape</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>The 7 precincts split with majority-white districts show clearly racial sorting (APSX 632):</p> <ul style="list-style-type: none"> 1519, APSX 353 1520, APSX 354 1521, APSX 355 1522, APSX 356 1542, APSX 357 1543, APSX 358 1573, APSX 359 <p>There are no precincts split between majority-black districts.</p> <p>19,202 persons, 14.2% of SD 26's population, reside in split precincts, including 10,683 or 10.4% of the district's black population. SDX 475.</p>	<p>to the need to create a land bridge between SD25 and Crenshaw County.” Id. at 80.</p> <p>“The plaintiffs do not present a realistic alternative to the existing lines.” Id. at 81-83.</p> <p>“The black population percentage of SD26 results from Montgomery’s demographics and does not support plaintiffs’ racial gerrymandering claim.” Id. at 83-85.</p> <p>“plaintiffs have proposed variations of SD26 with a lower percentage of blacks than the plan as passed, but they have not shown that it can be done while observing +1% and other non-racial criteria.” Id. at 85.</p> <p>“The “peninsula” extending into SD25 along Highway 231 is a single large precinct. (Def. Supp. Ex. 9). Similarly, the piece of SD25 that is partially surrounded by SD26</p>

District	Plaintiffs' Evidence	Defendants' Responses
		<p>follows the lines of much smaller precincts. (Def. Supp. Ex. 9). So, to the extent the district is an unusual shape, it takes that shape because of precinct lines, not in spite of them. ... the portion of SD26 that the plaintiffs have always criticized as being an unusual shape is where Sen. Ross, the incumbent for SD26, lives.” Id. at 86-87.</p> <p>“the basic outline of the current map of SD26 also appears in a map of Montgomery County Commission districts.” Id. at 87.</p> <p>“almost the entire population of SD26 comes from a single city, the City of Montgomery.” Id.</p> <p>“the plaintiffs have not shown that a significant number of voters were placed in SD26 because of their race. As shown by the spreadsheet for SD26 in Ex. 3, putting those 7 precincts back together lowers the percentage of blacks in</p>

District	Plaintiffs' Evidence	Defendants' Responses
		<p>SD26 from 75.13% to 73.09%, about 2%.” Id. at 88.</p> <p>“Unsplitting” the precincts shows the drafters did not need to split precincts to reach their racial target. Id.</p> <p>“One of the main differences in the two versions of SD 26 is that the Legislature left the incumbent’s home precinct whole, resulting in the “crab claw” shape, as it has been described in this litigation. In the ADC Plan, however, Senator Ross’s home precinct is split in order to “chop off the claw” and make the district more compact. Fairfax depo. 98:24-99:23, 100:8-11. This is a case of competing goals – compactness and whole precincts....” Doc. 295 at 39-40.</p> <p>“The ALBC’s line-drawer expressly testified that he split counties for the express purpose of reducing the black population of SD 26. Cooper depo.</p>

District	Plaintiffs' Evidence	Defendants' Responses
		129:5-10.” Id. at 41. (But see Mr. Cooper’s full explanation at 129:22-134:17.)
SD 28	<p>Act 603: SD 28 reached and exceeded its 50.98% black target by +8.85%. APSX 398.</p> <p>59.83% BTP 58.14% BVAP 37.46% NHWVAP 6,541 total pop added +15,543 black -8,812 white APSX 491, 686; SDX 400, 402.</p> <p>SD 28 splits Houston, Lee, and Russell Counties. Barbour, Bullock, Henry, and Macon Counties are kept whole. DSX 401.</p> <p>18 split precincts. APSX 632; SDX 475.</p> <p>ALBC 1% 50.98% BTP 49.71% BVAP 45.99% NHWVAP 3,935 total pop added +2,003 black +2,403 white APSX 470, 491, 637; DSX 65, 81; SDX 402.</p>	<p>“SD28 reflects the wishes of the incumbent and remained largely unchanged from 2001 to 2012. The black population percentage has also remained similar throughout the years, and all the proposed plans have similar percentages as well.” Doc. 263 at 90.</p> <p>Sen. Beasley, the Democrat incumbent, met with Sen. Dial, “[a]nd he assured me that he was okay with that.” Id.</p> <p>“The only new feature resulted from moving a small portion of Houston County from SD31 to SD28. (SDX 476, 477).” Id. at 91.</p> <p>The alternative plans are similar to the Act 603 SD 28. Id. at 92.</p> <p>“The ALBC now proposes a district that is made up of</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>ALBC 1% SD 28 splits Lee and Tallapoosa Counties, leaving Barbour, Bullock, Henry, Macon, and Russell Counties whole. DSX 81.</p> <p>1 split precinct. APSX 633, 639.</p> <p>ADC 1% 51.7% BTP 50.43% BVAP 5,252 total pop added +3,704 black +1,970 white DSX 65, 72; SDX 402.</p> <p>SD 28 splits Houston County, leaving Barbour, Bullock, Henry, Macon, and Russell Counties whole. DSX 74.</p> <p>2 split precincts. DSX 75.</p> <p>Act 603: The 18 precincts split with majority-white districts show clearly racial sorting (APSX 632): 786, APSX 312 792, APSX 311 793, APSX 310</p>	<p>four whole counties (because county lines are what they care about), but their SD28 is underpopulated by 4.75% and, like the rest of their plan, fails to comply with the Legislature's guidelines." Id. at 92-93.</p> <p>"The black population percentage has remained constant over the years and is consistent across alternative plans, reflecting the demographics of the area." Id. at 93-94.</p> <p>"Unsplitting precincts does not significantly change the black population percentage." Id. at 94-95.</p> <p>"In the ADC plan, Mr. Fairfax had no problem with adding specific, heavily black precincts in Houston County for the express purpose of making SD 28 a black-majority district, Fairfax depo. 124:8-14, and to "not do any type of retrogression or have any retrogression</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>794, APSX 309 795, APSX 313 787, APSX 314 788, APSX 316 791, APSX 315 1128, APSX 336 1129, APSX 334 1130, APSX 332 1131, APSX 333 1134, APSX 335 1699, APSX 364 1700, APSX 362 1714, APSX 365 1701, APSX 363 1709, APSX 361</p> <p>There are no precincts split between majority-black districts to help reach racial targets.</p> <p>40,048 persons, 29.0% of SD 28's population, reside in split precincts, including 26,026 or 31.5% of the district's black population. SDX 475.</p>	<p>effect,” Fairfax depo. 126:6-9. Of course, he was acting under the assumption that 50% black was sufficient for black voters to elect their candidate of choice....” Doc. 295 at 41-42.</p> <p>“The Legislature, on the other hand, was listening to Joe Reed and Senator Hank Sanders, who thought a greater majority was required, and drew it as a 59% black district.” Id. at 42.</p>
SD 33	<p>Act 603: SD 33 reached and exceeded its 64.85% black target by +6.79%. APSX 398.</p> <p>71.64% BTP 68.23% BVAP 28.75% NHWVAP 24,299 total pop added +25,015 black</p>	<p>“SD33’s 2012 lines are much like its 2001 lines. The few changes resulted from the need to repopulate the district, and the options for doing so were limited by geography and the wishes of area incumbents.” Doc. 263 at 96.</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>-1,285 white APSX 491, 686; SDX 400, 402.</p> <p>SD 33 is contained wholly inside Mobile County. SDX 401. But Act 603 Senate plan splits Mobile into 4 districts, 1 of which crosses the county boundary, when 3 districts could have been drawn within $\pm 1\%$ deviation keeping Mobile County whole.</p> <p>5 split precincts. APSX 632; SDX 475.</p> <p>ALBC 1% 62.28% BTP 58.88% BVAP 36.69% NHWVAP 26,007 total pop added +13,321 black +10,653 white APSX 470, 491, 637; DSX 65, 81; SDX 402.</p> <p>ALBC 1% SD 33 is wholly contained inside Mobile County, as are the only other 2 Senate districts in Mobile County. DSX 81.</p> <p>0 split precincts. APSX 633, 639.</p>	<p>“unsplitting the precincts shows a negligible difference in black population percentage.” Id.</p> <p>“there is no alternative way to draw it in compliance with the Constitution and Alabama law, including the Legislature’s guidelines.” Id.</p> <p>“Politics blocked one possible answer for SD33: to absorb population from rapidly-growing Baldwin County, or to bring the Baldwin County district into Mobile County. The testimony at trial was unequivocal that neither delegation wanted the Mobile and Baldwin County districts to cross Mobile Bay.” Id. at 97.</p> <p>“The Legislature missed that so-called “target” by more than 7 points. (See Ex. 2). There is no evidence that the Legislature set out to increase the black percentage in SD33, so whatever drove the end</p>

District	Plaintiffs' Evidence	Defendants' Responses
	<p>ADC 1% 58.3% BTP 55.17% BVAP 25,835 total pop added +7,691 black +17,132 white DSX 65, 72; SDX 402.</p> <p>SD 33 is wholly contained inside Mobile County. DSX 75.</p> <p>2 split precincts. DSX 75.</p> <p>Act 603: 4 of the 5 precincts split with majority-white districts show clearly racial sorting. Precinct 1391 is a zero population split. (APSX 632): 1394, APSX 338 1458, APSX 339 1460, APSX 340 1473, APSX 342</p> <p>There are no precincts split between majority-black districts to help reach racial targets.</p> <p>12,719 persons, 9.3% of SD 33's population, reside in split precincts, including 7,446 or 7.6% of the district's black population. SDX 475.</p>	<p>result was not a "target." Politics drove the lines: the need to get to 18 votes by satisfying incumbents." Id. at 99.</p> <p>"The plaintiffs' alternative plans are particularly compelling evidence of the lack of racial predominance because they achieve different racial compositions only by rejecting the drafters' race-neutral criteria." Id. at 99-101.</p> <p>"The precinct splits cannot be blamed for the racial composition of SD33. Plaintiffs have not proven that the Legislature placed a significant number of people into or out of SD33 on account of their race in contradiction to traditional districting criteria." Id. at 102.</p> <p>"As in Montgomery County, Mr. Fairfax and the Legislature agreed in principle that the County should be divided into urban and rural Senate</p>

District	Plaintiffs' Evidence	Defendants' Responses
		<p>Districts. The Legislature moved SD 33 south to find the population it needed; Mr. Fairfax opted instead to move west and north (and ALBC made similar decisions). Fairfax could point to no general districting principle that made one direction an obviously better choice than another. See generally Fairfax depo. 102-111.12 He even admitted that on the "eyeball test," the Legislature's version of SD 33 is more compact than ADC's. Fairfax depo. 110:12-17." Doc. 295 at 42.</p>

Conclusion

Applying the *Bethune-Hill* standards, race does not predominate in Act 602 HD 84. Even though the drafters reached and exceeded their black percentage target, HD 84 does not split county boundaries more than necessary to comply with population equality, and only one precinct is split. In short, even though the drafters were pursuing an unlawful policy of racial targeting, in doing so they did not subordinate traditional districting principles.

Race was the predominant factor, however, in drawing all the other challenged districts, because it is undisputed the drafters were attempting to reach and exceed unlawful racial targets in each case, and in doing so they split more county and precinct boundaries than was required by population equality, even under the arbitrary $\pm 1\%$ maximum deviation restriction established by the Alabama Legislature. The alleged approval of incumbents, even African-American incumbents, does not rescue any racially targeted district, because it is undisputed that the drafters started with the majority-black districts and based their county and precinct splits solely on census data and not on any specific incumbent or party performance data.

Respectfully submitted this 23rd day of November, 2015.

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