

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

ALABAMA LEGISLATIVE)	
BLACK CAUCUS, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	CASE NO. 2:12-CV-691
v.)	(Three-Judge Court)
)	
THE STATE OF ALABAMA, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	
)	
DEMETRIUS NEWTON, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	CASE NO. 2:12-CV-1081
v.)	(Three-Judge Court)
)	
THE STATE OF ALABAMA, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER GRANTING MOTION FOR CLASS CERTIFICATION

Before the court are the Motion for Certification of a Class Action (Doc. # 69), filed by Plaintiffs in Alabama Legislative Black Caucus v. Alabama, no. 2:12-cv-691 (“ALBC”), and the opposing and supporting briefs (Docs. # 78, 79, 81). The motion is due to be granted.

Rule 23(a) establishes four prerequisites to a class action:

(1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.

Fed. R. Civ. P. 23(a). The class also must satisfy one of Rule 23(b)'s requirements. The ALBC Plaintiffs proceed under Rule 23(b)(2), which requires that Defendants have “acted or refused to act on grounds that apply generally to the class, so that final injunctive relief is appropriate respecting the class as a whole.”

The ALBC Plaintiffs' Amended Complaint challenges the State of Alabama's new redistricting plans for its House of Representatives and Senate as codified in Acts 2012-602 and 2012-603 (“Acts”). The ALBC Plaintiffs proceed to discovery on Counts II and III of the Amended Complaint. Count II alleges that the Acts dilute and isolate the strength of African-American votes in violation of section 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973, the Fourteenth Amendment, U.S. Const. Amend. XIV, and the Fifteenth Amendment, U.S. Const. Amend. XV. Count III alleges partisan gerrymandering in violation of the Fourteenth Amendment.

We have carefully considered the arguments, evidence, and the law on class certification. We recognize that the ALBC Defendants raise some substantial

arguments with respect to the scope of the proposed subclasses and whether class treatment is appropriate with respect to the issue of splitting county lines, wherever that issue may arise. Regardless, we are of the opinion at this juncture that the proposed subclasses meet the requirements of Rule 23(a) and (b)(2). The subclasses are sufficiently numerous that joinder of all members is impracticable; there are questions of law or fact common to each subclass; the claims of the ALBC Plaintiffs are typical of the claims of the subclasses; and the ALBC Plaintiffs and their counsel will fairly and adequately protect the interests of the subclasses. Additionally, the ALBC Plaintiffs allege that the ALBC Defendants have acted or refused to act on grounds generally applicable to the subclasses, which would make final injunctive relief appropriate respecting each subclass as a whole. Finally, this type of suit is the quintessential stuff of Rule 23(b) class actions.

To the extent it should become necessary to revise the subclass definitions as a result of discovery or other events, we can revisit the issue pursuant to Rule 23(c)(1)(C). See Fed. R. Civ. P. 23(c)(1)(C) (“An order that grants or denies class certification may be altered or amended before final judgment.”).

Based upon the foregoing, it is ORDERED that the ALBC Plaintiffs' Motion for Certification of a Class Action (Doc. # 69) is GRANTED. The following subclasses are CERTIFIED pursuant to Rule 23(a) and (b)(2):

(1) All residents of Alabama counties whose boundaries have been split among more House and/or Senate districts than are necessary to satisfy the Fourteenth Amendment requirement of substantial population equality and the Voting Rights Act;

(2) All African-American voters of Alabama; and

(3) All Alabama voters who support and wish to elect Caucasian and African-American Democratic members of the State of Alabama's Legislature.

Excluded from the class are Plaintiffs in Newton v. Alabama, no. 2:12-cv-1081 ("Newton"), and all judicial officers of the United States who preside over or hear this case, as well as all persons who are related to them as specified in 28 U.S.C. § 455(b)(5).

It is further ORDERED that attorneys James Uriah Blacksher, Esq., U. W. Clemon, Esq., and Wilson Edward Still, Esq., are DESIGNATED as class counsel.

It is further ORDERED that the named Plaintiffs in the ALBC action – the 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. – are DESIGNATED as representatives of the Rule 23(b)(2) subclasses.¹

It is further ORDERED that the Newton Plaintiffs may appear, participate, and present claims individually in this consolidated litigation. Insofar as the Newton Plaintiffs have additional claims under the Fourteenth and Fifteenth Amendments and under section 2 of the Voting Rights Act of 1965, they may pursue also those claims individually. Nothing in this Order shall prevent the Newton Plaintiffs from presenting and prosecuting the claims that they have pled in their original suit.

DONE this 28th day of March, 2013.

/s/ William H. Pryor, Jr.
UNITED STATES CIRCUIT JUDGE
PRESIDING

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE

¹ In the event discovery discloses that not all class representatives should represent all subclasses, the court will avail itself of Rule 23(c)(1)(C).