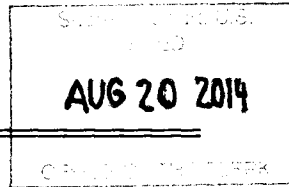


No. 13-1138



In The
Supreme Court of the United States

ALABAMA DEMOCRATIC CONFERENCE, et al.,

Appellants,

v.

THE STATE OF ALABAMA, et al.,

Appellees.

**On Appeal From The
United States District Court For
The Middle District Of Alabama**

**BRIEF OF AMICI CURIAE
PROFESSORS RONALD KEITH GADDIE,
CHARLES S. BULLOCK, III, AND
STEPHEN ANSOLABEHRE
IN SUPPORT OF NEITHER PARTY**

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INTEREST OF *AMICI CURIAE*

Amici are professors of political science, government, and statistics, and have written, published, and testified about voting rights and redistricting.¹ They have won numerous prizes and awards for their work in these areas. *Amici* take no position on whether the Alabama redistricting plan at issue in this case is constitutional. Rather, they write to provide this Court with critical information regarding African-American voter registration and turnout in Alabama over the past three decades.

Amicus Ronald Keith Gaddie (<http://faculty-staff.ou.edu/G/Ronald.K.Gaddie-1/vita.pdf>) is a Professor of Political Science at the University of Oklahoma. His book *The Triumph of Voting Rights in the South*, co-authored with Charles S. Bullock, III, received the V.O. Key Jr. Award for outstanding book on Southern Politics from the Southern Political Science Association. He testified before the U.S. Senate Judiciary Committee on the renewal of Section 5 of the Voting Rights Act in 2006.

Amicus Charles S. Bullock, III (http://spia.uga.edu/uploads/vitae/Charles_S._Bullock%2C_III_2012_Vitae.pdf)

¹ No counsel for a party authored this brief in whole or in part, and no person other than *amici curiae* and their counsel have made a monetary contribution toward its preparation or submission. By letters filed with the Clerk, counsel for all parties have consented to this filing.

is the Richard B. Russell Professor of Political Science at the University of Georgia. He is a member and former president of the Southern Political Science Association. As noted, he co-authored the award-winning book *The Triumph of Voting Rights in the South* with Keith Gaddie.

Amicus Stephen Ansolabehere (http://scholar.harvard.edu/files/sansolabehere/files/sda_vita.pdf) is Professor of Government at Harvard University. He has been elected Fellow of the American Academy of Arts and Sciences and is on the editorial boards of the *American Journal of Political Science*, *Election Law Journal*, *Legislative Studies Quarterly*, *Public Opinion Quarterly*, and *Business and Politics*. He is a founding member of the Caltech/MIT Voting Technology Project.

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INTRODUCTION AND SUMMARY OF ARGUMENT

In evaluating retrogression under Section 5 of the Voting Rights Act, the Department of Justice employs a “functional analysis of the electoral behavior within the particular jurisdiction.” *Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act*, 76 Fed. Reg. 7470, 7471 (Feb. 9, 2011). Under this approach, “voter registration and turnout information . . . [is] very important to an assessment of the actual effect of a redistricting plan.” *Id.*

In the context of this redistricting case invoking Section 5 principles, *amici* here provide the Court with precisely this information with respect to Alabama. The data demonstrate that, over the course of the last three decades, African-American voter registration and turnout in the State has not only increased, it has surpassed white voter participation.

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ARGUMENT

In *Shelby County, Alabama v. Holder*, 133 S. Ct. 2612 (2013), this Court relied upon Census Bureau data in recognizing improvements in African-American voter participation in the six states originally covered by Section 5. *See id.* at 2626 (citing Dep't of Commerce, Census Bureau, Reported Voting and Registration, by Sex, Race and Hispanic Origin, for State (Table 4b)). This same data reveal that the racial disparity in voter participation in Alabama has diminished in recent years.²

² All of the data reflected in this brief has been obtained from the following sources: Charles S. Bullock, III & Ronald Keith Gaddie, *The Triumph of Voting Rights in the South*, App. B, 379-85 (2009) (providing registration and voter turnout data from 1980-2006), and U.S. Dep't of Commerce, Census Bureau, Reported Voting and Registration by Sex, Race and Hispanic Origin, for States (Table 4b), *available at* <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2012/tables.html> (providing data for 2012); <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2010/tables.html> (providing data for 2010); <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/>

(Continued on following page)

Table 1. Alabama Voter Registration Data by Race and Ethnicity

Year	Racial Group	Registration	
		Rate	Gap
1980	Black	62.2%	11.1
	White	73.3%	
1982	Black	57.7%	12.5
	White	70.2%	
1984	Black	71.4%	5.8
	White	77.2%	
1986	Black	75.4%	-1.1
	White	74.3%	
1988	Black	68.4%	6.6
	White	75.0%	
1990	Black	65.3%	9.6
	White	74.9%	
1992	Black	71.8%	7.5
	White	79.3%	
1994	Black	66.3%	7.0
	White	73.3%	
1996	Black	69.2%	6.6
	White	75.8%	
1998	Black	74.3%	-0.2
	White	74.1%	
	Non-Hispanic White	74.5%	
2000	Black	72.0%	2.5
	White	74.5%	
	Non-Hispanic White	74.9%	

2008/tables.html (providing data for 2008). These data were originally collected in various Current Population Surveys (CPS) conducted since 1980 by the Census Bureau; details on the CPS are available at <http://www.census.gov/cps>.

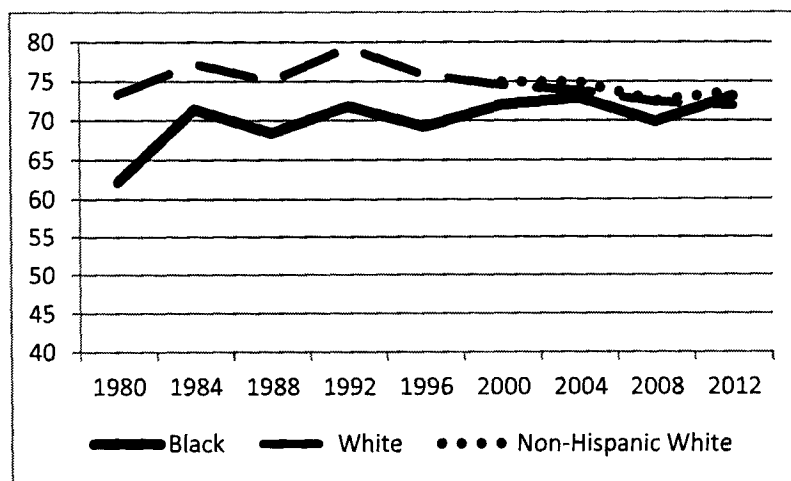
2002	Black	67.6%	6.1
	White	73.7%	
	Non-Hispanic White	74.2%	
2004	Black	72.9%	0.9
	White	73.8%	
	Non-Hispanic White	74.9%	
2006	Black	71.8%	1.2
	White	73.0%	
	Non-Hispanic White	74.5%	
2008	Black	69.9%	2.5
	White	72.4%	
	Non-Hispanic White	72.5%	
2010	Black	69.0%	-5.0
	White	64.0%	
	Non-Hispanic White	64.5%	
2012	Black	73.1%	-1.2
	White	71.9%	
	Non-Hispanic White	73.7%	

As reflected in Table 1, by 1980, 62.2% of voting-age African Americans in Alabama reported having registered. The comparable figure for the share of the white voting age population claiming to be registered was 73.3%, a difference of 11.1 percentage points between the two racial groups. During the 1980s, approximately 7% more whites than African Americans were registered. The greatest disparity in white and African-American registration, 12.5 points, occurred in 1982.

In 2000, that gap had shrunk to 2.5 points, and throughout the next decade, approximately 2.1% more whites than African Americans were registered.³

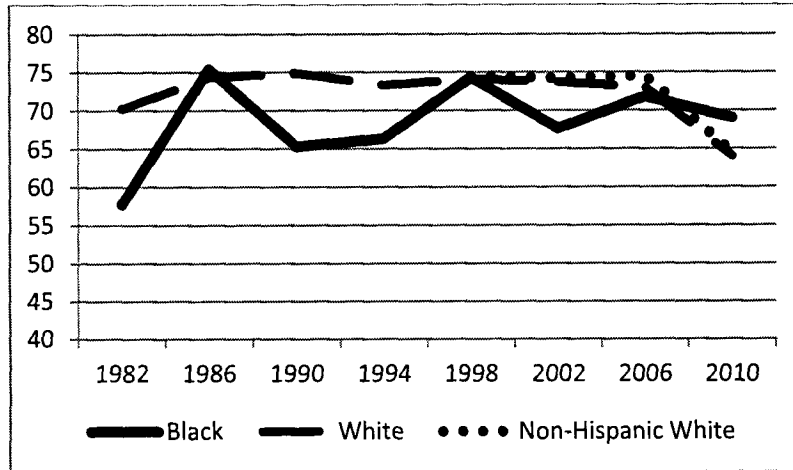
In 2010, African-American voter registration exceeded white voter registration by a full 5 percentage points. Similarly, in the 2012 presidential election, a larger proportion of African Americans (73.1%) than whites (71.9%) had registered.

Figure 1: Black, White, and Non-Hispanic White Voter Registration for Alabama, Presidential Election Years



³ The Census Bureau provides separate figures for non-Hispanic whites as of 1998. See U.S. Dep't of Commerce, Bureau of the Census, Census 2000 Brief: The Hispanic Population (2001), available at www.census.gov/prod/2001pubs/c2kbr01-3.pdf. For ease of comparison, all of the gaps in voter registration and turnout rates reported here are calculated without reference to data for non-Hispanic whites.

Figure 2: Black, White, and Non-Hispanic White Voter Registration for Alabama, Midterm Election Years



The racial disparity in voter turnout over that time has also diminished.

Table 2. Alabama Voter Turnout Data by Race and Ethnicity

Year	Racial Group	Turnout Rate	Gap
1980	Black	48.9%	10.3
	White	59.2%	
1982	Black	41.2%	10.8
	White	52.0%	
1984	Black	54.8%	8.0
	White	62.8%	
1986	Black	55.2%	-2.7
	White	52.5%	
1988	Black	52.4%	6.0
	White	58.4%	

1990	Black	45.7%	7.0
	White	52.7%	
1992	Black	58.1%	7.8
	White	65.9%	
1994	Black	53.5%	10.8
	White	64.3%	
1996	Black	54.3%	2.0
	White	56.3%	
1998	Black	51.6%	0
	White	51.6%	
	Non-Hispanic White	51.9%	
2000	Black	57.2%	3.6
	White	60.8%	
	Non-Hispanic White	61.1%	
2002	Black	43.3%	7.4
	White	50.7%	
	Non-Hispanic White	51.3%	
2004	Black	63.9%	-1.7
	White	62.2%	
	Non-Hispanic White	63.1%	
2006	Black	47.8%	1.8
	White	49.6%	
	Non-Hispanic White	50.5%	
2008	Black	62.5%	-0.1
	White	62.4%	
	Non-Hispanic	62.5%	
2010	Black	46.4%	-2.9
	White	43.5%	
	Non-Hispanic White	44.0%	
2012	Black	66.2%	-4.0
	White	62.2%	
	Non-Hispanic White	64.1%	

In 1980 the Census Bureau estimated that 48.9% of eligible African Americans voted in the general election, compared with 59.2% of whites, a disparity of 10.3 percentage points. As reflected in Figures 3 and 4, over the course of the next three decades, African-American and white turnout rates fluctuated, with the gap between the two trending narrower over time. In 1990, 7% more whites than African Americans cast a ballot; in 2000, the gap was 3.6 percentage points.

In 2004, a larger proportion of African Americans (63.9%) than whites (62.2%) turned out to vote. African Americans have turned out at higher rates than whites in four of the five most recent national elections, including the three most recent presidential elections. In the 2006 midterm election, when white turnout exceeded African-American turnout, the disparity was only 1.8 percentage points, with 47.8% for African Americans and 49.6% for whites.

Figure 3: Black, White, and Non-Hispanic White Voter Turnout for Alabama, Presidential Election Years

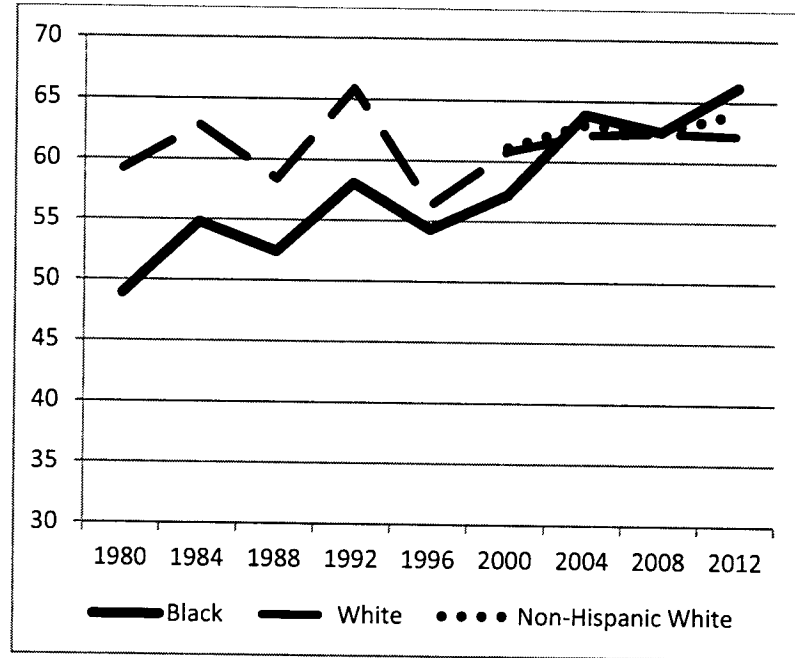
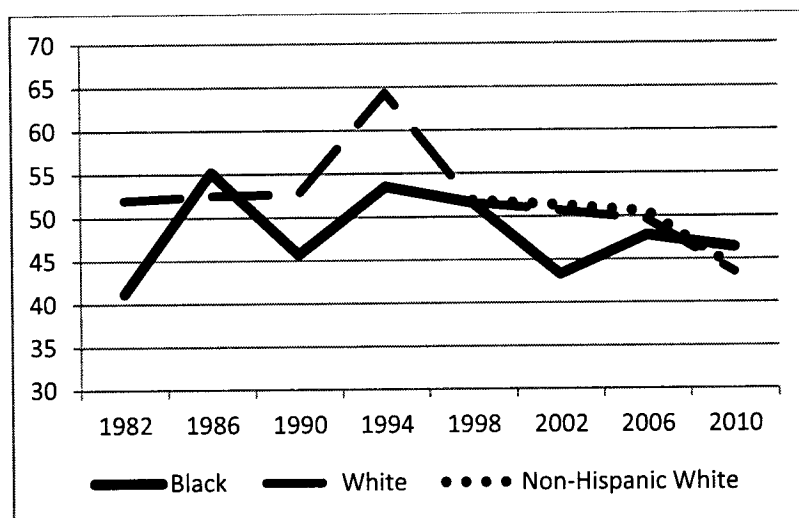


Figure 4: Black, White, and Non-Hispanic White Voter Turnout for Alabama, Midterm Election Years



CONCLUSION

In deciding this case, this Court should take into consideration the voter registration and turnout information in Alabama over the last three decades, which is an integral component of any Section 5 analysis. *Amici* set forth that data here. Over that time, Alabama has seen the gap between African-American and white voter participation narrow significantly, with African-American registration and turnout

actually exceeding white registration and turnout in recent elections.

Respectfully submitted,

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