

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

ALABAMA LEGISLATIVE BLACK)
CAUCUS, et al.,)

Plaintiffs,)

v.)

THE STATE OF ALABAMA, et al.,)

Defendants.)

CIVIL ACTION NO.
2:12-cv-691-WKW-MHT-WHP
(3-judge court)

DEMETRIUS NEWTON, et al.,)

Plaintiffs,)

v.)

THE STATE OF ALABAMA, et al.,)

Defendants.)

CIVIL ACTION NO.
2:12-cv-1081-WKW-MHT-WHP
(3-judge court)

JOINT REPORT OF THE PARTIES

Come now the parties to these consolidated actions, who have conferred in compliance with the Court's order of April 28, 2015, *doc.* 225, and now make this report:

1. A suggested date by which plaintiffs will identify each majority-minority legislative district that they intend to challenge as a racial gerrymander.

Both the Alabama Legislative Black Caucus plaintiffs (the Caucus) and the Alabama Democratic Conference plaintiffs (the ADC) challenge separately as a racial gerrymander each majority-black district. These are House Districts 19, 32, 52, 53, 54, 55, 56, 57, 58, 59, 60, 67, 68, 69, 70, 71, 72, 76, 77, 78, 82, 83, 84, 85, 97, 98, 99, and 103, and Senate Districts 18, 19, 20, 23, 24, 26, 28, and 33.

2. A suggested date for the ADC to file a list of members to establish standing, and a date for the defendants to respond to the list, if they want to.

The ADC will file its list of ADC members residing in the challenged districts on or before May 22, 2015. If after seeing the list the defendants want to respond, they will do so by May 29, 2015.

3. The identity of new evidence the plaintiffs hope to introduce, and a schedule for obtaining that new evidence.

The Caucus does not intend to introduce new evidence. At the hearing on May 18, 2015, the Caucus will ask the Court to take judicial notice of (a) the rules adopted by the House and Senate, respectively, for the current Legislative quadrennium, and (b) SB89, and its legislative history that appears on the Legislature's web site in the current legislative session, as it relates to the Birmingham Water Works Board.

The ADC does not intend to introduce new evidence (other than its list of members). To present the existing record in a more accessible form, the ADC's

brief might include charts, figures, maps, or tables not previously presented to the Court, but if so, all such charts, figures, comparisons, or tables will be based on data already a part of the existing record. The ADC will ask the Court to take judicial notice of the State of Alabama's 2001 Section 5 House and Senate preclearance submissions to the United States Department of Justice, which were submitted to the United States Supreme Court in this case, and the census-block level 2010 Census Population data.

4. The identity of new evidence the defendants hope to introduce, and a schedule for obtaining that evidence.

The defendants will ask the Court to take judicial notice of (1) the racial composition and population of Alabama cities, and (2) the residential addresses of incumbent legislators at the time that the redistricting plans were adopted. Defendants will file relevant documentation of these facts with their brief.

5. Whether an evidentiary hearing would be beneficial.

The parties do not believe an evidentiary hearing would be beneficial.

6. A suggested date by which the parties will submit the record to the Court for consideration.

The parties suggest the record be deemed submitted to the Court for consideration seven days before the plaintiffs' opening briefs are due.

7. A proposed briefing schedule that follows the submission of the record.

The plaintiffs request that the briefing schedule address this case on an expedited basis. It is the plaintiffs' position that a remedial map will be required to be imposed in time for the orderly administration of the 2016 elections. The Caucus and the ADC propose to file their initial briefs on June 12, 2015.

The parties have not reached an agreement on when the defendants' responsive brief should be due. The defendants propose that they be allowed to file a responsive brief six weeks after the last of the plaintiffs' briefs is filed. The plaintiffs ask that defendants' brief be due four weeks after the plaintiffs' briefs are due.

All parties propose that the plaintiffs be given two weeks to file their reply brief. The plaintiffs request that the Court hold oral argument as soon as practicable after the briefing is complete.

The defendants do not believe the Court should be concerned about expedited oral argument or briefing to meet the 2016 election schedule because: (1) the Court is unlikely to find that one or more of the challenged districts is unconstitutional; (2) special elections are not warranted as an equitable remedy for the kind of constitutional violation that the plaintiffs have alleged; and, (3) in any event, remedial proceedings are likely to be so time-consuming such that it

will be impossible to hold new elections in 2016, even if the Court (a) were to find one or more districts to be unconstitutional on an expedited basis and (b) were to conclude that a special election is an appropriate equitable remedy.

This filing is made jointly on behalf of all parties and with their authority to make this filing and this statement.

Respectfully submitted this the 13th date of May 2015.

/s/Dorman Walker

One of counsel for defendants-
intervenor Jim McClendon and
Gerald Dial

OF COUNSEL:

Dorman Walker

dwalker@balch.com

Louis Calligas

lcalligas@balch.com

BALCH & BINGHAM LLP

Post Office Box 78Montgomery, AL

36101-0078

Telephone: 334-834-6500

Fax: 334-269-3115

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and service will be perfected upon the following this the 13th day of May, 2015:

Luther Strange
Attorney General of Alabama
John J Park, Jr.
Deputy Attorney General
Strickland Brockington Lewis LLP
Midtown Proscenium, Suite 2200
1170 Peachtree Street, NE
Atlanta, GA 30309

Andrew Brasher
Solicitor General
James W. Davis
Misty S. Fairbanks Messick
Assistant Attorneys General
State of Alabama
P.O. Box 300152
Montgomery, AL 36130-0162

James U. Blacksher
P. O. Box 636
Birmingham, AL 35201-0636

U.W. Clemon
White Arnold & Dowd P.C.
2025 Third Avenue North, Suite 500
Birmingham, AL 35203

W. Edwards Still
Edward Still Law Firm LLC
429 Green Springs Highway
STE 161-304
Birmingham, AL 35209

James H. Anderson
Joel Thomas Caldwell
Copeland Franco Screws & Gill, PA
P.O. Box 347
Montgomery, AL 36101

William F. Patty
The Gardner Law Firm, P.C.
P.O. Box 991
Montgomery, AL 36101

Walter S. Turner
P.O. Box 6142
Montgomery, AL 36106

John K. Tanner
3743 Military Road NW
Washington, DC 20015

Joe M. Reed
Joe M. Reed & Associates, LLC
524 South Union Street
Montgomery, AL 36104

Jesse K. Anderson
Jackson, Anderson & Patty, P.C.
P.O. Box 1988
Montgomery, AL 36101

Brannan Ward Reaves
Webster, Henry, Lyons, Cohan &
Black, P.C.
P.O. Box 239
Montgomery, AL 36101

s/Dorman Walker

Of Counsel