

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; JIM *
BENNETT 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' REMAND BRIEF IN SUPPORT OF
REFILED MOTION FOR SUMMARY JUDGMENT
IN COMPLIANCE WITH SUPREME COURT MANDATE**

TABLE OF CONTENTS

I. THE SUPREME COURT’S MANDATE. 1

II. ALABAMA’S TRADITIONAL DISTRICTING PRINCIPLES. 4

III. DETERMINING RACIAL “PREDOMINANCE.” 10

 A. *The Legislature’s ±1% Maximum Deviation Rule. 10*

 B. *Race Not Politics. 14*

 C. *Evidentiary Factors For Determining Racial Predominance. 15*

IV. THE RACIAL TARGETS OR QUOTAS. 17

V. THE DISTRICTS CANNOT BE JUSTIFIED AS NARROWLY TAILORED TO COMPLY WITH THE VOTING RIGHTS ACT. 23

VI. THE UNDISPUTED MATERIAL FACTS SHOW ALL 36 MAJORITY-BLACK HOUSE AND SENATE DISTRICTS ARE UNCONSTITUTIONAL RACIAL GERRYMANDERS. 24

 A. *The Defendants Have the Burden of Proof. 24*

 B. *Examination of the Majority-black House Districts. 29*

 HD 19 and HD 53, Madison County. 29

 HD 32, Calhoun and Talladega Counties. 39

 HD 52, Jefferson County. 45

 HD 54, Jefferson County. 49

 HD 55, Jefferson County. 55

 HD 56, Jefferson County. 58

 HD 57, Jefferson County. 60

 HD 58, Jefferson County. 61

 HD 59, Jefferson County. 64

 HD 60, Jefferson County. 64

 HD 67, Dallas and Perry Counties. 67

 HD 68: Baldwin, Clarke, Conecuh, Marengo, Monroe, and Washington Counties. 69

 HD 69, Autauga, Lowndes, and Montgomery Counties. 84

 HD 70, Tuscaloosa County. 88

HD 71, Pickens, Tuscaloosa, Greene, Sumter, Marengo, and Choctaw Counties.	92
HD 72, Sumter, Greene, Hale, Marengo, Perry, and Bibb Counties.	100
HD 76, Montgomery County.	103
HD 77, Montgomery County.	108
HD 78, Montgomery County.	111
HD 82, Macon, Lee, and Tallapoosa Counties.	113
HD 83, Lee, Chambers, and Russell Counties.	117
HD 84, Bullock, Barbour and Russell Counties.	122
HD 85, Henry and Houston County.	122
HD 97, Mobile County.	126
HD 98, Mobile County.	131
HD 99, Mobile County.	135
HD 103, Mobile County.	138
C. <i>Examination of the Majority-black Senate Districts.</i>	142
SD 18, Jefferson County.	142
SD 19, Jefferson County.	146
SD 20, Jefferson County.	148
SD 23, Butler, Clarke, Conecuh, Dallas, Lowndes, Marengo, Monroe, Perry, Washington, and Wilcox Counties.	151
SD 24, Choctaw, Clarke, Greene, Hale, Marengo, Pickens, Sumter, and Tuscaloosa Counties.	164
SD 26, Montgomery County.	172
SD 28, Lee, Macon, Bullock, Russell, Barbour, Henry, and Houston Counties.	176
SD 33, Mobile County.	183
D. <i>Summary of Shaw Analyses.</i>	186
VII. THE UNNECESSARY SPLITTING OF COUNTY BOUNDARIES VIOLATES THE ONE-PERSON, ONE-VOTE RIGHTS OF COUNTY RESIDENTS AND IS RACIALLY DISCRIMINATORY.	190
VIII. CONCLUSION.	196
CERTIFICATE OF SERVICE	198

Plaintiffs Alabama Legislative Black Caucus et al., through undersigned counsel, submit these authorities and argument to support their refiled motion for summary judgment in compliance with the mandate of the Supreme Court in *Alabama Legislative Black Caucus v. Alabama*, 135 S.Ct. 1257 (2015), which vacated and remanded this Court's December 20, 2013, opinion and judgments, Docs. 203 and 205, 989 F.Supp.2d 2013 (M.D. Ala. 2013) (three-judge court), and to support plaintiffs' motion for reconsideration of this Court's order entered May 29, 2015, Doc. 242. Based on evidence already in the record, the supplemental exhibits, and the legal and constitutional standards set out in the Supreme Court's opinion, plaintiffs are entitled to summary judgment declaring unconstitutional all 36 majority-black districts in Acts 2012-602 and 2012-603.

I. THE SUPREME COURT'S MANDATE.

The mandate instructs this Court "to allow appellants to reargue their racial gerrymandering claims" under the Equal Protection standards of *Shaw v. Reno*, 509 U.S. 630 (1993), utilizing the Supreme Court's corrections of "four critical District Court determinations underlying its ultimate 'no violation' conclusion." 135 S.Ct. at 124.

- (1) Each of the majority-black districts must be scrutinized

individually, and “plaintiff must show that ‘race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without *a particular district.*’” 135 S.Ct. at 1265 (quoting *Miller v. Johnson*, 515 U.S. 900, 916 (1995)) (emphasis added by the Supreme Court).

(2) The ADC plaintiffs must be given the opportunity to demonstrate that they have standing to prosecute *Shaw* claims in each challenged district. 135 S.Ct. at 1270.

(3) This Court must determine in each challenged district whether race was “the predominant motivating factor,” utilizing the correct standard for calculating “predominance” in *Shaw* challenges. *Id.* Predominance must be measured by examining whether “the legislature subordinated *traditional race-neutral districting principles* ... to racial considerations.” *Id.* (quoting *Miller*, 515 U.S. at 916) (emphasis supplied by the Supreme Court). However, “the requirement that districts have approximately equal populations” is not one of the traditional districting principles in a *Shaw* analysis. *Id.* at 1271. “Rather, it is part of the redistricting background, taken as a given, when determining whether race, or other factors, predominate in a legislator’s determination as to how equal population objectives will be met.” *Id.* at 1270.

Instead, traditional districting principles include “compactness, contiguity,

respect for political subdivisions or communities defined by actual shared interests, incumbency protection, and political affiliation.” *Id.* (quoting *Bush v. Vera*, 517 U.S. 952, 964 (1996)). “Thus, on remand, the District Court should reconsider its ‘no predominance’ conclusions with respect to Senate District 26 and others to which our analysis is applicable.” 135 S.Ct. at 1272.

(4) If the State defends the predominance of race in a particular district by contending it was narrowly tailored to comply with Section 5 of the Voting Rights Act, 52 U.S.C. § 10304, this Court should apply the correct construction of that federal statute. “Section 5 does not require maintaining the same population percentages in majority-minority districts as in the prior plan. Rather, § 5 is satisfied if minority voters retain the ability to elect their preferred candidates.” 135 S.Ct. at 1273. And the State must have “a strong basis in evidence” that the racial classifications were necessary to comply with Section 5. *Id.* at 1274. The State, it appears, may assert Section 5 on remand as a defense to its 2012 House and Senate districts. But the Supreme Court has left open the question whether, given *Shelby County v. Holder*, 133 S.Ct. 2612 (2013), compliance with Section 5 is necessary or would provide a compelling state interest to justify any remedial districts that subordinate traditional districting principles to racial considerations. *Id.*

(5) The Supreme Court also remanded for reconsideration, if this Court finds it appropriate, the ALBC's one-person, one-vote claims on behalf of county residents and the ADC plaintiffs' vote dilution claims. *Id.*

II. ALABAMA'S TRADITIONAL DISTRICTING PRINCIPLES.

The most important traditional districting principles in Alabama are those required by the state constitution, namely, the preservation of county boundaries in compact, contiguous districts.¹ These are the only constraints that the sovereign "people of Alabama" have placed on the Legislature's discretion "to reflect the democratic will of all the people concerning how their governments should be restructured." Redistricting Guidelines, SDX 420 at 3.² Other, non-constitutional

¹ Every Alabama Constitution since the State's admission to the Union in 1819 has required seats in the House of Representatives to be apportioned among the counties in proportion to their populations, with each county entitled to at least one representative. 1819 Constitution of Alabama, Art. III, § 9; 1861 Constitution of Alabama, Art. III, § 9; 1865 Constitution of Alabama, Art. IV, § 6; 1868 Constitution of Alabama, Art. VIII, § 1; 1875 Constitution of Alabama, Art. IX, §§ 2-3; 1901 Constitution of Alabama, Art. IX, §§ 198, 199.

Senate seats, which are fewer than the number of counties, have also been apportioned among the counties, with the restriction that no county shall be divided among districts. 1819 Constitution of Alabama, Art. III, §§ 10-11; 1861 Constitution of Alabama, Art. III, §§ 10-11; 1865 Constitution of Alabama, Art. IV, § 7; 1868 Constitution of Alabama, Art. VIII, § 3; 1875 Constitution of Alabama, Art. IX, §§ 4; 1901 Constitution of Alabama, Art. IX, § 200.

² Unless otherwise noted, all page citations to exhibits will be to .pdf pages, in order to make them easier to find. Citations to depositions use deposition page numbers.

“political values, traditions, customs, and usages of the State of Alabama” include avoiding incumbent conflicts, preserving precinct boundaries and other communities of interest, and consulting local community and political leaders. *Id.* at 3-4.

There is no escaping the centrality of county integrity to fair and final resolution of all the issues in this extended litigation. Early on, this Court held that *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89 (1984), deprived it of subject matter jurisdiction, contrary to earlier federal court decisions, to enforce the whole-county provisions of the Alabama Constitution. *ALBC v. Alabama*, ___ F.Supp.2d ___, 2012 WL 6706665 (M.D. Ala. 2012) (three-judge court), Doc. 53:7; contra *Sims v. Baggett*, 247 F.Supp. 96, 100-03 (M.D. Ala. 1965) (three-judge court); *Sims v. Amos*, 336 F.Supp. 924, 933-39 (M.D. Ala. 1972) (three-judge court); *Burton v. Hobbie*, 543 F.Supp. 235, 238 (M.D. Ala. 1982), 561 F.Supp. 1029, 1031-32 (M.D. Ala. 1983) (three-judge court).

Now on remand from the Supreme Court there are two federal claims that require addressing the whole-county provisions of the state constitution: one, as they define Alabama’s traditional districting principles in the *Shaw* analyses, and two, as they bear on the one-person, one-vote claims of county residents.

The Supreme Court’s emphasis on attention to traditional districting

principles to avoid unconstitutional racial gerrymandering requires this Court to restore the preeminence of county boundaries on **federal** grounds. The Legislature’s own redistricting guidelines expressly adopt the *Shaw* standard: “3. No district will be drawn in a manner that subordinates race-neutral districting criteria to considerations that stereotype voters on the basis of race, color, or membership in a language-minority group.” SDX 420 at 3. After contiguity and compactness, the “race-neutral districting criteria” in the guidelines begin with “requirements prescribed by the Alabama Constitution,” in this order:

- (1) respect for the “democratic will” of the sovereign people of Alabama;
- (2) districts based on total population; and
- (3) drawing the prescribed number of House and Senate districts.

Id. Then the guidelines make this explicit link between federal and state standards:

6. The following redistricting policies **contained in the Alabama Constitution** shall be observed to the extent that they do not violate or conflict with requirements prescribed by the **Constitution and laws of the United States**:
 - a. Each House and Senate district should be composed of **as few counties as practicable**.
 - b. Every part of every district shall be contiguous with

every other part of the district. **Contiguity** by water is allowed, but point-to-point contiguity and long-lasso contiguity is not.

c. Every district should be **compact**.

Id. (bold emphases added). So, when this Court addresses the question whether traditional districting principles are subordinated to race in the challenged majority-black districts, it must determine whether the wholesale splitting of counties and construction of non-compact districts in Acts 2012-602 and 2012-603 can be justified “by the Constitution and laws of the United States.” SDX 420 at 3.

The defendants have offered two erroneous federal justifications for violating these state constitutional requirements:

(1) They contend splitting county boundaries and precincts are necessary to comply with the rule in the guidelines that “individual district populations should not exceed a 2% overall range of population deviation.” SDX 420 at 2. The guidelines say the purpose of this rule is “to ensure compliance with the most recent case law in this area and to eliminate the possibility of an invidious discriminatory effect caused by population deviations....” Id. The recent case law referred to is *Larios v. Cox*, 300 F.Supp.2d 1320 (N.D. Ga.) (three-judge court), aff’d sub nom *Cox v. Larios*, 542 U.S. 947 (2004). Id. But *Larios* did not

mention or suggest that reducing population deviations to $\pm 1\%$ was required by the Equal Protection Clause, or that it would provide a safe harbor or eliminate the possibility of invidious discrimination under the one-person, one-vote standard. To the contrary, *Larios* acknowledged that, under controlling Supreme Court case law, $\pm 5\%$ deviation is prima facie compliance with the constitutional requirement of population equality, which need not be justified by a state redrawing its legislative districts. 300 F. Supp. 2d at 1339-40 (citations omitted). *Larios* held that the equal protection violation lay not in the size of the $\pm 5\%$ deviation but in evidence that the deviations had been manipulated for the discriminatory purpose of underpopulating some regions of Georgia while overpopulating other regions. 300 F. Supp. 2d at 1322, 1342. So there is no federal justification for reducing permissible population deviations to a level that makes preserving county boundaries more difficult or even impossible. To put it differently, the state constitutional whole-county requirement trumps the $\pm 1\%$ rule.

(2) The defendants contended that violating state constitutional requirements was necessary to comply with the federal Voting Rights Act, which, as the Supreme Court has held, they wrongly – and unconstitutionally – interpreted to require attempting to maintain racial percentage targets in each majority-black district.

This Court did not have *Shaw* claims before it when it dismissed Count I of the original ALBC complaint in December 2012. As the Supreme Court noted, plaintiffs did not discover the drafters' racial targeting strategy until they took the deposition of Randy Hinaman. 135 S.Ct. at 1267-68. Now, on remand, this Court must consider the conflict between the drafters' race-based strategy and the Alabama Constitution, which, the Legislature has acknowledged, contains Alabama's most important traditional districting principles.

No one can dispute that those state constitutional provisions are the most important traditional districting principles in Alabama history. The real political impact on every Alabama citizen, and especially on the racial or ethnic minority,³ of county legislative delegations operating through informal local courtesy adds yet another compelling reason to require the Legislature to respect the integrity of county boundaries. These two federal issues correlate precisely with the dual purposes of Ala. Const. §§ 198-200:

The quoted proviso in section 199 and its companion section 198 are intended to insure that each of the counties as a political unit of the State have separate representation in the House. It is apparent that the framers of the Constitution had at least two purposes in mind: First, to **prevent gerrymandering**, and, second, **to insure compact geographic districts with legislators attuned to local problems.**

³ See *ALBC v. Alabama*, 988 F.Supp.2d at 1330 n.8 (Thompson, J., dissenting).

Intelligent and meritorious purposes are not enough to sustain application of this initially valid constitutional provision to counties whose population falls below the minimum required for valid reapportionment, or to counties of larger population whose joinder into a single district becomes necessary to reapportionment based on population. In those instances, the proviso as applied contravenes the Federal Constitution. **In instances where the proviso can be applied without bringing about a conflict with federal constitutional requirements, the proviso remains operative.**

Sims v. Baggett, 247 F.Supp. at 101 (footnotes omitted) (bold emphases added).

In short, this Court cannot avoid confronting the serious damage done to constitutional voting rights by indiscriminately splitting counties among House and Senate districts, whether it is reconsidering the *Shaw* claims or the one-person, one-vote claims.

III. DETERMINING RACIAL “PREDOMINANCE.”

To repeat, each of the challenged districts must be scrutinized individually, and “plaintiff must show that ‘race was the predominant factor motivating the legislature’s decision to place **a significant number of voters** within or without *a particular district*’” 135 S.Ct. at 1265 (quoting *Miller v. Johnson*, 515 U.S. 900, 916 (1995)) (emphasis added by the Supreme Court) (bold emphasis added).

A. *The Legislature’s ±1% Maximum Deviation Rule.*

The Supreme Court held that this Court “did not properly calculate ‘predominance.’ In particular, this Court erroneously judged race to lack

‘predominance’ in part because it placed in the balance, among other nonracial factors, legislative efforts to create districts of approximately equal population.” 135 S.Ct. at 1270. The Supreme Court’s opinion makes clear that the goal of population equality is not a traditional districting principle; “it is part of the redistricting background, taken as a given, when determining whether race ... predominate[s] in a legislator’s determination as to how equal population objectives will be met.” *Id.* The Supreme Court’s opinion points out that the Legislature’s arbitrary $\pm 1\%$ deviation constraint was “a more rigorous deviation standard than our precedents have found necessary under the Constitution. See *Brown v. Thomson*, 462 U.S. 835, 842 (1983) (5% deviation from ideal generally permissible). No one here doubts the desirability of a State’s efforts **generally** to come close to a one-person, one-vote ideal.” 135 S.Ct. at 1263 (bold emphasis added).

Thus the Supreme Court did not say categorically that *Shaw* standards prohibit the Legislature from adopting a strict $\pm 1\%$ deviation rule, but it clearly indicated that this unnecessarily narrow deviation constraint increased the likelihood that *Shaw* violations would occur when the drafters pursued their mechanical racial goals. “Compliance with these two goals [the racial percentage targets and the $\pm 1\%$ deviation restriction] posed particular difficulties with

respect to **many of the State's 35 majority-minority districts** (8 in the Senate, 27 in the House).” 135 S.Ct. at 1263 (emphasis added). The strict $\pm 1\%$ deviation policy made it necessary to subordinate the most important traditional districting principle in Alabama, the integrity of county boundaries.⁴

In this action the State defendants sometimes have argued that the Reapportionment Committee's $\pm 1\%$ rule was adopted to correct or to prevent partisan gerrymandering. That argument is disingenuous; a narrower permissible population deviation among districts facilitates gerrymandering, as the Supreme Court has said repeatedly. *Karcher v. Daggett*, 462 U.S. 725, 764 (1983) (Stevens, J., concurring) (“[I]f population equality provides the only check on political gerrymandering, it would be virtually impossible to fashion a fair and effective remedy in a case like this. For if the shape of legislative districts is entirely unconstrained, the dominant majority could no doubt respond to an unfavorable judgment by providing an even more grotesque-appearing map that reflects acceptable numerical equality with even greater political inequality.”); accord, *id.* at 775 (White, J., dissenting, joined by Burger, Powell, and Rehnquist)

⁴ “Although the Constitution of Alabama prohibits the division of a county among districts, see Ala. Const. Art. IX, § 200, the final plans split some counties to comply with the overall deviation in population of 2 percent used to satisfy the federal requirement of one person, one vote.” 989 F.Supp.2d at 1258.

("[T]he rule of absolute equality is perfectly compatible with 'gerrymandering' of the worst sort. ... Legislatures intent on minimizing the representation of selected political or racial groups are invited to ignore political boundaries and compact districts so long as they adhere to population equality among districts using standards which we know and they know are sometimes incorrect.") (quoting *Wells v. Rockefeller*, 394 U.S. 542, 551, 555 (1969) (Harlan, J., dissenting). Cf., *Tennant v. Jefferson Cnty. Comm'n*, 133 S. Ct. 3, 7-8 (2012) ("Nothing about technological advances in redistricting and mapping software has, for example, decreased population variations between a State's counties. Thus, if a State wishes to maintain whole counties, it will inevitably have population variations between districts reflecting the fact that its districts are composed of unevenly populated counties.")).

So, when defending its House and Senate plans from *Shaw* challenges, the Legislature cannot invoke any federal constitutional policy to justify violating Alabama's traditional districting principle of maintaining county integrity when doing so is not necessary to draw districts with a "generally permissible" \pm 5% population deviation.⁵ 135 S.Ct. at 1263. And it surely cannot justify dividing

⁵ As the Supreme Court long ago noted, "An unrealistic overemphasis on raw population figures, a mere nose count in the districts, may submerge these other considerations and itself furnish a ready tool for ignoring factors that in day-

white residents from black residents with its $\pm 1\%$ deviation policy. “[T]he requirement that districts have approximately equal populations . . . is not a factor to be treated like other nonracial factors when a court determines whether race predominated over other, ‘traditional’ factors in the drawing of district boundaries.” 135 S.Ct. at 1271. “Rather, it is, as we said, whether the legislature ‘placed’ race ‘above traditional districting considerations in determining *which* persons were placed *in appropriately apportioned districts.*” Id. (citing Brief for United States as *Amicus Curiae* 19) (emphasis supplied by the Court). Whether a strict $\pm 1\%$ rule is an “appropriate[]” apportionment thus depends on how it interacts with race and traditional districting principles in the *Shaw* analysis.

B. *Race Not Politics.*

Nor can the defendants justify on partisan political grounds the subordination of traditional districting principles to race. In this case Randy

to-day operation are important to an acceptable representation and apportionment arrangement.” *Brown v. Thomson*, 462 U.S. at 842 (quoting *Gaffney v. Cummings*, 412 U.S. 735, 749 (1973)).

For the sake of protecting county boundaries, the Legislature could allow population deviations even greater than $\pm 5\%$. The Supreme Court upheld Wyoming’s legislative decision to keep counties whole even though it produced an average deviation of 16% and a maximum deviation of 89%. *Brown v. Thomson*, 462 U.S. at 839. *Mahan v. Howell*, 410 U.S. 315, 319 (1973), held that the statute redrawing the districts for the Virginia House of Delegates did not violate the Equal Protection Clause notwithstanding a maximum deviation of 16.4% among districts.

Hinaman testified that he never referred to any of the political data available to him when he was drawing the majority-black districts; he referred only to total black population data. APX 75 at 123:13-25:14; Doc. 217, Tr. Vol. III, 08-12-13, at 141:15-21. Even if he had wanted to do so, Hinaman could not have used the political data when he was splitting precincts; only the racial data are available at the block level. 989 F.Supp.2d at 1319 (Thompson, J., dissenting).

C. *Evidentiary Factors For Determining Racial Predominance.*

The Supreme Court’s opinion uses Senate District 26 to demonstrate how the record evidence should be examined to determine whether “a significant number of voters [have been placed] within or without a particular district.” 135 S.Ct. at 1270 (quoting *Miller*, 515 U.S. at 916). It directs that “on remand, the District Court should reconsider its ‘no predominance’ conclusions with respect to Senate District 26 **and others to which our analysis is applicable.**” 135 S.Ct. at 1272 (bold emphasis added). There was “strong, perhaps overwhelming, evidence that race did predominate as a factor when the legislature drew the boundaries of Senate District 26....” 135 S.Ct. at 1271.

The Supreme Court’s analysis focuses not on how SD 26 compares with other districts, but on the specific populations that were moved in or out at the outer margins of SD 26. It starts with the undisputed direct evidence of racial

gerrymandering and finds “[t]here is considerable evidence that this goal [of maintaining existing racial percentages] had a direct and significant impact on the drawing of at least some of District 26's boundaries.” 135 S.Ct. at 1271 (record citations omitted). Here are some of the **evidentiary factors** the Supreme Court refers to:

1. The **direct evidence** was “that the legislature’s redistricting committee, in order to satisfy what it believed the Voting Rights Act required, deliberately chose additional black voters to move into underpopulated majority-minority districts....” 135 S.Ct. at 1266. “That Alabama expressly adopted and applied a policy of **prioritizing mechanical racial targets** above all other districting criteria (save one-person, one-vote) provides evidence that race motivated the drawing of particular lines in **multiple districts** in the State.” Id. at 1267 (bold emphases added).

2. The **± 1% deviation rule** caused “particular difficulties,” because all the majority-black House and Senate districts were underpopulated, and “[Randy Hinaman needed to add population’ to majority-black districts ‘without significantly lowering the percentage of the population in each district that was majority-black.’” Id. at 1266. In the case of SD 26, “the State would have to add about 16,000 individuals to the district,” 135 S.Ct. at 1263, and the overwhelming

majority of residents added to the district were black. Id. at 1271.

3. The drafters realized that in some districts there would not be sufficient black population to reach the racial targets, but their “primary redistricting goal was to maintain existing racial percentages in each majority-minority district, **insofar as feasible.**” Id. (bold emphasis added).

4. The **shape** of SD 26 changed “from rectangular to irregular.” Id. at 1271.

5. The populations in seven **split precincts** were “clearly divided on racial lines.” Id.

6. “[V]irtually all Senate District 26 boundaries departed from **county lines...**” Id. (bold emphasis added).

7. Evidence “that the use of race to draw the boundaries of the majority-minority districts affected the **boundaries of other districts** as well . . . is perfectly relevant.” 135 S.Ct. at 1267 (bold emphasis added).

In following sections of this brief, we apply the Supreme Court’s evidentiary factors and additional record evidence to demonstrate that race was a predominant motive in drawing each of the majority-black House and Senate districts.

IV. THE RACIAL TARGETS OR QUOTAS.

The drafters' freely admitted attempt to replicate or to exceed the total black population percentage in each majority-black district obtained by laying 2010 census data over the 2001 districts⁶ is the controlling factor in the *Shaw* analysis required by the Supreme Court's mandate. "That Alabama expressly adopted and applied a policy of prioritizing mechanical racial targets above all other districting criteria (save one-person, one-vote) provides evidence that race motivated the drawing of particular lines **in multiple districts in the State.**" 135 S.Ct. at 167 (bold emphasis added).

The drafters⁷ began mapping with the majority-black districts, 989 F.Supp.2d at 1248, and the extraordinary lengths to which they went to maintain their inflated majority-black percentages had a "domino" impact on the whole state.⁸ Feeling unimpeded by county or precinct boundaries,⁹ they scoured the

⁶ The table comparing black total population percentages in the 2010 and 2001 plans set out in this Court's December 2013 opinion, beginning at 989 F.Supp.2d at 1253, uses the wrong numbers. It uses 2000 census data to obtain the 2001 black percentages, instead of the 2010 census data the drafters actually relied on.

⁷ Sen. Gerald Dial and Rep. Jim McClendon, Chairs of the Permanent Legislative Committee on Reapportionment, and Randy Hinaman, their consultant.

⁸ 989 F.Supp.2d at 1260, 1275; defendants' post-trial brief, Doc. 196 at ¶ 146; defendants' summary judgment brief, Doc. 125 at ¶ 26 (citations omitted).

⁹ 989 F.Supp.2d at 1277; Defendants' summary judgment brief, Doc. 125 at ¶¶ 42-43, 90. Sen. Dial blamed the wholesale division of counties on the Voting

map to grab enough black precincts or census blocks to add over 100,000 more black residents needed to maintain, within $\pm 1\%$ population deviation, the black percentages yielded by laying 2010 census data on the severely underpopulated 2001 majority-black districts. 989 F.Supp.2d at 1297. The drafters were open and unapologetic about making this nakedly racial project their primary objective. They believed that attempting to “guarantee” the ability of blacks to elect their candidates of choice provided the drafters a “safe harbor” under Section 5 of the Voting Rights Act.¹⁰

The geographic dispersal of black population made it impossible to hit the racial target in every district, but the drafters tried to come “as close to it as we could get,” Doc. 125-3 at 17, and they met or exceeded their goals in most districts, as the following tables show:

Comparison of Majority-Black House Districts in 2001 and 2012 plans using 2010 census data and % Black total population¹¹

Rights Act. Testimony of Sen. Dial, 08-08-13 Tr. at 91. Rep. McClendon believed that because of federal court cases and guidelines “[t]here is no requirement to respect county boundaries.” McClendon quoted in press, APX 58 at 2.

¹⁰ Doc. 125 at ¶ 30; Doc. 125-3 at 120; defendants’ post-trial brief, Doc. 196 at ¶ 82.

¹¹ These tables are taken from the ALBC appellants’ jurisdictional statement in Appeal No. 13-895, pages 15-17, with figures for HD 85 added. Their sources

House District	% Black 2001 plan	% Black 2012 plan	Difference
19	70.04	61.5	-8.54
32	59.62	60.3	0.68
52	60.09	60.1	0.01
53	55.71	56.2	0.49
54	56.77	56.9	0.13
55	73.54	73.6	0.06
56	62.26	62.3	0.04
57	68.49	68.5	0.01
58	78.08	73.0	-5.08
59	67.04	76.8	9.76
60	67.63	67.9	0.27
67	69.14	69.2	0.06
68	62.50	64.6	2.1
69	64.11	64.2	0.09
70	61.89	62.2	0.31
71	64.28	66.9	2.62
72	60.12	64.5	4.38
76	69.56	73.9	4.34
77	73.58	67.0	-6.58
78	74.34	70.2	-4.14
82	57.18	62.2	5.02

are SDX 403 and SDX 406.

83	57.03	57.7	0.67
84	50.67	52.4	1.73
85	47.94	50.08	2.14
97	60.73	60.8	0.07
98	65.23	60.0	-5.23
99	73.45	65.7	-7.75
103	69.90	65.3	-4.6

Comparison of Majority-Black Senate Districts in 2001 and 2012 plans using 2010 census data and % Black total population

Senate District	% Black 2001 plan	% Black 2012 plan	Difference
18	59.93	59.12	-0.81
19	71.65	65.39	-6.26
20	77.96	63.38	-14.58
23	64.79	64.81	0.02
24	62.82	63.30	0.48
26	72.75	75.22	2.47
28	51.05	59.96	8.91
33	64.89	71.71	6.82

The drafters reached and exceeded their racial targets in 20 of the majority-black House districts and came within 1% of their targets in 13 of those districts. They reached and exceeded their targets in 5 majority-black Senate districts, coming within 1% in two of those districts. They failed to reach their targets in

only 7 majority-black House districts and in 3 Senate districts; but it was not for lack of trying, as the discussion below of individual districts will show.

Precinct splits provide perhaps the most telling evidence of the precision with which residents were moved in and out of the majority-black districts in efforts to come as close as possible to the drafters' racial targets. The ALBC plaintiffs' supplemental exhibit, APSX 44, contains Appendices D and E to the ALBC plaintiffs' reply brief in the Supreme Court, which catalogue every precinct split in the majority-black House and Senate districts, based on the State defendants' exhibits admitted at trial, SDX 405 and SDX 475. The race-based way those precincts were divided is stark. A total of 84 precincts were divided between majority-black and majority-white Senate districts. In 83 of those precincts a disproportionate part of the black residents was placed in the majority-black district, and in 6 instances all of the black residents of the precinct were placed in a majority-black district. Of the 154 precincts divided between majority-black and majority-white House districts, blacks are disproportionately placed in the majority-black district in 147 precincts, including 15 precincts in which all the black residents were put in the majority-black district.

We will refer to these split-precinct tables in the analysis of each majority-black district. But the unmistakable racial pattern of the splits viewed altogether

reinforces the conclusion that race predominated over traditional districting principles in each district examined separately. “Voters, of course, can present statewide evidence in order to prove racial gerrymandering in a particular district.” 135 S.Ct. at 1265 (citing *Miller*, 515 U.S. at 916).

V. THE DISTRICTS CANNOT BE JUSTIFIED AS NARROWLY TAILORED TO COMPLY WITH THE VOTING RIGHTS ACT.

The Supreme Court rejected the defense asserted by the Legislature and adopted by this Court that the majority-black House and Senate districts were narrowly tailored to satisfy the compelling state interest of complying with Section 5 of the Voting Rights Act.

[W]e conclude that the District Court and the legislature asked the wrong question with respect to narrow tailoring. They asked: “How can we maintain present minority percentages in majority-minority districts?” But given § 5's language, its purpose, the Justice Department Guidelines, and the relevant precedent, they should have asked: “To what extent must we preserve existing minority percentages in order to maintain the minority's present ability to elect the candidate of its choice?” Asking the wrong question may well have led to the wrong answer. Hence, we cannot accept the District Court's “compelling interest/narrow tailoring” conclusion.

135 S.Ct. at 1274. This Court had held: “To comply with section 5, the Alabama Legislature chose the only option available: to protect the voting strength of black voters by safeguarding the majority-black districts and not substantially reducing the percentages of black voters within those districts.” 989 F.Supp.2d at 1310.

It is undisputed that the Legislature made no attempt to compile “a strong basis in evidence” that any of their majority-black districts were needed to provide black voters the ability to elect candidates of their choice. 135 S.Ct. at 1274 (citation omitted). To the contrary, “[t]he record makes clear that both the District Court and the legislature relied heavily upon a mechanically numerical view as to what counts as forbidden retrogression.” *Id.* at 1273. The minutely detailed sorting of populations based on race displayed in the analyses below of each majority-black House and Senate district shows there is no conceivable way any of them could be justified as narrowly tailored under the correct Section 5 standard.

VI. THE UNDISPUTED MATERIAL FACTS SHOW ALL 36 MAJORITY-BLACK HOUSE AND SENATE DISTRICTS ARE UNCONSTITUTIONAL RACIAL GERRYMANDERS.

A. The Defendants Have the Burden of Proof.

In Act 2012-602 there are 28 House districts with black total population majorities, and in Act 2012-603 there are 8 Senate districts with black total population majorities. It is undisputed that the drafters attempted to maintain each of the 2001 majority-black districts at or above its total black percentage, measured by loading 2010 census data into the 2001 district boundaries. 135 S.Ct. at 1271; 989 F.Supp.2d at 1247. The racial percentage targets and the arbitrary restriction of population deviations to $\pm 1\%$ caused the drafters unnecessarily to

split county and precinct boundaries, ignoring the express wishes of local leaders¹² and subordinating traditional districting principles in a way that purposefully separated white residents from black residents.

The starting point for the analysis of each majority-black House and Senate district begins with drafters' mechanical racial targets, the undisputed statewide evidence that the Supreme Court says should be considered when examining an individual district. 135 S.Ct. at 1265. Because the racial targeting policy purposefully and unjustifiably classified residents on the basis of race, the burden shifts to defendants to show that this overarching unconstitutional strategy was **not** the predominant factor motivating the legislature's decision to place a significant number of voters within or without each majority-black House and Senate district, or that the district's boundaries would have been the same even if there had been no unconstitutional motive.

Proof that the decision by the Village was motivated in part by a racially discriminatory purpose would not necessarily have required invalidation of the challenged decision. Such proof would, however, have shifted to the Village the burden of establishing that the same decision would have resulted even had the impermissible purpose not been considered. If this were established, the complaining party in a

¹² “Members of the public who attended these hearings asked the Legislators to keep counties whole to the extent possible, preserve communities of interest, and allow voters to keep the representatives and senators with whom they were already familiar.” 989 F.Supp.2d at 1246.

case of this kind no longer fairly could attribute the injury complained of to improper consideration of a discriminatory purpose.

Village of Arlington Heights v. Metropolitan Housing Development Corp., 429 U.S. 252, 271 n.21 (1977); accord, *Mt. Healthy City School District Bd. of Education v. Doyle*, 429 U.S. 274 (1977) (once plaintiff shows a discriminatory purpose was one factor in the challenged action, the burden of proof shifts to defendant to show the same result would have occurred absent the discriminatory purpose).

How close the drafters came to the racial target in each majority-black district is summarized in APSX 01. The population data for each split precinct are found in SDX 405 for the Act 2012-602 House districts and in substituted¹³ SDX 475 for the Act 2012-603 Senate districts. They are summarized in APSX 44. Maps of the census data for all the split precincts have been marked as ALBC plaintiffs' supplemental exhibits. They have been generated at undersigned counsel's request by William Cooper, using the technique he described in his demonstration of the Maptitude software on the first day of trial in August 2013. Doc. 215, Tr. Vol. I, at 207:3 to 210:22. At trial Mr. Cooper placed green dots on whole precincts that had black population majorities in the 2010 census. *Id.* at

¹³ The SDX 475 admitted at trial in 2013 inadvertently omitted the column listing black population, which has been corrected with the substituted exhibit.

207:17-25. In the split precinct maps marked as supplemental exhibits, Mr. Cooper had Maptitude place a green dot on the number of persons in each census block that has a black population majority.¹⁴

At trial, Mr. Cooper demonstrated how a single census block could be transferred from one House or Senate district to another, and how by drawing a circle with the cursor “a whole bunch of blocks” could be moved from one district to another. *Id.* at 210:13-22. Randy Hinaman, however, testified that normally he did not circle or lasso several blocks to move from one district to another; instead, he would click on one block at a time. Hinaman depo, APX 75 at 111:19-24. With each click he would see on the computer screen both what effect the change would have on population deviation and, when he was drawing the majority-black districts, how the racial data would affect his effort to reach his black percentage target. APX 75 at 111:14 to 112:21; Doc. 217, Tr. Vol. III, at 141:15 to 145:2. The ALBC split precinct maps make visually apparent the way Mr. Hinaman clicked on one block at a time, ignoring precinct lines and other geographic boundaries, in his attempts to reach the racial targets in each majority-black

¹⁴ The green dots are scaled so that a 50% black block has a scale size of 5 and a 100% Black dot has a scale size of 15 (thus, the dot is 3 times larger). That is why a majority-black block with 1 person (which has to be 100%) would have a large green dot. Generally, though, this scale size distinction is barely discernible on these split precinct maps.

district.

A mere eyeball review of the precinct splits in SDX 405, SDX 475, APSX 44, and the maps zoomed in on each split precinct makes it obvious that the drafters of the 2012 House and Senate districts routinely split many precincts at the census block level in order to move as many black residents as possible into the majority-black districts, while minimizing the number of whites who unavoidably had to come with them, or to move white residents out of the majority-black districts, while minimizing the number of blacks also removed. We will do the math in the following district-by-district analyses that confirms this racial pattern. In doing so, this brief attempts to follow the same format, where possible, for looking at each split precinct.¹⁵

The ALBC has introduced remand House and Senate redistricting plans in the Legislature to demonstrate how the drafters of Acts 2012-602 and 2012-603 might have drawn districts that follow Alabama's traditional districting principles

¹⁵ The brief supporting ALBC plaintiffs' original remand motion for summary judgment, Doc. 221, which this Court denied with leave to refile, did not follow this same format for looking at split precincts. Instead, it attempted to compare the movements of populations between precincts as they existed in 2010 and as they appeared after the 2012 House and Senate plans had been enacted. But these comparisons relied on data that were not in evidence at the 2013 trial, and they are omitted in this brief. In any event, undersigned counsel believe the format for analyzing split precincts used in this brief is more relevant and helpful to the Court.

and comply with the Voting Rights Act.¹⁶ The ALBC remand plans will be referred to throughout this brief for the purpose of providing alternatives that help demonstrate how the drafters subordinated traditional districting principles to racial considerations. They are also advanced as suggested starting points for remedial House and Senate plans that might be negotiated in or out of the Legislature or that might be ordered by this Court.

B. *Examination of the Majority-black House Districts.*¹⁷

Undisputed material facts:

HD 19 and HD 53, Madison County.

¹⁶ The ALBC remand House plan was introduced in the 2015 Regular Session of the Legislature as HB545 and SB412. APSX 35A. The maps and statistics are APSX 35-43, and can be viewed at <http://goo.gl/EOac2D>.

The ALBC remand Senate plan was introduced in the Legislature as SB413 and HB544. APSX 26A. The maps and statistics are APSX 26-34, and can be viewed at <http://goo.gl/Y6Jgeq>.

These plans were drafted by the ALBC's consultant, William Cooper, according to guidelines provided by ALBC counsel, which were designed to comply with the constitutional standards set out in the Supreme Court's March 25, 2015, opinion. The plans attempt to minimize splits of county and 2010 precinct boundaries within $\pm 5\%$ population deviation, while complying with the Voting Rights Act. They were drawn with no input from any incumbent legislators, including members of the ALBC. However, an attempt was made to minimize conflicts among incumbents elected in 2014.

¹⁷ To make the descriptions of individual districts below a little easier to follow, the majority-black House and Senate districts are in bold type, e.g., **HD 19**, while the majority-white districts are in redline type, e.g., **SD 35**.

1. Majority-black **HD 53** in Jefferson County was cannibalized so that the black population from that district could be divided up among other House districts in Jefferson County, in order to avoid any reduction in their black population percentages. 989 F.Supp.2d at 1249, 1294.

2. “Hinaman moved House District 53 to the Huntsville area, where he was able to create another majority-black House district.” Id. at 1277 (citation omitted).

3. Because both **HD 19** and **HD 53** are contained entirely within Madison County, no county boundaries were directly split by these districts. But creating a second majority-black House district did require moving black population out of **HD 19** and precincts in surrounding majority-white districts.

4. Indirectly, moving **HD 53** from Jefferson County to Madison County had a ripple effect on other county boundaries. It combined with population growth to cause “districts [to] radiat[e] out of Madison County,” which helps explain why little Dekalb County ended up with 6 House districts. Hinaman depo., APX 75 at 53:15 to 55:8.

5. The drafters kept **HD 53**'s black percentage within 0.49% of its 55.71% target, even though **HD 53** was no longer located in Jefferson County, where the census target was created. APSX 01.

6. At 61.5% black, the drafters failed to hit their 70.04% target for **HD 19** by -8.54%, APSX 01, but not for lack of trying, as the census figures above show. A net total of 2,701 persons were added to **HD 19** to bring it within $\pm 1\%$ deviation, 1,976 blacks and 4,673 whites. SDX 403 at 2; SDX 406 at 2.

7. There were 14 precincts split in **HD 19**, only 4 of which were split solely with **HD 53**. In the precincts split solely between the two majority-black districts, **HD 19** got 1,314 whites and 3,217 blacks, while **HD 53** got 2,747 whites and 6,690 blacks. APSX 44 at 14-15.

a. In Ed White Mid Sch precinct, the drafters placed 2,653 blacks and 1,061 whites in majority-black **HD 19**, while they placed 17 blacks and 0 whites in majority-black **HD 53**. SDX 405 at 39, 102. The split precinct map, APSX 149, shows that the drafters kept all of this precinct in **HD 19** except for a noncontiguous part of Ed White Mid Sch precinct located in the upper left hand corner of the map.

b. In Highlands School precinct, the drafters placed 358 blacks and 199 whites in majority-black **HD 19**, while they placed 1,074 blacks and 666 whites in majority-black **HD 53**. SDX 405 at 39, 102. The split precinct map, APSX 153, shows how most of the black population in this precinct, which was located entirely in **HD 19** in the 2001 plan, SDX 413 at 11, was shifted to **HD 53**

to help it hit its target black percentage.

c. In Lewis Chapel CP Ch, the drafters placed 99 blacks and 93 whites in majority-black **HD 19**, while they placed 562 blacks and 113 whites in majority-black **HD 53**. SDX 405 at 39, 102. The split precinct map, APSX 154, shows how most of the black population in this precinct was shifted to **HD 53** to help it hit its target black percentage.

d. In St. Luke Missionary Bapt Ch precinct, the drafters placed 107 blacks and 54 whites in majority-black **HD 19**, while they placed 5,037 blacks and 1,968 whites in majority-black **HD 53**. SDX 405 at 39, 103. The split precinct map, APSX 162, shows how most of the black population in this precinct was shifted to **HD 53** to help it hit its target black percentage.

8. In the 10 precincts split between **HD 19** and majority-white House districts, **HD 19** got 9,974 whites and 6,805 blacks, while majority-white **HD 6**, **HD 21**, and **HD 25** combined got 22,805 whites and only 5,406 blacks. APSX 44 at 14-15.

a. In Blackburn Chapel CP Ch precinct, the drafters placed 781 blacks and 1,068 whites in majority-black **HD 19** and they placed 169 blacks and 138 whites in majority-black **HD 53**, while they placed 23 blacks and 122 whites in majority-white **HD 6**. SDX 405 at 10, 40, 103. The part of this precinct placed

in majority-black **HD 19** was 39.0% black, the part placed in majority-black **HD 53** was 51.4% black, while the part placed in the majority-white district was 14.9% black. The split precinct map, APSX 143, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Chapman Mid Sch precinct, the drafters placed 113 blacks and 6 whites in majority-black **HD 19**, while they placed 197 blacks and 3,379 whites in majority-white **HD 21**. SDX 405 at 39, 42. The part of this precinct placed in the majority-black district was 93.4% black, while the part placed in the majority-white district was 5.2% black. The split precinct map, APSX 144, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Ch of Christ Meridianville precinct, the drafters placed 72 blacks and 30 whites in majority-black **HD 19**, while they placed 28 blacks and 292 whites in majority-white **HD 6**, and 448 blacks and 3,147 whites in majority-white **HD 21**. SDX 405 at 10, 40, 43. The part of this precinct placed in the majority-black district was 65.5% black, while majority-white **HD 6** was 8.0% black, and the part placed in majority-white **HD 21** was 11.9% black. The split precinct map, APSX 147, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Grace United Meth Ch precinct, the drafters placed 372 blacks and 569 whites in majority-black **HD 19**, while they placed 559 blacks and 1,039 whites in majority-white **HD 6**, and 877 blacks and 2,102 whites in majority-white **HD 25**. SDX 405 at 9, 39, 49. The part of this precinct placed in the majority-black district was 36.3% black, while the part placed in majority-white **HD 25** was 26.7% black, and the part placed in **HD 6** was 31.7% black. The split precinct map, APSX 151, shows that one majority-white block of 1,026 persons was placed in **HD 19**.

e. In Harvest Bapt Ch precinct, the drafters placed 1,292 blacks and 2,093 whites in majority-black **HD 19**, while they placed 373 blacks and 755 whites in majority-white **HD 6**. SDX 405 at 10, 40. The part of this precinct placed in the majority-black district was 35.5% black, while the part placed in the majority-white district was 31.2% black. The split precinct map, APSX 152, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. In Mad Co Teacher Resource Ctr precinct, the drafters placed 37 blacks and 145 whites in majority-black **HD 19**, while they placed 747 blacks and 4,184 whites in majority-white **HD 21**. SDX 405 at 40, 43. The part of this precinct placed in the majority-black district was 19.2% black, while the part

placed in the majority-white district was 14.4% black. The split precinct map, APSX 155, shows a majority-white, noncontiguous part of this precinct on the west side of the map was placed in **HD 19**.

g. In Pineview Bapt Ch precinct, the drafters placed 2,010 blacks and 3,643 whites in majority-black **HD 19**, while they placed 805 blacks and 2,738 whites in majority-white **HD 6**. SDX 405 at 9, 39. The part of this precinct placed in the majority-black district was 33.3% black, while the part placed in the majority-white district was 21.7% black. The split precinct map, APSX 158, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

h. In Sherwood Bapt Ch precinct, the drafters placed 801 blacks and 515 whites in majority-black **HD 19**, while they placed 0 blacks and 2 whites in majority-white **HD 25**, and 716 blacks and 2,523 whites in majority-white **HD 6**. SDX 405 at 9, 39, 49. The part of this precinct placed in the majority-black district was 52.4% black, while the part placed in the majority-white districts was 20.1% black. The split precinct map, APSX 161, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

9. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 19**. Even black

population moved from one majority-black district to another majority-black district was predominantly motivated by race where the purpose was to hit the drafters' racial percentage target.

10. **HD 53** had portions of 13 split precincts, including the four only between **HD 53** and **HD 19** already discussed. APSX 44 at 18-19.¹⁸ In the 9 precincts split between **HD 53** and majority-white districts (**HD 6**, **HD 10**, and **HD 21**), 5,539 whites and only 1,160 blacks were put in the majority-white districts, while 9,004 blacks were put in **HD 53**, along with 7,349 whites. APSX 44 at 18-19.

a. In Airport Road Fire Station #6 precinct, the drafters placed 1,219 blacks and 999 whites in majority-black **HD 53**, while they placed 119 blacks and 485 whites in majority-white **HD 10**. SDX 405 at 18, 102. The part of this precinct placed in the majority-black district was 46.9% black, while the part placed in the majority-white district was 13.6% black. The split precinct map, APSX 142, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. The splits in Blackburn Chapel CP precinct are discussed above in

¹⁸ Three split precincts in **HD 53** erroneously appear in **HD 52** on page 26a of APSX 44.

the analysis of **HD 19**.

c. In Charles Stone Agr Ctr precinct, the drafters placed 1,815 blacks and 779 whites in majority-black **HD 53**, while they placed 0 blacks and 2 whites in majority-white **HD 21**. SDX 405 at 41, 101. The part of this precinct placed in the majority-black district was 66.9% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 145, clearly shows how the drafters placed one 2-white person block in **HD 21** to remove white population in Madison Fire and Rescue precinct from majority-black **HD 53**.

d. In Eastside Comm Ctr precinct, the drafters placed 84 blacks and 52 whites in majority-black **HD 53**, while they placed 63 blacks and 419 whites in majority-white **HD 21**. SDX 405 at 42, 102. The part of this precinct placed in the majority-black district was 54.5% black, while the part placed in the majority-white district was 12.6% black. The split precinct map, APSX 148, shows that the drafters found one majority-black block of 154 persons to place in **HD 53**.

e. In Fire and Rescue Acad precinct, the drafters placed 1,710 blacks and 837 whites in majority-black **HD 53**, while they placed 68 blacks and 506 whites in majority-white **HD 21**. SDX 405 at 42, 102. The part of this precinct placed in the majority-black district was 64.0% black, while the part placed in the majority-white district was 11.4% black. The split precinct map, APSX 150,

clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. In Ridgecrest School precinct, the drafters placed 1,079 blacks and 1,289 whites in majority-black **HD 53**, while they placed 0 population in majority-white **HD 6**, and 288 blacks and 1,744 whites in majority-white **HD 10**. SDX 405 at 9, 19, 103. The part of this precinct placed in the majority-black district was 37.8% black, while the part placed in majority-white **HD 10** was 12.4% black. The split precinct map, APSX 159, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

g. In University Place School precinct, the drafters placed 1,780 blacks and 1,603 whites in majority-black **HD 53**, while they placed 221 blacks and 1,312 whites in majority-white **HD 6**. SDX 405 at 9, 102. The part of this precinct placed in the majority-black district was 42.4% black, while the part placed in the majority-white district was 12.8% black. The split precinct map, APSX 163, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

h. In Westlawn Mid Sch precinct, the drafters placed 116 blacks and 440 whites in majority-black **HD 53**, while they placed 363 blacks and 794 whites in majority-white **HD 6**. SDX 405 at 9, 102. The part of this precinct placed in the

majority-black district was 18.6% black, while the part placed in the majority-white district was 24.5% black. The split precinct map, APSX 164, shows there were only two small majority-black blocks on either side of this precinct.

11. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 53**. Even black population moved from one majority-black district to another majority-black district was predominantly motivated by race where the purpose was to hit the drafters' racial percentage target.

HD 32, Calhoun and Talladega Counties.

12. The drafters met their 59.62% black target for **HD 32**, exceeding it by only 0.68%. Overall, the drafters moved 6,704 persons into **HD 32** to bring it within $\pm 1\%$, of whom 4,304 were black and 1,810 were white. SDX 403 at 3; SDX 406 at 3.

13. The drafters split 13 precincts, 3 in Calhoun County,¹⁹ and 10 in Talladega County.²⁰ Taken together, these splits put 28,367 black residents in majority-black **HD 32**, but only 16,846 whites. The precinct splits put 38,357

¹⁹ **HD 33** is mistakenly shaded dark in the Limbaugh Comm Ctr-Bon Air-Oak Grove precinct in APSX 44 at 16.

²⁰ APSX 44 inadvertently omits the Talladega County heading on page 16.

whites but only 8,272 blacks in majority-white districts **HD 33**, **HD 35**, **HD 36**, and **HD 40**.

14. The following precincts were split in Calhoun County:

a. In 1st Presby/Mental Health²¹ precinct, the drafters placed 1,436 blacks and 1,647 whites in majority-black **HD 32**, while they placed 1,027 blacks and 6,255 whites in majority-white **HD 36**. SDX 405 at 63, 74. The part of this precinct placed in the majority-black district was 44.3% black, while the part placed in the majority-white district was 13.5% black. The split precinct map, APSX 60, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Anniston precinct, the drafters placed 11,672 blacks and 5,257 whites in majority-black **HD 32**, while they placed 223 blacks and 1,634 whites in majority-white **HD 36**, and 21 blacks and 320 whites in majority-white **HD 40**. SDX 405 at 63, 74, 81. The part of this precinct placed in the majority-black district was 65.9% black, while the part placed in majority-white was 10.2% black, and the part placed in majority-white **HD 40** was 4.9% black. The split precinct map, APSX 60, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

²¹ APSX 44 erroneously names it 2nd Presby/Mental Health.

c. In Eulaton/Bynum/W Park Hts Bapt. precinct, the drafters placed 328 blacks and 1,929 whites in majority-black **HD 32**, while they placed 827 blacks and 10,584 whites in majority-white **HD 35**, they placed 40 blacks and 458 whites in majority-white **HD 36**, and 59 blacks and 866 whites in majority-white **HD 40**. SDX 405 at 63, 70, 74, 81. The part of this precinct placed in the majority-black district was 14.1% black, while the part placed in majority-white **HD 35** was 6.9% black, the part placed in majority-white **HD 36** was 7.8% black, and the part placed in majority-white **HD 40** was 6.1% black. The split precinct map, APSX 61A, shows how the drafters drew majority-black **HD 32** through the large, mostly uninhabited center of this precinct, geographically cutting it in half, in order to reach a few majority-black blocks in the southwest corner and to connect with Eastaboga Comm Center/Old Lincoln High Gym precinct in Talladega County.

15. The following precincts were split in Talladega County:

a. In Bethel Bapt precinct, the drafters placed 1,041 blacks and 323 whites in majority-black **HD 32**, while they placed 390 blacks and 227 whites in majority-white **HD 33**. SDX 405 at 63, 74. The part of this precinct placed in the majority-black district was 75.8% black, while the part placed in the majority-white district was 62.1% black. The split precinct map, APSX 259, clearly shows

how the drafters separated majority-black blocks from majority-white blocks in this precinct. (The drafters could have extended **HD 32** farther west to reach majority-black blocks of 27 and 546 persons, but that might have made majority-white **HD 33** noncontiguous.)

b. In Eastaboga Comm Ctr/Old Lincoln High Gym precinct, the drafters placed 1,022 blacks and 1,908 whites in majority-black **HD 32**, while they placed 23 blacks and 419 whites in majority-white **HD 35**, 671 blacks and 2,875 whites in majority-white **HD 33**, and 60 blacks and 1,338 whites in majority-white **HD 36**. SDX 405 at 64, 67. The part of this precinct placed in the majority-black district was 33.8% black, while the part placed in majority-white **HD 33** was 18.2% black, the part placed in majority-white **HD 35** was 5.0% black, and the part placed in majority-white **HD 36** was 4.2% black. The split precinct map, APSX 260, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Limbaugh Comm Ctr-Bon Air-Oak Grove precinct, the drafters placed 1,187 blacks and 682 whites in majority-black **HD 32**, while they placed 2,263 blacks and 6,694 whites in majority-white **HD 33**. SDX 405 at 64, 68. The part of this precinct placed in the majority-black district was 62.2% black, while the part placed in the majority-white district was 24.4% black. The split precinct

map, APSX 261, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Mabra-Kingston Bapt-Talla Co Central High precinct, the drafters placed 6,064 blacks and 2,082 whites in majority-black **HD 32**, while they placed 48 blacks and 310 whites in majority-white **HD 35**. SDX 405 at 64, 73. The part of this precinct placed in the majority-black district was 71.6% black, while the part placed in the majority-white district was 13.1% black. The split precinct map, APSX 262, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Old Mumford High precinct, the drafters placed 409 blacks and 133 whites in majority-black **HD 32**, while they placed 329 blacks and 2,475 whites in majority-white **HD 35**. SDX 405 at 64, 73. The part of this precinct placed in the majority-black district was 74.1% black, while the part placed in the majority-white district was 11.5% black. The split precinct map, APSX 263, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. In Renfroe Fire Hall-Stemley Fire Hall precinct, the drafters placed 966 blacks and 950 whites in majority-black **HD 32**, while they placed 210 blacks and 2,469 whites in majority-white **HD 33**. SDX 405 at 64, 68. The part of this

precinct placed in the majority-black district was 49.1% black, while the part placed in the majority-white district was 7.7% black. The split precinct map, APSX 264, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

g. In Talladega Nat Guard Armory precinct, the drafters placed 1,958 blacks and 1,162 whites in majority-black **HD 32**, while they placed 1,278 blacks and 5,458 whites in majority-white **HD 35**. SDX 405 at 64, 73. The part of this precinct placed in the majority-black district was 60.7% black, while the part placed in the majority-white district was 18.4% black. The split precinct map, APSX 265, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

h. In Waldo City Hall precinct, the drafters placed 29 blacks and 28 whites in majority-black **HD 32**, while they placed 128 blacks and 835 whites in majority-white **HD 35**. SDX 405 at 64, 73. The part of this precinct placed in the majority-black district was 49.2% black, while the part placed in the majority-white district was 13.2% black. The split precinct map, APSX 266, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

i. In Winterboro Vol Fire precinct, the drafters placed 1,214 blacks

and 422 whites in majority-black **HD 32**, while they placed 260 blacks and 1,468 whites in majority-white **HD 33**, and 25 blacks and 179 whites in majority-white **HD 35**. SDX 405 at 64, 67, 73. The part of this precinct placed in the majority-black district was 73.0% black, while the part placed in majority-white **HD 33** was 14.8% black, and the part placed in majority-white **HD 35** was 12.3% black. The split precinct map, APSX 267, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

16. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 32**.

HD 52, Jefferson County.

17. This is the first of eight majority-black House districts in Jefferson County. All eight districts **by definition** violate the *Shaw* prohibition against subordinating traditional districting principles to race, because the drafters proudly confessed they cannibalized **HD 53** to grab the black populations the remaining eight majority-black districts needed to reach their racial targets. This violated the Guideline principles of preserving the core of districts and avoiding incumbent conflicts.

18. The drafters were able to exceed their targets by less than 1% in six of the eight majority-black Jefferson County House districts; only **HD 58** (73.0% vs.

78.08% target = -5.08%) failed to reach its target, and **HD 59** (76.8% vs. 67.04% target = +9.76%) far exceeded its target. ASPX 01. The precinct splits discussed *infra* suggest the drafters either ran out of available black populations or were trying to “balance” the latter two districts in excess of 70%. Cf. 989 F.Supp.2d at 1310 (“the Legislature fairly balanced the overall percentages of the black voting-age populations in the majority-black House districts....”).

19. In the Supreme Court, the State appellees conceded that “the drafters repopulated the[] [underpopulated] majority-black districts by removing contiguous population from majority-white districts.” Br.Appellees 4-5. The majority-white districts adjoining those underpopulated majority-black districts typically had few concentrations of black residents. In Jefferson County the area of the county outside of the majority-black House districts (as they existed under the 2001 lines) was only 18.06% black; as Hinaman pointed out, indeed complained, repopulating the black districts from the contiguous majority-white districts was certain to lower significantly the black population percentage in those majority-black districts. Doc. 217, Tr. v. III, at 131:22 to 133:13.

20. The drafters met and exceeded, within 0.01%, their 60.09% target for **HD 52**. A net total of 1,924 persons were moved into **HD 52** to bring it within $\pm 1\%$ deviation, 1,165 blacks and 373 whites. SDX 403 at 4; SDX 406 at 4.

21. The drafters split two precincts **HD 52** shares with majority-white districts.

a. In Birmingham Botanical precinct, the drafters placed 4 blacks and 380 whites in majority-black **HD 52**, while they placed 8 blacks and 590 whites in majority-white **HD 46**. SDX 405 at 91, 101. The part of this precinct placed in the majority-black district was 1.0% black, while the part placed in the majority-white district was 1.3% black. The split precinct map, APSX 94, shows there were no majority-black blocks in this precinct, and the net effect the drafters made in this split was to put 210 whites **out** of majority-black **HD 52**. This precinct was located in cannibalized **HD 53** in the 2001 plan. SDX 413 at 31.

b. In Shades Cahaba Elem Sch precinct, the drafters placed 69 blacks and 1,078 whites in majority-black **HD 52**, while they placed 100 blacks and 2,583 whites in majority-white **HD 46**. SDX 405 at 91, 100. The part of this precinct placed in the majority-black district was 5.8% black, while the part placed in the majority-white district was 3.6% black. The split precinct map, APSX 128, shows there was only one small majority-black block in this precinct, and it was left in **HD 52**. The net effect the drafters made in this split was to put 1,505 whites **out** of majority-black **HD 52**.

22. In the 5 precincts split between **HD 52** and other majority-black

districts,²² the lack of any clear pattern only shows how black and white populations were being shaved between majority-black districts to hit their arbitrary target percentages. Again, this is the kind of racial “fine tuning” that violates *Shaw*.

23. Four of the split precincts **HD 52** shares with other majority-black districts were part of cannibalized **HD 53** in the 2001 plan: Birmingham Botanical, Ctr Street Mid Sch, Ramsey HS, and Southside Branch Pub Lib. SDX 413 at 31.

a. In Ctr Street Mid Sch precinct, the drafters placed 656 blacks and 7 whites in majority-black **HD 52**, and they placed 2,432 blacks and 48 whites in majority-black **HD 55**. The split precinct map, APSX 103, shows that, with **HD 52** only 17 persons above -1.0% deviation and **HD 55** only 5 persons above -1.0% deviation, SDX 403 at 5-6, the drafters had to select blocks to place in each district that would hit their racial targets without breaking their $\pm 1\%$ deviation rule.

b. In Green Springs Bapt Ch precinct, the drafters placed 1,765 blacks and 984 whites in majority-black **HD 52**, and they placed 103 blacks and 452 whites in majority-black **HD 55**. SDX 405 at 101, 106. The split precinct map, APSX 111, shows how the drafters had to fine-tune the division of blocks

²² The split between **HD 52** and **HD 55** in Green Springs Bapt Ch appears only under **HD 55** at page 21 of APSX 44.

between majority-black districts to hit their racial targets.

c. In Ramsey HS precinct, the drafters placed 63 blacks and 958 whites in majority-black **HD 52**, they placed 1,131 blacks and 2,646 whites in majority-black **HD 55**, and they placed 72 blacks and 147 whites in majority-black **HD 60**. SDX 405 at 101, 106, 116. The split precinct map, APSX 125, shows how the drafters had to fine-tune the division of blocks between majority-black districts to hit their racial targets in a precinct that was mostly white. This precinct was located in cannibalized **HD 53** in the 2001 plan. SDX 413 at 31.

d. In Southside Branch Pub Lib precinct, the drafters placed 184 blacks and 551 whites in majority-black **HD 52**, and they placed 48 blacks and 162 whites in majority-black **HD 60**. SDX 405 at 101, 116. The split precinct map, APSX 130, shows how the drafters had to fine-tune the division of blocks between majority-black districts to hit their racial targets in a precinct that was mostly white. This precinct was located in cannibalized **HD 53** in the 2001 plan. SDX 413 at 31.

24. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 52**.

HD 54, Jefferson County.

25. The drafters met and exceeded, within 0.13%, their 56.77% target for

HD 54. APSX 01. A net total of 10,165 persons were added to **HD 54** to bring it within $\pm 1\%$ deviation, 5,811 blacks and 4,036 whites. SDX 403 at 5; SDX 406 at 5.

26. The drafters split 16 precincts, only 4 of which were split between **HD 54** and majority-white districts.

a. In the Clearview Bapt Ch precinct, the drafters placed 396 blacks and 155 whites in majority-black **HD 54** and 232 blacks and 487 whites in majority-black **HD 58**, while they placed 801 blacks and 3,496 whites in majority-white **HD 44**. SDX 405 at 87, 103, 112. The part of this precinct placed in majority-black **HD 54** was 70.6% black, the part placed in majority-black **HD 58** was 31.4 % black, while the part placed in majority-white **HD 44** was 18.1% black. The split precinct map, APSX 104, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct. It also helps show why putting enough black population in **HD 54** to hit its racial target required placing mostly whites in majority-black **HD 58**, which fell -5.08% below its racial target. APSX 01.

b. In the Irondale Sr Cit Bldg precinct, the drafters placed 621 blacks and 1,667 whites in majority-black **HD 54**, while they placed 9 blacks and 310 whites in majority-white **HD 44**, and 2,587 blacks and 1,222 whites in majority-

white **HD 45**. SDX 405 at 87, 88, 104. The part of this precinct placed in the majority-black district was 22.1% black, while the part placed in majority-white **HD 44** was 2.7% black, and the part placed in majority-white **HD 45** was 64.6% black. The split precinct map, APSX 115, shows how some black population had to be kept in majority-white **HD 44** and **HD 45**, which were only 22 and 21 persons respectively above -1% deviation.

c. In the Mountain View Bapt Ch precinct, the drafters placed 410 blacks and 584 whites in majority-black **HD 54**, while they placed 1,440 blacks and 4,759 whites in majority-white **HD 44**. SDX 405 at 87, 103. The part of this precinct placed in the majority-black district was 39.5% black, while the part placed in the majority-white district was 22.4% black. The split precinct map, APSX 119, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Brewster Road Bapt Ch precinct, the drafters placed 3,482 blacks and 2,562 whites in majority-black **HD 54**, and they placed 512 blacks and 191 whites in majority-black **HD 58**. SDX 405 at 104, 112. This precinct was located in majority-white **HD 44** and **HD 45** in the 2001 plan. SDX 413 at 26, 27. The split precinct map, APSX 99, shows how large concentrations of black population were divided between majority-black districts in order to reach their

racial targets. It also helps show why the drafters came up short of their racial target for **HD 58**.

e. In Ctr Point Cthse Annex precinct, the drafters placed 1,118 blacks and 278 whites in majority-black **HD 54**, they placed 3,779 blacks and 2,295 whites in majority-black **HD 58**, and they placed 132 blacks and 82 whites in majority-black **HD 59**. SDX 405 at 103, 112, 113. This precinct was located in majority-white **HD 44** and **HD 45** in the 2001 plan. SDX 413 at 26, 27. The split precinct map, APSX 102, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

f. In Crestwood Comm Educ precinct, the drafters placed 1,016 blacks and 3,175 whites in majority-black **HD 54**, and they placed just 5 blacks and 1 white in majority-black **HD 59**. SDX 405 at 105, 114. The split precinct map, APSX 105, shows how it would have been difficult to move this precinct out of **HD 54**, where it was located in the 2001 plan. SDX 413 at 32.

g. In First United Meth Ch of Ctr Point precinct, the drafters placed 648 blacks and 387 whites in majority-black **HD 54**, and they placed 2,165 blacks and 676 whites in majority-black **HD 58**. SDX 405 at 104, 112. The split precinct map, APSX 106, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

h. In Gate City Elem Sch precinct, the drafters placed 14 blacks and 0 whites in majority-black **HD 54**, they placed 1,894 blacks and 38 whites in majority-black **HD 58**, and they placed 277 blacks and 19 whites in majority-black **HD 59**. SDX 405 at 105, 112, 114. The split precinct map, APSX 109, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

i. In Morton Simpson Comm Ctr precinct, the drafters placed 59 blacks and 77 whites in majority-black **HD 54**, and they placed 1,506 blacks and 33 whites in majority-black **HD 59**. SDX 405 at 105, 114. The split precinct map, APSX 117, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

j. In Norwood Comm Ctr precinct, the drafters placed 1,169 blacks and 51 whites in majority-black **HD 54**, and they placed 874 blacks and 57 whites in majority-black **HD 59**. SDX 405 at 105, 115. The split precinct map, APSX 120, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

k. In Oporto Armory precinct, the drafters placed 291 blacks and 14 whites in majority-black **HD 54**, they placed 1,251 blacks and 131 whites in majority-black **HD 58**, and they placed 380 blacks and 24 whites in majority-black

HD 59. SDX 405 at 105, 112, 114. The split precinct map, APSX 121, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

l. In Our Lady of Lourdes Cath Ch precinct, the drafters placed 87 blacks and 64 whites in majority-black **HD 54**, and they placed 3,604 blacks and 1,079 whites in majority-black **HD 58**. SDX 405 at 105, 113. The split precinct map, APSX 122, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

m. In Robinson Elem Sch precinct, the drafters placed 338 blacks and 79 whites in majority-black **HD 54**, they placed 2,541 blacks and 600 whites in majority-black **HD 58**, and they placed 1,390 blacks and 503 whites in majority-black **HD 59**. SDX 405 at 105, 113, 114. The split precinct map, APSX 126, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

n. In Southtown Housing Comm Ctr precinct, the drafters placed 939 blacks and 48 whites in majority-black **HD 54**, and they placed 37 blacks and 204 whites in majority-black **HD 60**. SDX 405 at 104, 117. The split precinct map, APSX 131, shows the drafter placed all but one of the majority-black blocks in **HD 54** as they succeeded in hitting their racial targets in both these districts.

o. In Wilkerson Mid Sch precinct, the drafters placed 631 blacks and 8 whites in majority-black **HD 54**, and they placed 475 blacks and 50 whites in majority-black **HD 59**. SDX 405 at 104, 117. The split precinct map, APSX 133, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

p. In Willow Wood Rec Ctr precinct, the drafters placed 1,714 blacks and 183 whites in majority-black **HD 54**, and they placed 1,714 blacks and 529 whites in majority-black **HD 59**. SDX 405 at 105, 114. The split precinct map, APSX 134, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

27. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 54**.

HD 55, Jefferson County.

28. The drafters met and exceeded, within 0.06%, their 73.54% target for **HD 55**. APSX 01. A net total of 9,499 persons were added to **HD 55** to bring it within $\pm 1\%$ deviation, 6,988 blacks and 1,037 whites. SDX 403 at 5; SDX 406 at 5.

29. The drafters split 9 precincts, all between majority-black districts. Four of the split precincts had been in **HD 53** in the 2001 plan: Ctr Street Mid Sch,

Glen Iris Elem Sch, Legion Field Lobby, and Ramsey HS. SDX 413 at 31.

a. In Adamsville Bapt Ch precinct, the drafters placed 780 blacks and 2,287 whites in majority-black **HD 55**, and they placed 462 blacks and 215 whites in majority-black **HD 57**. SDX 405 at 106, 110. The split precinct map, APSX 91, shows how the drafters moved blocks as small as 9 persons between these majority-black districts to reach their racial targets within 1% population deviation. Both **HD 55** and **HD 57** are only 5 persons over -1% deviation. SDX 403 at 5.

b. In Adamsville Sr Cit Bldg precinct, the drafters placed 1,253 blacks and 957 whites in majority-black **HD 55**, they placed 346 blacks and 285 whites in majority-black **HD 57**, and they placed just 8 blacks and 40 whites in majority-black **HD 60**. SDX 405 at 107, 110, 117. The split precinct map, APSX 92, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

c. The split in Ctr Street Mid Sch is discussed above in the analysis of **HD 52**.

d. In Glen Iris Elem Sch precinct, the drafters placed 886 blacks and 2,099 whites in majority-black **HD 55**, and they placed 233 blacks and 466 whites in majority-black **HD 60**. SDX 405 at 106, 116. The split precinct map, APSX

110, shows how this precinct, which was located in cannibalized **HD 53** in the 2001 plan, SDX 413 at 31, had its population distributed between two majority-black districts that reached their racial targets.

e. The split in Green Springs Bapt Ch precinct is discussed above in the analysis of **HD 52**.

f. In Legion Field Lobby precinct, the drafters placed 103 blacks and 452 whites in majority-black **HD 55**, and they placed 2,608 blacks and 40 whites in majority-black **HD 60**. SDX 405 at 106, 116. The split precinct map, APSX 116, shows how this precinct, which was located in cannibalized **HD 53** in the 2001 plan, SDX 413 at 31, had its population distributed between two majority-black districts that reached their racial targets.

g. The split in Ramsey HS precinct is discussed above in the analysis of **HD 52**.

h. In Sandusky Comm Sr Citizen's Park precinct, the drafters placed 17 blacks and 76 whites in majority-black **HD 55**, and they placed 925 blacks and 996 whites in majority-black **HD 60**. SDX 405 at 107, 117. The split precinct map, APSX 127, shows how the drafters moved blocks as small as 11 persons between these majority-black districts to reach their racial targets within 1% population deviation.

i. In South Hampton Elem precinct, the drafters placed 75 blacks and 11 whites in majority-black **HD 55**, and they placed 2,768 blacks and 173 whites in majority-black **HD 60**. SDX 405 at 107, 117. The split precinct map, APSX 129, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

30. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 55**.

HD 56, Jefferson County.

31. The drafters met and exceeded, within 0.04%, their 62.26% target for **HD 56**. APSX 01. A net total of 4,007 persons were added to **HD 56** to bring it within $\pm 1\%$ deviation, 2,495 blacks and 972 whites. SDX 403 at 5; SDX 406 at 5.

32. The drafters split 4 precincts, 2 of which were split between **HD 56** and majority-white **HD 15** and **HD 46**.

a. In the Canaan Bapt Ch precinct, the drafters placed 180 blacks and 1,088 whites in majority-black **HD 56**, while they placed 779 blacks and 2,728 whites in majority-white **HD 15**. SDX 405 at 31, 108. The part of this precinct placed in the majority-black district was 12.6% black, while the part placed in the majority-white district was 21.3% black. The split precinct map, APSX 101, shows how the drafters moved blocks as small as 2 persons between these

majority-black districts to reach their racial targets within 1% population deviation.

b. In Hunter Street Bapt Ch precinct, the drafters placed 337 blacks and 1,142 whites in majority-black **HD 56**, while they placed 753 blacks and 6,482 whites in majority-white **HD 15** and placed 77 blacks and 1,538 whites in majority-white **HD 46**. SDX 405 at 31, 90, 108. The part of this precinct placed in the majority-black district was 20% black, while the part placed in majority-white **HD 15** was 9.7% black, and the part placed in majority-white **HD 46** was 4.5% black. The split precinct map, APSX 114, shows how the drafters selected the highest percentage black blocks to move to the majority-black district in an overwhelmingly white precinct.

c. In Brooklane Comm Ctr precinct, the drafters placed 592 blacks and 896 whites in majority-black **HD 56**, and they placed 1,377 blacks and 1,303 whites in majority-black **HD 57**. SDX 405 at 109, 110. The split precinct map, APSX 100, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

d. In Mount Olive Bapt Ch precinct, the drafters placed 528 blacks and 20 whites in majority-black **HD 56**, and they placed 106 blacks and 1 white in majority-black **HD 57**. SDX 405 at 109, 111. The split precinct map, APSX 118,

shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

33. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 56**.

HD 57, Jefferson County.

34. The drafters met and exceeded, within 0.01%, their 68.49% target for **HD 57**. APSX 01. A net total of 8,872 persons were added to **HD 57** to bring it within $\pm 1\%$ deviation, 6,092 blacks and 2,752 whites. SDX 403 at 5; SDX 406 at 5.

35. The drafters split 5 precincts, all but one between only majority-black districts.

a. The split in Adamsville Bapt Ch precinct is discussed in the analysis above of **HD 55**.

b. The split in Adamsville Sr Cit Bldg precinct is discussed in the analysis above of **HD 55**.

c. The split in Brooklane Comm Ctr precinct is discussed in the analysis above of **HD 56**.

d. The split in Mount Olive Bapt Ch precinct is discussed in the analysis above of **HD 56**.

e. In Pleasant Grove First Bapt Ch precinct, the drafters placed 3,450 blacks and 3,238 whites in majority-black **HD 57**, while they placed 631 blacks and 2,223 whites in majority-white **HD 15**. SDX 405 at 110. The part of this precinct placed in the majority-black district was 51.0% black, while the part placed in the majority-white district was 21.6% black. The split precinct map, APSX 124, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

36. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 57**.

HD 58, Jefferson County.

37. As noted above, the drafters fell -5.08% below their super-majority 78.08% target in **HD 58**. APSX 01. A net total of 7,645 persons were added to **HD 58** to bring it within $\pm 1\%$ deviation, 3,653 blacks and 3,690 whites. SDX 403 at 5; SDX 406 at 5.

38. The drafters split 12 precincts:

a. The split in Clearview Bapt Ch precinct is discussed in the analysis above of **HD 54**.

b. In Pinson United Meth precinct, the drafters placed 334 blacks and 100 whites in majority-black **HD 58**, and they placed 2,148 blacks and 616 whites

in majority-black **HD 59**, while they placed 545 blacks and 2,571 whites in majority-white **HD 44**, and placed 12 blacks and 123 whites in majority-white **HD 51**. SDX 405 at 88, 99, 112, 114. The part of this precinct placed in majority-black **HD 58** was 75.1% black, the part placed in majority-black **HD 59** was 75.0% black, while the part placed in majority-white **HD 51** was 8.1% black, and the part placed in majority-white **HD 44** was 16.7% black. The split precinct map, APSX 123, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Barrett Elem Sch precinct, the drafters placed 1,400 blacks and 113 whites in majority-black **HD 58**, and they placed 909 blacks and 77 whites in majority-black **HD 59**. SDX 405 at 112, 114. The split precinct map, APSX 93, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

d. The split in Brewster Road Bapt precinct is discussed in the analysis above of **HD 54**.

e. The split in Ctr Point Cthse Annex precinct is discussed in the analysis above of **HD 54**.

f. The split in First United Meth Ch of Ctr Point is discussed in the analysis above of **HD 54**.

g. The split in Gate City Elem Sch precinct is discussed in the analysis above of **HD 54**.

h. In Hilldale Bapt Ch precinct, the drafters placed 1,960 blacks and 917 whites in majority-black **HD 58**, and they placed 2,454 blacks and 440 whites in majority-black **HD 59**. SDX 405 at 112, 114. The split precinct map, APSX 112, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

i. The split in Oporto Armory precinct is discussed in the analysis above of **HD 54**.

j. The split in Our Lady of Lourdes Cath Ch precinct is discussed in the analysis above of **HD 54**.

k. The split in Robinson Elem Sch precinct is discussed in the analysis above of **HD 54**.

l. In Sun Valley Elem Sch precinct, the drafters placed 2,484 blacks and 261 whites in majority-black **HD 58**, and they placed 1,394 blacks and 184 whites in majority-black **HD 59**. SDX 405 at 113, 115. The split precinct map, APSX 132, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

39. Race was the predominant factor motivating the drafters' decision to

place a significant number of voters within or without **HD 58**.

HD 59, Jefferson County.

40. As noted above, the drafters reached and exceeded their 67.04% target for **HD 59** by +9.76% at 76.8%. A net total of 12,380 persons were added to **HD 59** to bring it within $\pm 1\%$ deviation, gaining 12,679 blacks while **losing** 780 whites. SDX 403 at 5; SDX 406 at 5.

41. The drafters split 12 precincts in the process.

a. The splits in Barrett Elem Sch precinct, Hilldale Bapt Ch precinct, Pinson United Meth Ch precinct, and Sun Valley Elem Sch precinct are discussed above in the analysis of **HD 58**.

b. The splits in Ctr Point Ctse Annex precinct, Crestwood Comm Educ precinct, Gate City Elem Sch, Morton Simpson Comm Ctr precinct, Norwood Comm Ctr precinct, Oporto Armory precinct, Robinson Elem Sch precinct, and Willow Wood Rec Ctr precinct are discussed in the analysis above of **HD 54**.

42. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 59**.

HD 60, Jefferson County.

43. The drafters met and exceeded, within 0.27%, their 67.63% target for

HD 60. APSX 01. A net total of 8,380 persons were added to **HD 60** to bring it within $\pm 1\%$ deviation, 5,771 blacks and 2,127 whites. SDX 403 at 5; SDX 406 at 5.

44. The drafters split 11 precincts, only two of which were split between majority-black and majority-white districts.

a. In the Fultondale Sr Citizen's Ctr precinct, the drafters placed 139 blacks and 663 whites in majority-black **HD 60**, while they placed 316 blacks and 3,136 whites in majority-white **HD 51**. SDX 405 at 99, 117. The part of this precinct placed in majority-black **HD 60** was 16.2% black, while the part placed in majority-white **HD 51** was 8.0% black. The split precinct map, APSX 107, shows how the drafters selected the highest percentage black blocks to move to the majority-black district in an overwhelmingly white precinct.

b. In Gardendale Civic Ctr precinct, the drafters placed 295 blacks and 297 whites in majority-black **HD 60**, while they placed 838 blacks and 12,504 whites in majority-white **HD 51**. SDX 405 at 98, 116. The part of this precinct placed in the majority-black district was 47.3% black, while the part placed in the majority-white district was 6.1% black. The split precinct map, APSX 108, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. The splits in Adamsville Sr Cit Bldg precinct, Glen Iris Elem Sch precinct, Legion Field Lobby precinct, Sandusky Comm Sr. Citizen's Park precinct, and South Hampton Elem precinct are discussed in the analysis above of **HD 55**.

d. The splits in Ramsey HS precinct and Southside Branch Pub Lib precinct are discussed in the analysis above of **HD 52**.

e. The splits in Southtown Housing Comm Ctr precinct and Wilkerson Mid Sch precinct are discussed above in the analysis of **HD 54**.

45. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 60**.

Jefferson County: The House districts that might have been.

46. The drafters worked under the unconstitutional assumption that they must maintain the black percentages in the Jefferson County House districts, and that they must move enough populations based on race to hit these targets within an unnecessarily narrow $\pm 1\%$ population deviation.

47. In doing so, the Legislature subordinated traditional districting principles, including the integrity of county boundaries and precincts, preserving the cores of existing districts, and avoiding incumbent conflicts, in pursuit of targeted black percentages and restrictions on deviation not required to achieve

substantial population equality.

48. The ALBC remand House plan draws 8 majority-black House districts in Jefferson County, ranging from 56.90% to 66.10% black, none of which exceeds substantial population equality at $\pm 5\%$, all of which are **over**-populated and none of which splits a single 2010 precinct between districts. ASPX 36 at 2, 36A at 69-84, 40. These are districts that demonstrate how the drafters could have complied with the Voting Rights Act, both § 2 and § 5, in a way that fully comports with both federal and state constitutional standards.

HD 67, Dallas and Perry Counties.

49. **HD 67** presents a good example of how the drafters' unconstitutional racial percentage targets worked together with their $\pm 1\%$ deviation restriction to subordinate Alabama's traditional districting principles to racial considerations.

50. **HD 67** lay entirely within Dallas County in the 2001 plan and was 69.14% black under 2010 census data. SDX 406 at 6. With a total population of 43,820, Dallas County by itself could have constituted a single House district that was substantially equal at -3.74% deviation, as the ALBC remand House plan demonstrates. See APSX 36 at 2, 36A at 91, 37.

51. Instead, to exceed their racial target by 0.06% at 69.2%, the drafters extended **HD 67** into Perry County, splitting the boundaries of Perry County and

four of the ten precincts in that small county, whose population was only 10,591. SDX 405 at 136, 153. A net total of 7,200 persons were added to majority-black **HD 67** to bring it within $\pm 1\%$ deviation, 4,984 blacks and 2,124 whites. SDX 403 at 6; SDX 406 at 6.

52. To fine tune the black percentage, the drafters split the following precincts in Perry County:

a. In Nat Guard Armory precinct, the drafters placed 180 blacks and 28 whites in majority-black **HD 67**, and they placed 1,462 blacks and 346 whites in majority-black **HD 72**. SDX 405 at 135, 152. The split precinct map, APSX 245, shows how the drafters took a few small, majority-black blocks out of this precinct to reach their racial target for **HD 67**.

b. In the Pinetucky precinct, the drafters placed 82 blacks and 95 whites in majority-black **HD 67**, and they placed 8 blacks and 110 whites in majority-black **HD 72**. SDX 405 at 136, 153. The split precinct map, APSX 246, shows how the drafters took a few small, majority-black blocks out of this sparsely populated precinct to reach their racial target for **HD 67**.

c. In UCH-Airport-Armory precinct, the drafters placed 69 blacks and 37 whites in majority-black **HD 67**, and they placed 1,124 blacks and 1,029 whites in majority-black **HD 72**. SDX 405 at 135, 153. The split precinct map,

APSX 247, shows how the drafters took a few small, majority-black blocks out of this precinct to reach their racial target for **HD 67**.

d. In Uniontown City Hall-Airport precinct, the drafters placed 112 blacks and 41 whites in majority-black **HD 67**, and they placed 1,833 blacks and 330 whites in majority-black **HD 72**. SDX 405 at 135, 152. The split precinct map, APSX 248, shows how the drafters took a few small, majority-black blocks out of this precinct to reach their racial target for **HD 67**.

53. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 67**.

HD 68: Baldwin, Clarke, Conecuh, Marengo, Monroe, and Washington Counties.

54. **HD 68** is one of the most egregious examples of how the drafters combined their racial percentage targets with their unnecessary $\pm 1\%$ deviation restriction to subordinate Alabama's traditional districting principles to race.

55. A net total of 8,835 persons were added to **HD 68** to bring it within $\pm 1\%$ deviation, 6,434 blacks and 2,109 whites. SDX 403 at 6; SDX 406 at 6.

56. The drafters split six counties, subordinating the most important traditional districting principle in Alabama, and split 30 precincts in order to exceed their 62.50% target by 2.1%.

57. Not a single county is contained wholly inside **HD 68**. **HD 68** takes:

a. a population of only 851 from Baldwin County, 664 or 78.0% of whom are black; SDX 405 at 136;

b. a population of 12,158 from Clarke County, 8,095 or 66.6% of whom are black; SDX 405 at 138;

c. a population of 8,286 from Conecuh County, 5,066 or 61.1% of whom are black; SDX 405 at 139;

d. a population of 6,198 from Marengo County, 4,432 or 71.5% of whom are black; SDX 405 at 140;

e. a population of 15,322 from Monroe County, 8,989 or 58.7% of whom are black; SDX 405 at 142; and

f. a population of only 2,254 from Washington County, 1,851 or 82.1% of whom are black. SDX 405 at 143.

58. The ALBC's remand House plan shows that **HD 68** could have been drawn as a majority-black district without splitting Conecuh County at all and by splitting only two other counties, Monroe and Clarke. Given an ideal House population of 45,521, Monroe County must be split to prevent splitting Escambia County in HD 66, and Clarke County must be split to avoid splitting Choctaw and Washington Counties in **HD 65**. In the ALBC remand plan, **HD 65**, HD 66, and

HD 68 are all under-populated by less than 5%. **HD 68** and **HD 65** split only two precincts, both in Clarke County, more or less evenly dividing their populations between the two House districts. See APSX 36 at 2, 36A at 91-94, 37.

59. In the Act 2012-602 House plan the drafters split two precincts in Baldwin County.

a. In Tensaw Volunteer Fire Dept precinct, the drafters placed 269 blacks and 75 whites in majority-black **HD 68**, while they placed just 2 blacks and 10 whites in majority-white **HD 64**. SDX 405 at 124, 136. The part of this precinct placed in the majority-black district was 76.9% black, while the part placed in the majority-white district was 16.7% black. The split precinct map, APSX 52, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Vaughn Comm Ctr precinct, the drafters placed 395 blacks and 97 whites in majority-black **HD 68**, while they placed 43 blacks and 240 whites in majority-white **HD 64**. SDX 405 at 124, 136. The part of this precinct placed in the majority-black district was 78.8% black, while the part placed in the majority-white district was 14.1% black. The split precinct map, APSX 53, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

60. The drafters split seven precincts in Clarke County:

a. In BASHI Meth Ch precinct, the drafters placed 1,056 blacks and 1,339 whites in majority-black **HD 68**, while they placed 226 blacks and 1,671 whites in majority-white **HD 65**. SDX 405 at 129, 137. The part of this precinct placed in the majority-black district was 43.3% black, while the part placed in the majority-white district was 11.6% black. The split precinct map, APSX 66, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Fulton City Hall precinct, the drafters placed 45 blacks and 28 whites in majority-black **HD 68**, while they placed 47 blacks and 865 whites in majority-white **HD 65**. SDX 405 at 129, 138. The part of this precinct placed in the majority-black district was 61.6% black, while the part placed in the majority-white district was 5.0% black. The split precinct map, APSX 67, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Jackson City Hall precinct, the drafters placed 1,816 blacks and 629 whites in majority-black **HD 68**, while they placed 47 blacks and 209 whites in majority-white **HD 65**. SDX 405 at 128, 136. The part of this precinct placed in the majority-black district was 73.2% black, while the part placed in the

majority-white district was 17.6% black. The split precinct map, APSX 68, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Old Engineers Bldg precinct, the drafters placed 279 blacks and 210 whites in majority-black **HD 68**, while they placed 786 blacks and 2,281 whites in majority-white **HD 65**. SDX 405 at 128, 137. The part of this precinct placed in the majority-black district was 56.4% black, while the part placed in the majority-white district was 25.3% black. The split precinct map, APSX 69, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Overstreet Grocery precinct, the drafters placed 287 blacks and 79 whites in majority-black **HD 68**, while they placed 50 blacks and 228 whites in majority-white **HD 65**. SDX 405 at 128, 136. The part of this precinct placed in the majority-black district was 78.0% black, while the part placed in the majority-white district was 17.5% black. The split precinct map, APSX 70, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. In Skipper Fire Station-Jackson Nat Guard precinct, the drafters placed 180 blacks and 112 whites in majority-black **HD 68**, while they placed 797

blacks and 3,050 whites in majority-white **HD 65**. SDX 405 at 128, 137. The part of this precinct placed in the majority-black district was 61.0% black, while the part placed in the majority-white district was 20.2% black. The split precinct map, APSX 71, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

g. In Thomasville Nat Guard Armory precinct, the drafters placed 1,146 blacks and 264 whites in majority-black **HD 68**, while they placed 11 blacks and 131 whites in majority-white **HD 65**. SDX 405 at 129, 137. The part of this precinct placed in the majority-black district was 79.7% black, while the part placed in the majority-white district was 7.7% black. The split precinct map, APSX 72, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

61. The drafters split 6 precincts Conecuh County:

a. In Brownville Fire Dept precinct, the drafters placed 22 blacks and 18 whites in majority-black **HD 68**, while they placed 159 blacks and 218 whites in majority-white **HD 90**. SDX 405 at 138, 180. The part of this precinct placed in the majority-black district was 55.0% black, while the part placed in the majority-white district was 40.4% black. The split precinct map, APSX 73, clearly shows how the drafters separated majority-black blocks from majority-white

blocks in this precinct.

b. In Castleberry Fire Dept. 1 precinct, the drafters placed 191 blacks and 32 whites in majority-black **HD 68**, while they placed 54 blacks and 665 whites in majority-white **HD 90**. SDX 405 at 138, 180. The part of this precinct placed in the majority-black district was 84.9% black, while the part placed in the majority-white district was 7.3% black. The split precinct map, APSX 74, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Lyeffion Fire Dept precinct, the drafters placed 51 blacks and 88 whites in majority-black **HD 68**, while they placed 88 blacks and 312 whites in majority-white **HD 90**. SDX 405 at 138, 180. The part of this precinct placed in the majority-black district was 36.4% black, while the part placed in the majority-white district was 21.6% black. The split precinct map, APSX 75, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Nazarene Bapt Ch precinct, the drafters placed 283 blacks and 128 whites in majority-black **HD 68**, while they placed 47 blacks and 6 whites in majority-white **HD 90**. SDX 405 at 139, 180. The part of this precinct placed in the majority-black district was 68.7% black, while the part placed in the majority-

white district was 88.7% black. The split precinct map, APSX 76, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Repton City Hall precinct, the drafters placed 300 blacks and 176 whites in majority-black **HD 68**, while they placed 45 blacks and 289 whites in majority-white **HD 90**. SDX 405 at 139, 181. The part of this precinct placed in the majority-black district was 61.7% black, while the part placed in the majority-white district was 13.0% black. The split precinct map, APSX 77, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. In Second Mount Zion Ch precinct, the drafters placed 51 blacks and 18 whites in majority-black **HD 68**, while they placed 70 blacks and 26 whites in majority-white **HD 90**. SDX 405 at 139, 181. The part of this precinct placed in the majority-black district was 72.9% black, while the part placed in the majority-white district was 71.4% black. The split precinct map, APSX 78, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct, although they resisted adding 3 more majority-black blocks, perhaps because it would have stuck a narrow **HD 68** peninsula in **HD 90**.

62. The drafters split six precincts in Marengo County:

a. In Cornerstone Ch precinct, the drafters placed 606 blacks and 74 whites in majority-black **HD 68**, while they placed 298 blacks and 806 whites in majority-white **HD 65**. SDX 405 at 129, 139. The part of this precinct placed in the majority-black district was 86.7% black, while the part placed in the majority-white district was 26.6% black. The split precinct map, APSX 165, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Demopolis HS precinct, the drafters placed 15 blacks and 14 whites in majority-black **HD 68**, they placed 19 blacks and 5 whites in majority-black **HD 72**, and they placed 145 blacks and 386 whites in majority-black **HD 71**. SDX 405 at 139, 148, 152. The split precinct map, APSX 166, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

c. In Dixon's Mill precinct, the drafters placed 1,224 blacks and 133 whites in majority-black **HD 68**, while they placed 17 blacks and 215 whites in majority-white **HD 65**. SDX 405 at 129, 140. The part of this precinct placed in the majority-black district was 88.9% black, while the part placed in the majority-white district was 7.3% black. The split precinct map, APSX 167, clearly shows how the drafters separated majority-black blocks from majority-white blocks in

this precinct.

d. In Octagon precinct, the drafters placed 30 blacks and 3 whites in majority-black **HD 68**, while they placed 48 blacks and 169 whites in majority-white **HD 65**. SDX 405 at 129, 140. The part of this precinct placed in the majority-black district was 90.9% black, while the part placed in the majority-white district was 22.0% black. The split precinct map, APSX 169, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Springhill Voting Booth precinct, the drafters placed 20 blacks and 76 whites in majority-black **HD 68**, and they placed 49 blacks and 205 whites in majority-black **HD 71**. SDX 405 at 139, 148. The split precinct map, APSX 171, shows there were no majority-black blocks in this precinct.

f. In Thomaston precinct, the drafters placed 400 blacks and 168 whites in majority-black **HD 68**, while they placed 30 blacks and 156 whites in majority-white **HD 65**. SDX 405 at 129, 139. The part of this precinct placed in majority-black **HD 68** was 69% black, while the part placed in the majority-white district was 22.6% black. The split precinct map, APSX 172, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

g. In VFW precinct, the drafters placed 589 blacks and 341 whites in majority-black **HD 68**, and they placed 11 blacks and 46 whites in majority-black **HD 71**, while they placed 28 blacks and 280 whites in majority-white **HD 65**. SDX 405 at 129, 139, 148. The part of this precinct placed in majority-black **HD 68** was 62.9% black, the part placed in majority-black **HD 71** was 18.3% black, and the part placed in majority-white **HD 65** was 8.5% black. The split precinct map, APSX 173, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

63. The drafters split 6 of the Monroe County precincts:

a. In Days Inn/Ollie precinct, the drafters placed 244 blacks and 177 whites in majority-black **HD 68**, and they placed 42 blacks and 331 whites in majority-white **HD 64**. SDX 405 at 126, 141. The part of this precinct placed in the majority-black district was 56.1% black, while the part placed in the majority-white district was 10.7% black. The split precinct map, APSX 209, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Excel/Coleman precinct, the drafters placed 83 blacks and 84 whites in majority-black **HD 68**, and they placed 263 blacks and 3,006 whites in majority-white **HD 64**. SDX 405 at 126, 142. The part of this precinct placed in

the majority-black district was 48.0% black, while the part placed in the majority-white district was 7.8% black. The split precinct map, APSX 210, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Frisco City FD precinct, the drafters placed 652 blacks and 597 whites in majority-black **HD 68**, and they placed 0 blacks and 91 whites in majority-white **HD 64**. SDX 405 at 126, 142. The part of this precinct placed in the majority-black district was 49.4% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 211, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Mexia Fire Dept precinct, the drafters placed 223 blacks and 291 whites in majority-black **HD 68**, and they placed 12 blacks and 164 whites in majority-white **HD 64**. SDX 405 at 126, 141. The part of this precinct placed in the majority-black district was 41.4% black, while the part placed in the majority-white district was 6.6% black. The split precinct map, APSX 212, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Monroeville Armory precinct, the drafters placed 1,036 blacks

and 1,191 whites in majority-black **HD 68**, and they placed 41 blacks and 439 whites in majority-white **HD 64**. SDX 405 at 126, 141. The part of this precinct placed in the majority-black district was 45.4% black, while the part placed in the majority-white district was 8.4% black. The split precinct map, APSX 214, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. In Monroeville Housing Auth precinct, the drafters placed 1,243 blacks and 446 whites in majority-black **HD 68**, and they placed 0 blacks and 46 whites in majority-black **HD 64**. SDX 405 at 126, 141. The part of this precinct placed in the majority-black district was 72.3% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 215, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

g. In Oak Grove Bapt precinct, the drafters placed 9 blacks and 13 whites in majority-black **HD 68**, and they placed 35 blacks and 269 whites in majority-white **HD 64**. SDX 405 at 126, 142. The part of this precinct placed in the majority-black district was 40.9% black, while the part placed in the majority-white district was 19.3% black. The split precinct map, APSX 216, 217,²³ clearly

²³ This precinct has two noncontiguous parts.

shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

h. In Purdue Hill precinct, the drafters placed 41 blacks and 67 whites in majority-black **HD 68**, and they placed 0 blacks and 18 whites in majority-white **HD 64**. SDX 405 at 126, 141. The part of this precinct placed in the majority-black district was 34.7% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 218, clearly shows how the drafters separated the single majority-black block from majority-white blocks in this precinct.

i. In Shiloh/Grimes precinct, the drafters placed 66 blacks and 20 whites in majority-black **HD 68**, and they placed 1 black person and 25 whites in majority-white **HD 64**. SDX 405 at 126, 142. The part of this precinct placed in the majority-black district was 75.9% black, while the part placed in the majority-white district was 3.8% black. The split precinct map, APSX 219, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

64. The drafters split 4 precincts in Washington County:

a. In Carson/Preswick precinct, the drafters placed 207 blacks and 25 whites in majority-black **HD 68**, and they placed 56 blacks and 270 whites in

majority-white **HD 65**. SDX 405 at 132, 142. The part of this precinct placed in the majority-black district was 85.8% black, while the part placed in the majority-white district was 17.0 % black. The split precinct map, APSX 283, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Cortelyou precinct, the drafters placed 176 blacks and 9 whites in majority-black **HD 68**, while they placed 96 blacks and 203 whites in majority-white **HD 65**. SDX 405 at 132, 142. The part of this precinct placed in the majority-black district was 93.1% black, while the part placed in the majority-white district was 31.1 % black. The split precinct map, APSX 284, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In McIntosh Comm Ctr precinct, the drafters placed 747 blacks and 12 whites in majority-black **HD 68**, while they placed 8 blacks and 18 whites in majority-white **HD 65**. SDX 405 at 131, 142. The part of this precinct placed in the majority-black district was 96.4% black, while the part placed in the majority-white district was 30.8 % black. The split precinct map, APSX 285, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In McIntosh Voting House precinct, the drafters placed 360 blacks and 91 whites in majority-black **HD 68**, while they placed 82 blacks and 401 whites in majority-black **HD 65**. SDX 405 at 131, 142. The part of this precinct placed in the majority-black district was 77.1% black, while the part placed in the majority-white district was 5.5 % black. The split precinct map, APSX 286, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

65. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 68**.

HD 69, Autauga, Lowndes, and Montgomery Counties.

66. The drafters met and exceeded, by 0.09%, their 64.11% target for **HD 69**. APSX 01. A net total of 7,905 persons were added to **HD 69** to bring it within $\pm 1\%$ deviation, 5,096 blacks and 2,048 whites. SDX 403 at 6; SDX 406 at 6.

67. The drafters split the boundaries of both Autauga and Montgomery Counties, 2 precincts in Autauga County and 9 precincts in Montgomery County. SDX 405 at 143-45.

68. The ALBC remand House plan demonstrates that **HD 69** could have been drawn with a deviation under 5% and a 50.61% black total population

majority, splitting only Autauga County and 3 of its precincts, leaving Montgomery, Lowndes and Butler Counties whole. APSX 36 at 2, 36A at 95, 37.

69. In Autauga County the following precincts were split:

a. In Booth Vol Fire Dept precinct, the drafters placed 229 blacks and 566 whites in majority-black **HD 69**, and they placed 133 blacks and 630 whites in majority-white **HD 42**. SDX 405 at 84, 143. The part of this precinct placed in the majority-black district was 28.3% black, while the part placed in the majority-white district was 17.0 % black. The split precinct map, APSX 50, shows how the drafters selected the highest percentage black blocks to move to the majority-black district in an overwhelmingly white precinct.

b. In Safe Harbor Ministries precinct, the drafters placed 245 blacks and 263 whites in **HD 69**, while they placed 318 blacks and 2,880 whites in majority-white **HD 42**, and they placed 503 blacks and 2,775 whites in majority-white **HD 88**. SDX 405 at 84, 143, 177. The part of this precinct placed in the majority-black district was 48.0% black, the part placed in majority-white **HD 88** was 14.6% black, and the part placed in majority-white **HD 42** was 9.5% black. The split precinct map, APSX 51, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

70. In Montgomery County the following precincts were split:

a. In 1F Al. Ind Dev Training precinct, the drafters placed just 4 blacks and 0 whites in majority-black **HD 69**, and they placed 8,528 blacks and 401 whites in majority-black **HD 76**. SDX 405 at 143, 159. The split precinct map, APSX 223, shows that the drafters likely were fairing the district line.

b. In 2D Montgomery Boys Club precinct, the drafters placed 422 blacks and 397 whites in majority-black **HD 69**, and they placed 1,668 blacks and 1,567 whites in majority-black **HD 78**. SDX 405 at 144, 163. The split precinct map, APSX 225, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

c. In 2F Fire Station No. 14 precinct, the drafters placed 1,758 blacks and 243 whites in majority-black **HD 69**, and they placed 687 blacks and 31 whites in majority-black **HD 78**. SDX 405 at 144, 163. The split precinct map, APSX 226, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

d. In 2G Hayneville Road Comm Ctr precinct, the drafters placed 693 blacks and 118 whites in majority-black **HD 69**, and they placed 1,713 blacks and 27 whites in majority-black **HD 78**. SDX 405 at 144, 163. The split precinct map, APSX 227, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

e. In 2I Southlawn Elem Sch precinct, the drafters placed 354 blacks and 82 whites in majority-black **HD 69**, and they placed 3,915 blacks and 54 whites in majority-black **HD 78**. SDX 405 at 144, 163. The split precinct map, APSX 229, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

f. In 5B Snowdoun Womens Club precinct, the drafters placed 3 blacks and 51 whites in majority-black **HD 69**, and they placed 0 blacks and 3 whites in majority-black **HD 76**, while they placed 202 blacks and 493 whites in majority-white **HD 75**. SDX 405 at 145, 158, 160. The split precinct map, APSX 239, shows that the drafters were creating a bridge for **HD 69** to majority-black blocks in precincts to the east, while they were removing mostly whites from **HD 69**.

g. In 5D Ramer Library precinct, the drafters placed 61 blacks and 2 whites in majority-black **HD 69**, while they placed 269 blacks and 437 whites in majority-white **HD 90**. SDX 405 at 145, 181. The part of this precinct placed in the majority-black district was 96.8% black, while the part placed in the majority-white district was 36.1% black. The split precinct map, APSX 240, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

h. In 5E Fitzpatrick Elem precinct, the drafters placed 2,276 blacks and 331 whites in majority-black **HD 69**, and they placed 4,248 blacks and 943 whites in majority-black **HD 76**, while they placed 592 blacks and 627 whites in majority-white **HD 75**. SDX 405 at 145, 158, 160. The part of this precinct placed in majority-black **HD 69** was 81.8% black, the part placed in majority-black **HD 76** was 64.7% black, while the part placed in majority-white **HD 75** was 47.9% black. The split precinct map, APSX 241, shows both how the drafters separated majority-black blocks from majority-white blocks in this precinct, and how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

i. In 5N Peter Crump Sch precinct, the drafters placed 1,624 blacks and 57 whites in majority-black **HD 69**, and they placed 1,898 blacks and 117 whites in majority-black **HD 76**. SDX 405 at 145, 160. The split precinct map, APSX 244, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

71. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 69**.

HD 70, Tuscaloosa County.

72. The drafters met and exceeded, by 0.31%, their 61.89% target for **HD**

70. APSX 01. A net total of 6,717 persons were added to **HD 70** to bring it within $\pm 1\%$ deviation, 4,245 blacks and 1,935 whites. SDX 403 at 6; SDX 406 at 6.

73. The drafters split 9 precincts, 6 between **HD 70** and majority-white **HD 62** and **HD 63**, and 3 between **HD 70** and majority-black **HD 71**.

a. In Bama Mall precinct, the drafters placed 3,142 blacks and 2,375 whites in majority-black **HD 70**, and they placed 156 blacks and 156 whites in majority-black **HD 71**, while they placed 25 blacks and 460 whites in majority-white **HD 63**. SDX 405 at 123, 146, 150. The part of this precinct placed in majority-black **HD 70** was 53.2% black, the part placed in majority-black **HD 71** was 50% black, while the part placed in majority-white **HD 63** was 5.9% black. The split precinct map, APSX 271, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Holt Armory precinct, the drafters placed 2,471 blacks and 1,178 whites in majority-black **HD 70**, while they placed 354 blacks and 1,525 whites in majority-white **HD 62**. SDX 405 at 121, 146. The part of this precinct placed in the majority-black district was 64.9% black, while the part placed in the majority-white district was 17.4% black. The split precinct map, APSX 274, clearly shows – in exceptionally ugly fashion -- how the drafters separated

majority-black blocks from majority-white blocks in this precinct.

c. In Jayces Park precinct, the drafters placed 3,857 blacks and 2,536 whites in majority-black **HD 70**, while they placed 0 blacks and 29 whites in majority-white **HD 63**. SDX 405 at 123, 146. The part of this precinct placed in the majority-black district was 56.3% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 275, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In McDonald Hughes Ctr precinct, the drafters placed 4,010 blacks and 29 whites in majority-black **HD 70**, and they placed 588 blacks and 46 whites in majority-black **HD 71**. SDX 405 at 145, 150. The split precinct map, APSX 276, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

e. In McFarland Mall precinct, the drafters placed 7,119 blacks and 5,680 whites in majority-black **HD 70**, while they placed 13 blacks and 121 whites in majority-white **HD 63**, and they placed 600 blacks and 2,209 whites in majority-white **HD 62**. SDX 405 at 121, 146. The part of this precinct placed in the majority-black district was 53.2% black, while the part placed in majority-white **HD 62** was 20.5% black, and the part placed in majority-white **HD 63** was

9.7% black. The split precinct map, APSX 277, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. In Peterson Meth Ch precinct, the drafters placed 301 blacks and 27 whites in majority-black **HD 70**, while they placed 173 blacks and 2,027 whites in majority-white **HD 62**. SDX 405 at 121, 146. The part of this precinct placed in the majority-black district was 91.8% black, while the part placed in the majority-white district was 7.6% black. The split precinct map, APSX 279, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

g. In Southside Comm Ctr precinct, the drafters placed 2,770 blacks and 1,180 whites in majority-black **HD 70**, and they placed 19 blacks and 17 whites in majority-black **HD 71**. SDX 405 at 146, 150. The split precinct map, APSX 280, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

h. In Stillman College precinct, the drafters placed 1,073 blacks and 8 whites in majority-black **HD 70**, and they placed 5,646 blacks and 301 whites in majority-black **HD 71**. SDX 405 at 145, 150. The split precinct map, APSX 281, shows how large concentrations of black population were divided between majority-black districts in order to reach their racial targets.

i. In University Mall precinct, the drafters placed 28 blacks and 39 whites in majority-black **HD 70**, while they placed 153 blacks and 248 whites in majority-white **HD 62**. SDX 405 at 122, 146. The part of this precinct placed in the majority-black district was 32.6% black, while the part placed in the majority-white district was 31.8% black. The split precinct map, APSX 282, shows that the drafters likely were fairing the line between the districts.

74. The ALBC remand House plan demonstrates that **HD 70** could have been drawn inside Tuscaloosa County with a +0.71% population deviation and a 57.21% black total population percentage, without splitting a single precinct.²⁴ APSX 36 at 2, 36A at 84, 86, 95-96, 38.

75. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 70**.

HD 71, Pickens, Tuscaloosa, Greene, Sumter, Marengo, and Choctaw Counties.

76. The drafters met and exceeded, by 2.62%, their 64.28% target for **HD 71**. APSX 01. A net total of 7,254 persons were added to **HD 71** to bring it within $\pm 1\%$ deviation, 5,582 blacks and 1,157 whites. SDX 403 at 6; SDX 406 at

²⁴ The County Courthouse precinct is split in the ALBC plan between two majority-white districts, **HD 61** and **HD 63** to reduce **HD 63**'s deviation to +4.35%.

6.

77. The drafters split the boundaries of 6 counties, not one of which is contained whole inside **HD 71**. And they split precincts in all 6 counties, 24 split precincts altogether. SDX 405 at 146-50.

78. The ALBC remand House plan demonstrates that **HD 71** could have been drawn simply by linking three whole counties, Sumter, Marengo, and Wilcox, yielding a population deviation of +2.06% and a black majority of 63.82%. ASPX 35, 36 at 2, 36A at 96.

79. In Choctaw County, the following precincts were split:

a. In Butler-Lavaca precinct, the drafters placed 120 blacks and 11 whites in majority-black **HD 71**, while they placed 998 blacks and 1,985 whites in majority-white **HD 65**. SDX 405 at 127, 147. The part of this precinct placed in the majority-black district was 91.6% black, while the part placed in the majority-white district was 32.9% black. The split precinct map, APSX 62, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Crossroads-Intersection-Halsell precinct, the drafters placed 471 blacks and 108 whites in majority-black **HD 71**, while they placed 0 blacks and 15 whites in majority-white **HD 65**. SDX 405 at 127, 147. The part of this

precinct placed in the majority-black district was 81.1% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 63, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Lisman-Pushmataha precinct, the drafters placed 817 blacks and 90 whites in majority-black **HD 71**, while they placed 61 blacks and 47 whites in majority-white **HD 65**. SDX 405 at 127, 147. The part of this precinct placed in the majority-black district was 89.0% black, while the part placed in the majority-white district was 56.0% black. The split precinct map, APSX 64, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Riderwood-Rock Spr precinct, the drafters placed 140 blacks and 21 whites in majority-black **HD 71**, while they placed 195 blacks and 361 whites in majority-white **HD 65**. SDX 405 at 128, 147. The part of this precinct placed in the majority-black district was 87.0% black, while the part placed in the majority-white district was 34.9% black. The split precinct map, APSX 65, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

80. In Greene County, the following precincts were split:

a. In Eutaw Pre-School precinct, the drafters placed 105 blacks and 100 whites in majority-black **HD 72**, and 489 blacks and 50 whites in majority-black **HD 71**. SDX 405 at 147, 151. The split precinct map, APSX 79, shows how large concentrations of black population were split by the drafters between majority-black districts to help them reach their racial targets.

b. In Greene County Cthse precinct, the drafters placed 87 blacks and 20 whites in majority-black **HD 72**, and only 21 blacks and 14 whites in majority-black **HD 71**. SDX 405 at 147, 151. The split precinct map, APSX 80, shows how even small concentrations of black population were split by the drafters between majority-black districts to help them reach their racial targets.

c. In W Greene Fire Dept precinct, the drafters placed 73 blacks and 65 whites in majority-black **HD 71**, while they placed just 1 black and 11 whites in majority-white **HD 61**.²⁵ The part of this precinct placed in the majority-black district was 50.3% black, while the part placed in the majority-white district was 8.3% black. The split precinct map, APSX 81, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

81. In Marengo County the following precincts were split:

²⁵ This was the famous 12-person incursion of **HD 61** in Greene County at the request of the white incumbent.

a. In Demopolis HS precinct, the drafters placed only 15 blacks and 14 whites in majority-black **HD 68**, 145 blacks and 386 whites in majority-black **HD 71**, and only 19 blacks and 5 whites in majority-black **HD 72**. SDX 405 at 139, 148, 152. The split precinct map, APSX 166, shows how large concentrations of black population were split by the drafters between majority-black districts to help them reach their racial targets.

b. In Jefferson precinct, the drafters placed 544 blacks and 86 whites in majority-black **HD 71**, while they placed 3 blacks and 75 whites in majority-white **HD 65**. SDX 405 at 129, 148. The part of this precinct placed in the majority-black district was 85.4% black, while the part placed in the majority-white district was 3.8% black. The split precinct map, APSX 168, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In the Rangeline precinct, the drafters placed 1 black person and 16 whites in majority-black **HD 71**, while they placed 74 blacks and 243 whites in majority-white **HD 65**. SDX 405 at 129, 148. The part of this precinct placed in the majority-black district was 6.3% black, while the part placed in the majority-white district was 22.6% black. The split precinct map, APSX 170, suggests this split had no discernible impact either on **HD 71**'s racial target or on the drafters'

$\pm 1\%$ deviation rule, since **HD 71** exceeded its target by 2.62%, and **HD 65** ended up 7 persons over -1%, while **HD 71** ended up 282 over -1%. APSX 01; SDX 403 at 5, 6.

d. The split in Springhill Voting Booth precinct is discussed in the analysis above of **HD 68**.

82. In Pickens County the following precincts were split:

a. In Aliceville 2 Nat'l Guard Armory precinct, the drafters placed 1,155 blacks and 217 whites in majority-black **HD 71**, while they placed 1,337 blacks and 345 whites in majority-white **HD 61**. SDX 405 at 119, 148. The part of this precinct placed in the majority-black district was 81.9% black, while the part placed in the majority-white district was 78.0% black. The split precinct map, APSX 249, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct. In this instance, **HD 71** had exceeded its racial target, and **HD 61** was only 12 persons over -1% deviation, so that might explain why so many blacks were left in **HD 61**. APSX 01; SDX 403 at 5.

b. In Carrollton 4 Service Ctr precinct, the drafters placed 677 blacks and 396 whites in majority-black **HD 71**, while they placed 176 blacks and 371 whites in majority-white **HD 61**. SDX 405 at 119, 148. The part of this precinct placed in the majority-black district was 61.1% black, while the part placed in the

majority-white district was 31.9% black. The split precinct map, APSX 250, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

83. The following precincts were split in Sumter County:

a. In Coatopa Fire Dept precinct, the drafters placed 191 blacks and 127 whites in majority-black **HD 72**, and they placed 124 blacks and 45 whites in majority-black **HD 71**. SDX 405 at 149, 153. The split precinct map, APSX 257, shows how large concentrations of black population were split by the drafters between majority-black districts to help them reach their racial targets.

b. In Livingston Comm Ctr precinct, the drafters placed 178 blacks and 143 whites in majority-black **HD 71**, and they placed 2,740 blacks and 1,373 whites in majority-black **HD 72**. SDX 405 at 149, 153. The split precinct map, APSX 258, shows how large concentrations of black population were split by the drafters between majority-black districts to help them reach their racial targets.

84. The following precincts were split in Tuscaloosa County:

a. The splits in Bama Mall precinct are discussed in the analysis above of majority-black **HD 70**.

b. In County Cthse precinct, the drafters placed 116 blacks and 45 whites in majority-black **HD 71**, while they placed 741 blacks and 4,672 whites in

majority-white **HD 63**. SDX 405 at 123, 150. The part of this precinct placed in the majority-black district was 71.2% black, while the part placed in the majority-white district was 12.9% black. The split precinct map, APSX 272, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct. (There is a majority-black block with 615 persons in the southwest corner of **HD 63** that could have been added to **HD 71**, but **HD 63** was only 185 persons above -1% deviation.)

c. In Frierson-Big Sandy Bapt Ch precinct, the drafters placed 706 blacks and 1,037 whites in majority-black **HD 71**, while they placed 1,031 blacks and 2,239 whites in majority-white **HD 63**. SDX 405 at 122, 150. The part of this precinct placed in the majority-black district was 39.4% black, while the part placed in the majority-white district was 31.1% black. The split precinct map, APSX 273, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. The split in McDonald Hughes Ctr precinct is discussed in the analysis above of **HD 70**.

e. In Northport Comm Ctr precinct, the drafters placed 1,700 blacks and 2,291 whites in majority-black **HD 71**, while they placed 112 blacks and 320 whites in majority-white **HD 61**. SDX 405 at 121, 150. The part of this precinct

placed in the majority-black district was 40.8% black, while the part placed in the majority-white district was 18.3% black. The split precinct map, APSX 278, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. The split in Southside Comm Ctr precinct is discussed in the analysis above of **HD 70**.

g. The split in Stillman College precinct is discussed in the analysis above of **HD 70**.

85. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 71**.

HD 72, Sumter, Greene, Hale, Marengo, Perry, and Bibb Counties.

86. The drafters reached and exceeded their **HD 72** target of 60.12% black by 4.38%. APSX 01. A net total of 5,932 persons were added to **HD 72** to bring it within $\pm 1\%$ deviation, 5,566 blacks and only 197 whites. SDX 403 at 6; SDX 406 at 6.

87. The drafters split five counties. Only Hale County is wholly contained in **HD 72**. SDX 405 at 151-53.

88. The ALBC remand House plan demonstrates that **HD 72** could have been drawn to split only one County, Bibb, while maintaining whole Greene, Hale,

and Perry Counties, with a population deviation of -4.34% and a 62.65% black total population. APSX 36, 36A at 96-97, 37.

89. The drafters split 14 precincts, some of which have already been discussed in connection with **HD 67**, **HD 68**, and **HD 71**.

90. The following precincts in Bibb County were split:

a. The Brent City Hall precincts are misnumbered in APSX 44. They should be Brent City Hall-13. The drafters placed 2,435 blacks and 1,096 whites in majority-black **HD 72**, while they placed just 4 blacks and 63 whites in majority-white **HD 49**. SDX 405 at 95, 151. The part of this precinct placed in the majority-black district was 68.2% black, while the part placed in the majority-white district was 6.0% black. The split precinct map, APSX 54, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In the Brent Nat Guard Armory precinct, the drafters placed 285 blacks and 407 whites in majority-black **HD 72**, while they placed 422 blacks and 1,921 whites in majority-white **HD 49**. SDX 405 at 94, 151. The part of this precinct placed in the majority-black district was 40.9% black, while the part placed in the majority-white district was 17.3% black. The split precinct map, APSX 55, clearly shows how the drafters separated majority-black blocks from

majority-white blocks in this precinct.

c. In the Eoline Fire Dept. precincts, the drafters placed 96 blacks and 487 whites in majority-black **HD 72**, while they placed 55 blacks and 772 whites in majority-white **HD 49**. SDX 405 at 94, 95, 151. The part of this precinct placed in the majority-black district was 17.8% black, while the part placed in the majority-white district was 6.3% black. The split precinct maps, APSX 56 and 57, clearly show how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In the Rock Bldg Dept precincts the drafters placed 319 blacks and 362 whites in majority-black **HD 72**, while they placed 142 blacks and 1,327 whites in majority-white **HD 49**. SDX 405 at 95, 151. The part of this precinct placed in the majority-black district was 35.3% black, while the part placed in the majority-white district was 9.3% black. The split precinct maps, APSX 58 and 59, clearly show how the drafters separated majority-black blocks from majority-white blocks in this precinct.

91. The following precincts were split in Greene County:

a. The split in Eutaw Pre-School precinct is discussed in the analysis above of **HD 71**.

b. The splits in Greene County Cthse precinct are discussed above in

the analysis of **HD 71**.

92. The split in Marengo County Demopolis HS precinct is discussed in the analysis above of **HD 68**.

93. The precinct splits in Perry County between **HD 72** and **HD 67** are discussed in the analysis above of **HD 67**.

94. The splits in Sumter County precincts Coatopa Fire Dept and Livingston Comm Ctr are discussed in the analysis above of **HD 71**.

95. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 72**.

HD 76, Montgomery County.

96. All three majority-black House districts in Montgomery County, **HD 76**, **HD 77**, and **HD 78**, had large majorities of 69.56%, 73.58%, and 74.34% black. APSX 01. **HD 76** was underpopulated by only 627 persons (-1.38%), but **HD 77** was underpopulated by 10,523 persons (-23.12%), and **HD 78** was underpopulated by 14,641 persons (-32.16%). SDX 406 at 6. The drafters had to find a lot of additional black population if they were to reach their black percentage targets in Montgomery County.

97. One tactic the drafters used to attempt reaching their black percentage targets in these three districts was to dismember **HD 73**, a black plurality district at

48.44%, and to use portions of it to add to the neighboring majority-black districts. SDX 406 at 6. As Randy Hinaman put it, “District 73 was cannibalized if you will to repopulate [HDs] 77, 78, and 76.” APX 75, at 141:6-7. This Court found: “Hinaman moved House District 73, a majority-white [sic: plurality-white] House district, from Montgomery County to Shelby and Bibb Counties to avoid retrogression of the majority-black House districts in Montgomery County.” 989 F.Supp.2d at 1249. As was the case with **HD 53** in Jefferson County, the cannibalization of HD 73 **by definition** taints all the majority-black House districts in Montgomery County by subordinating to an unconstitutional racial consideration the traditional districting principles of preserving the cores of existing districts and avoiding incumbent conflicts.

98. It is true, of course, that both the $\pm 1\%$ deviation plan Representative McClammy drew, SDX 470, and the ALBC remand House plan, APSX 35, moved HD 73 out of Montgomery County. But in both those cases HD 73 was moved for the sake of avoiding splitting the boundaries of Montgomery County, the most important traditional districting principle in Alabama, not to maintain target black percentages.

99. The drafters exceeded their 69.56% target for **HD 76** by +4.38% at 73.9%. APSX 01. A net total of 1,078 persons were added to **HD 76** to bring it

within $\pm 1\%$ deviation, adding 2,706 blacks and **removing** 2,912 whites. SDX 403 at 6; SDX 406 at 6.

100. Using black populations cannibalized from HD 73, the drafters of Act 2012-602 were able to exceed their target for **HD 76**, raising it to 73.9% black, but they were unable to find enough black population to reach their targets for **HD 77** and **HD 78**. The 106,083 blacks included in majority-black **HD 69**, **HD 76**, **HD 77**, and **HD 78** constituted 81.21% of the entire black population of Montgomery County. After giving up 3,510 persons to help majority-white **HD 90** get within 1% deviation, only 62,742 whites were left to populate majority-white **HD 74** and **HD 75**. The drafters needed an additional 28,300 non-white population to achieve ideal equality in **HD 74** and **HD 75**, so they needed all of the 24,537 blacks left out of the majority-black districts. In short, there were no more blacks available to pack into **HD 76**, **HD 77**, and **HD 78**. See SDX 405 at 155-65.

101. Even so, the drafters reached large black majorities of 67.0% in **HD 77** and 70.2% in **HD 78**, splitting the boundary of Montgomery County three times, in **HD 69**, **HD 75**, and **HD 90**, and splitting many precincts, as the following discussion shows. SDX 405 at 155-65.

102. By contrast, the ALBC remand House plan demonstrates how Montgomery County could be kept whole, splitting only two precincts to reduce

population deviations (**HD 74** is +1.52%, **HD 75** is -1.20%, **HD 76** is +1.85%, **HD 77** is +4.00%, and **HD 78** is -2.31%). APSX 35, 36 at 2, 36A at 98-106, 37.

103. The Act 602 drafters split 9 precincts in **HD 76**, and 3 of them had been in cannibalized HD 73 in the 2001 plan: 1A Cloverdale Comm Ctr, 1E Aldersgate UMC, 5E Fitzpatrick Elem. SDX 413 at 46. A fourth precinct that had been in HD 73, 1C Montgomery Museum, was moved unsplit to **HD 76**. Compare SDX 413 at 46 with SDX 405 at 159-60.

a. In 1A Cloverdale Comm Ctr precinct, the drafters placed 800 blacks and 1,743 whites in majority-black **HD 76**, and they placed 1,007 blacks and 3,949 whites in majority-black **HD 77**. SDX 405 at 159, 161. The split precinct map, APSX 220, shows that most of the majority-black blocks in this precinct were placed in **HD 76**, the one majority-black House district in Montgomery County that reached its racial target.

b. In 1E Aldersgate UMC precinct, the drafters placed 492 blacks and 192 whites in majority-black **HD 76**, and they placed 5,363 blacks and 1,207 whites in majority-black **HD 77**. SDX 405 at 159, 161. The split precinct map, APSX 222, shows how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

c. The splits in 1F Al. Ind Dev Training precinct are discussed in the

analysis above of **HD 69**.

d. In 2B Beulah Bapt Ch precinct, the drafters placed 4,180 blacks and 54 whites in majority-black **HD 76**, they placed 334 blacks and 2 whites in majority-black **HD 78**, and they placed 604 blacks and 12 whites in majority-black **HD 77**. SDX 405 at 159, 161, 163. The split precinct map, APSX 224, shows how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

e. In 2H Harrison Elem Sch precinct, the drafters placed 1,180 blacks and 21 whites in **HD 76**, and they placed only 123 blacks and 16 whites in **HD 78**. SDX 405 at 160, 163. The split precinct map, APSX 228, shows how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

f. The split in 5B Snowdown Womens Club precinct is discussed in the analysis above of **HD 69**.²⁶

g. The split in 5E Fitzpatrick Elem precinct is discussed in the analysis above of **HD 69**.

h. In 5M Bell Road YMCA precinct, the drafters placed most of the blacks in majority-black **HD 76** and most of the whites in majority-white **HD 74**

²⁶ The figures in APSX 44 at 37 are incorrect.

and **HD 75**. They placed 1,918 blacks and 1,879 whites in majority-black **HD 76**, while they placed 435 blacks and 2,098 whites in majority-white **HD 75**, and they placed 392 blacks and 1,737 whites in majority-white **HD 74**. SDX 405 at 156, 158, 160. The part of this precinct placed in the majority-black district was 43.0% black, while the part placed in the majority-white **HD 74** was 17.7% black, and the part placed in majority-white **HD 75** was 13.9% black. The split precinct map, APSX 243, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

i. The split in 5N Peter Crump Sch precinct is discussed in the analysis above of **HD 69**.

104. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 76**.

HD 77, Montgomery County.

105. The drafters fell short of their super-majority 73.58% black target for **HD 77** by -6.58% at 67.0%. A net total of 10,956 persons were added to **HD 77** to bring it within $\pm 1\%$ deviation, 5,077 blacks and 5,351 whites. SDX 403 at 6; SDX 406 at 6.

106. **HD 77** has 10 split precincts, 3 of which were located in cannibalized **HD 73** in the 2001 plan: 1A Cloverdale Comm Ctr, 1B Vaughn Park Ch of Christ,

and 1E Aldersgate UMC. SDX 413 at 46.

a. The split in 1A Cloverdale Comm Ctr precinct is discussed in the analysis above of **HD 76**.

b. In 1B Vaughn Park Ch of Christ, the drafters placed 3,802 blacks and 2,482 whites in majority-black **HD 77**, while they placed 512 blacks and 2,578 whites in majority-white **HD 74**. SDX 405 at 155, 161. The part of this precinct placed in the majority-black district was 56.6% black, while the part placed in the majority-white district was 16.2% black. The split precinct map, APSX 221, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. The split in 1E Aldersgate UMC precinct is discussed in the analysis above of **HD 76**.

d. The split in 2B Beulah Bapt Ch precinct is discussed in the analysis above of **HD 76**.

e. In 3A Capitol Hts Bapt Ch precinct, the drafters placed 236 blacks and 222 whites in majority-black **HD 77**, while they placed 876 blacks and 2,013 whites in majority-white **HD 74**. SDX 405 at 155, 161. The part of this precinct placed in the majority-black district was 48.0% black, while the part placed in the majority-white district was 28.5% black. The split precinct map, APSX 230,

clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. In 4D Hamner Hall Fire Station precinct, the drafters placed 1,192 blacks and 359 whites in majority-black **HD 77**, and they placed just 4 blacks and 8 whites in majority-black **HD 77**. SDX 405 at 162, 164. The split precinct map, APSX 232, shows that the drafters probably split this precinct to provide a bridge between the parts of **HD 78** lying on opposite sides of the Alabama River bend.

g. In 4F Newtown Comm Ctr precinct, the drafters placed 790 blacks and 63 whites in majority-black **HD 77**, and they placed 1,247 blacks and 249 whites in majority-black **HD 78**. SDX 405 at 162, 164. The split precinct map, APSX 233, shows how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

h. In 4G King Hill Comm Ctr precinct, the drafters placed 97 blacks and 51 whites in majority-black **HD 77**, and they placed 1,244 blacks and 1,344 whites in majority-black **HD 78**. SDX 405 at 162, 164. The split precinct map, APSX 234, shows how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

i. In 4M McIntyre Comm Ctr precinct, the drafters placed 551 blacks and 0 whites in majority-black **HD 77**, and they placed 2,178 blacks and 52 whites

in majority-black **HD 78**. SDX 405 at 162, 165. The split precinct map, APSX 236, shows how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

j. In 4N Highland Avenue Bapt Ch precinct, the drafters placed 1,347 blacks and 834 whites in majority-black **HD 77**, while they placed 0 blacks and just 4 whites in majority-white **HD 74**. SDX 405 at 156, 162. The part of this precinct placed in the majority-black district was 56.4% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 237, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

107. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 77**.

HD 78, Montgomery County.

108. At 70.2% black, the drafters failed to hit their super-majority 74.34% target by -4.14%, but not for lack of trying, as the census figures above show. A net total of 15,077 persons were added to **HD 78** to bring it within $\pm 1\%$ deviation, 9,237 blacks and 4,214 whites. SDX 403 at 6; SDX 406 at 6.

109. To capture every available black population, keeping the deviation within $\pm 1\%$, the drafters split 12 precincts. Only two splits were between **HD 78**

and majority-white **HD 74**.

a. The split in 2B Beulah Bapt Ch precinct is discussed in the analysis above of **HD 76**.

b. The split in 2D Montgomery Boys Club precinct is discussed in the analysis above of **HD 69**.

c. The split in 2F Fire Station No. 14 precinct is discussed in the analysis above of **HD 69**.

d. The split in 2G Hayneville Road Comm Ctr precinct is discussed in the analysis above of **HD 69**.

e. The split in 2H Harrison Elem Sch precinct is discussed in the analysis above of **HD 76**.

f. The split in 2I Southlawn Elem Sch precinct is discussed in the analysis above of **HD 69**.

g. In 3F Goodwyn Comm Ctr precinct, the drafters placed 436 blacks and 259 whites in majority-black **HD 78**, while they placed 1,207 blacks and 5,404 whites in majority-white **HD 74**. SDX 405 at 156, 164. The part of this precinct placed in the majority-black district was 60.6% black, while the part placed in the majority-white district was 17.6% black. The split precinct map, APSX 231, clearly shows how the drafters separated majority-black blocks from

majority-white blocks in this precinct.

h. The split in 4D Hamner Hall Fire Station precinct is discussed in the analysis above of **HD 77**.

i. The split in 4F Newtown Comm Ctr precinct is discussed in the analysis above of **HD 77**.

j. The split in 4G King Hill Comm Ctr precinct is discussed in the analysis above of **HD 77**.

k. In 4K Chisholm Comm Ctr precinct, the drafters placed 1,965 blacks and 974 whites in majority-black **HD 78**, while they placed 0 blacks and 10 whites in majority-white **HD 74**. SDX 405 at 165. The part of this precinct placed in the majority-black district was 61.1% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 235, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

l. The split in 4M McIntyre Comm Ctr precinct is discussed in the analysis above of **HD 77**.

110. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 78**.

HD 82, Macon, Lee, and Tallapoosa Counties.

111. The drafters reached and exceeded their 57.18% black target for **HD 82** by 5.02% at 62.2%. APSX 01. A net total of 2,469 persons were added to **HD 82** to bring it within $\pm 1\%$ deviation, adding 3,707 blacks and **removing** 988 whites. SDX 403 at 7; SDX 406 at 7.

112. The drafters split two counties, Lee and Tallapoosa, and 6 precincts. SDX 405 at 171-72.

113. The ALBC remand House plan demonstrates that **HD 82** could have been drawn with a +4.84% population deviation and 66.46% black total population to include Macon and Bullock counties whole and a portion of Pike County, splitting no precincts. APSX 36, 36A at 109-10, 37.

114. In Lee County, the Auburn and Opelika B precincts are very large and likely must be split between House districts. But the drafters clearly split them along racial lines.

a. In the Auburn precinct, the drafters placed 3,972 blacks and 5,455 whites in majority-black **HD 82**, while they placed 5,261 blacks and 35,614 whites in majority-white **HD 79**. SDX 405 at 166, 171. The part of this precinct placed in the majority-black district was 42.2% black, while the part placed in the majority-white district was 11.8% black. The split precinct map, APSX 136, clearly shows how the drafters separated majority-black blocks from majority-

white blocks in this precinct.

b. In Beuaregard School precinct, the drafters placed 418 blacks and 1,121 whites in majority-black **HD 82**, and they placed 573 blacks and 1,554 whites in majority-black **HD 83**, while they placed 1 black and 128 whites in majority-white **HD 79**, and they placed 75 blacks and 753 whites in majority-white **HD 38**. SDX 405 at 78, 166, 171, 172. The part of this precinct placed in majority-black **HD 82** was 26.5% black, the part placed in majority-black **HD 83** was 26.1%, the part placed in majority-white **HD 38** was 8.6% black, and the part placed in majority-white **HD 79** was 0.7%. The split precinct map, APSX 137, clearly shows both how the drafters separated majority-black blocks from majority-white blocks in this precinct, and how concentrations of black population were split between majority-black districts to help them reach their racial targets.

c. In Opelika B precinct, the drafters placed 416 blacks and 1,663 whites in majority-black **HD 82**, and they placed 10,704 blacks and 6,258 whites in majority-black **HD 83**, while they placed 81 blacks and 928 whites in majority-white **HD 79** and they placed 934 blacks and 7,237 whites in majority-white **HD 38**. SDX 405 at 78, 165, 171-72. The part of this precinct placed in majority-black **HD 82** was 19.4% black, the part placed in majority-black **HD 83** was 58.8%, while the part placed in majority-white **HD 38** was 11.0% black, and the

part placed in majority-white **HD 79** was 7.3%. The split precinct map, APSX 140, clearly shows both how the drafters separated majority-black blocks from majority-white blocks in this precinct, and how concentrations of black population were split between majority-black districts to help them reach their racial targets.

115. The drafters split Tallapoosa County in two noncontiguous parts of **HD 82**, one a long arm reaching into Dadeville in the middle of the county and the other taking a corner of south Tallapoosa County near Tallassee. APX 53.

Tallapoosa County had been contained whole in majority-white **HD 81**. SDX 413 at 49.

a. In the Dadeville Nat Guard Armory precinct, the drafters placed 1,389 blacks and 850 whites in majority-black **HD 82**, while they placed 170 blacks and 920 whites in majority-white **HD 81**. SDX 405 at 168, 171. The part of this precinct placed in the majority-black district was 60.9% black, while the part placed in the majority-white district was 15.1% black. The split precinct map, APSX 268, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In the Mary's Cross precinct, the drafters placed 164 blacks and 85 whites in majority-black **HD 82**, while they placed 118 blacks and 138 whites in majority-white **HD 81**. SDX 405 at 170-71. The part of this precinct placed in the

majority-black district was 66.1% black, while the part placed in the majority-white district was 44.5% black. The split precinct map, APSX 269, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In the Wall Street Comm Ctr precinct, the drafters placed 817 blacks and 507 whites in majority-black **HD 82**, while they placed 51 blacks and 229 whites in majority-white **HD 81**. SDX 405 at 170-71. The part of this precinct placed in the majority-black district was 60.3% black, while the part placed in the majority-white district was 17.8% black. The split precinct map, APSX 270, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

116. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 82**.

HD 83, Lee, Chambers, and Russell Counties.

117. The drafters reached and exceeded their 57.03% black target for **HD 83** by only 0.67%. APSX 01. A net total of 4,934 persons were added to **HD 83** to bring it within $\pm 1\%$ deviation, 3,086 blacks and 1,595 whites. SDX 403 at 7; SDX 406 at 7.

118. The drafters split the Lee County boundary in 4 House districts, the

Russell County boundary in 3 districts, and the Chambers County boundary in 2 districts. APX 53.

119. The ALBC remand House plan demonstrates that **HD 83** could have been drawn entirely within Lee County at 38.58% black with a -3.41% deviation, allowing Lee and Russell Counties to be split only once, in **HD 14**, and leaving Chambers County whole in **HD 38**. APSX 35, 36 at 3, 36A at 110.

120. The drafters split 11 precincts in **HD 83**, 5 in Lee County and 6 in Russell County. The following precincts were split in Lee County:

a. The splits of Beuaregard School and Opelika B Voting District along racial lines are discussed above with the analysis of **HD 82**.

b. In the Lee County Snacks Voting District precinct, the drafters placed 696 blacks and 1,274 whites in majority-black **HD 83**, while they placed just 3 blacks and 103 whites in majority-white **HD 38**. SDX 405 at 78, 172. The part of this precinct placed in the majority-black district was 34.8% black, while the part placed in the majority-white district was 2.8% black. The split precinct map, APSX 138, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Old Salem School precinct the drafters placed 143 blacks and 188 whites in majority-black **HD 83**, while they placed 142 blacks and 1,402

whites in majority-white **HD 38**. SDX 405 at 78, 172. The part of this precinct placed in the majority-black district was 42.3% black, while the part placed in the majority-white district was 8.9% black. The split precinct map, APSX 139, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Smiths Station Sr. Ctr precinct, the drafters placed 138 blacks and 220 whites in majority-black **HD 83**, while they placed 643 blacks and 2,596 whites in majority-white **HD 38**, and they placed 437 blacks and 2,665 whites in majority-white **HD 80**. SDX 405 at 78, 166, 172. The part of this precinct placed in the majority-black district was 36.7% black, while the part placed in majority-white **HD 38** was 19.4% black, and the part placed in majority-white **HD 80** was 13.7% black. The split precinct map, APSX 141, shows how the drafters placed a small corner of this precinct with the largest black concentration in majority-black **HD 83**.

121. The following precincts were split in Russell County:

a. In Austin Sumbry Park precinct, the drafters placed 271 blacks and 495 whites in majority-black **HD 83**, while they placed 56 blacks and 81 whites in majority-white **HD 80**. SDX 405 at 167, 173. The part of this precinct placed in the majority-black district was 34.4% black, while the part placed in the majority-

white district was 38.4% black. The split precinct map, APSX 251, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Crawford Fire Dept precinct, the drafters placed 482 blacks and 1,292 whites in majority-black **HD 83**, while they placed 313 blacks and 1,716 whites in majority-white **HD 80**. SDX 405 at 166, 173. The part of this precinct placed in the majority-black district was 26.4% black, while the part placed in the majority-white district was 15.0% black. The split precinct map, APSX 252, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In CVCC precinct, the drafters placed 1,717 blacks and 741 whites in majority-black **HD 83**, while they placed 9 blacks and 16 whites in majority-white **HD 80**. SDX 405 at 167, 173. The part of this precinct placed in the majority-black district was 64.4% black, while the part placed in the majority-white district was 33.3% black. The split precinct map, APSX 253, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Ladonia Fire Dept precinct, the drafters placed just 61 blacks and 7 whites in majority-black **HD 83**, while they placed 922 blacks and 6,139

whites in majority-white **HD 80**. SDX 405 at 166, 172. The part of this precinct placed in the majority-black district was 85.9% black, while the part placed in the majority-white district was 12.5% black. The split precinct map, APSX 254, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Nat Guard Armory precinct, the drafters placed 2,747 blacks and 1,257 whites in majority-black **HD 83**, while they placed 1,095 blacks and 2,592 whites in majority-white **HD 80**. SDX 166, 173. The part of this precinct placed in the majority-black district was 66.2% black, while the part placed in the majority-white district was 28.7% black. The split precinct map, APSX 255, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. In Seale Ctse precinct, the drafters placed 681 blacks and 1,455 whites in majority-black **HD 83**, and they placed 27 blacks and 0 whites in majority-black **HD 84**. SDX 405 at 173, 174. The split precinct map, APSX 256, shows how concentrations of black population were split between majority-black districts to help them reach their racial targets and to stay within $\pm 1\%$ deviation. **SD 83** is only 3 persons and **SD 84** is only 7 persons under $+1\%$ deviation.

122. Race was the predominant factor motivating the drafters' decision to

place a significant number of voters within or without **HD 83**.

HD 84, Bullock, Barbour and Russell Counties.

123. The drafters reached and exceeded their 50.7% black target for **HD 84** by 1.73% at 52.4%. APSX 01. A net total of 4,652 persons were added to **HD 84** to bring it within $\pm 1\%$ deviation, 3,155 blacks and 1,370 whites. SDX 403 at 7; SDX 406 at 7.

124. The drafters split only Russell County, which must be split to avoid splitting smaller counties nearby. APX 38. The ALBC remand House plan also splits Russell County. APSX 37.

125. Apparently to get majority-black **HD 84**'s population deviation under 1% at +0.98% while keeping majority-black **HD 83**'s deviation under 1% at +0.99%, in the single split precinct, Seale Cthse, the drafters placed just 27 blacks and 0 whites in **HD 84**, which lowered **HD 83**'s target black percentage closer to only 0.67% above its target, while raising **HD 84**'s black percentage to 1.73% above its target. See the discussion of this split precinct in the analysis above of **HD 83**.

126. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 84**.

HD 85, Henry and Houston County.

127. The drafters reached and exceeded their 47.94% black target in **HD 85**, raising it from a black plurality district to a majority-black 50.08% by total population. (It remained a voting-age black plurality district at 47.22%.) APSX 01; APX 16 at 3. A net total of 2,800 persons were added to **HD 85** to bring it within $\pm 1\%$ deviation, 2,311 blacks and 308 whites. SDX 403 at 7; SDX 406 at 7.

128. The drafters split 9 precincts in Houston County along racial lines.

a. In Doug Tew Comm Ctr precinct, the drafters placed 2,040 blacks and 2,181 whites in majority-black **HD 85**, while they placed 262 blacks and 2,908 whites in majority-white **HD 86**. SDX 405 at 175. The part of this precinct placed in the majority-black district was 45.9% black, while the part placed in the majority-white district was 8.0% black. The split precinct map, APSX 82, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Farm Ctr precinct, the drafters placed 767 blacks and 495 whites in majority-black **HD 85**, while they placed 1,188 blacks and 3,358 whites in majority-white **HD 86**. SDX 405 at 174, 175. The part of this precinct placed in the majority-black district was 58.2% black, while the part placed in the majority-white district was 25.1% black. The split precinct map, APSX 83, clearly shows how the drafters separated majority-black blocks from majority-white

blocks in this precinct.

c. In Johnson Homes precinct, the drafters placed 4,403 blacks and 314 whites in majority-black **HD 85**, while they placed 8 blacks and 129 whites in majority-white **HD 86**. SDX 405 at 174, 175. The part of this precinct placed in the majority-black district was 91.0% black, while the part placed in the majority-white district was 5.8% black. The split precinct map, APSX 84, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Kinsey precinct, the drafters placed 920 blacks and 378 whites in majority-black **HD 85**, while they placed 91 blacks and 758 whites in majority-white **HD 86**. SDX 405 at 174, 175. The part of this precinct placed in the majority-black district was 68.0% black, while the part placed in the majority-white district was 10.3% black. The split precinct map, APSX 85, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Library precinct, the drafters placed 2,840 blacks and 1,098 whites in majority-black **HD 85**, while they placed 270 blacks and 3,278 whites in majority-white **HD 86**. SDX 405 at 175, 176. The part of this precinct placed in the majority-black district was 68.4% black, while the part placed in the majority-

white district was 7.4% black. The split precinct map, APSX 86, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.²⁷

f. In Lincoln Comm Ctr precinct, the drafters placed 1,037 blacks and 223 whites in majority-black **HD 85**, while they placed 122 blacks and 687 whites in majority-white **HD 86**. SDX 405 at 175, 176. The part of this precinct placed in the majority-black district was 80.5% black, while the part placed in the majority-white district was 14.8% black. The split precinct map, APSX 87, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

g. In Vaughn Blumberg Ctr precinct, the drafters placed 1,493 blacks and 1,503 whites in majority-black **HD 85**, while they placed 68 blacks and 297 whites in majority-white **HD 93**. SDX 405 at 175, 185. The part of this precinct placed in the majority-black district was 46.8% black, while the part placed in the majority-white district was 17.1% black. The split precinct map, APSX 88, clearly shows how the drafters separated majority-black blocks from majority-white

²⁷ There appears on the map, APSX 86, also to be a 226-person, majority-white block on the west side of Library precinct that has been placed in majority-white **HD 93**. But this split does not appear in the official Assigned District Splits report, SDX 405.

blocks in this precinct.

h. In Westgate Rec Ctr precinct, the drafters placed just 19 blacks and 14 whites in majority-black **HD 85**, while they placed 550 blacks and 5,730 whites in majority-white **HD 87** and 641 blacks and 6,824 whites in majority-white **HD 93**. SDX 405 at 175, 177, 185. The part of this precinct placed in the majority-black district was 57.6% black, while the part placed in majority-white **HD 87** was 8.3% black, and the part placed in majority-white **HD 93** was 8.2%. The split precinct map, APSX 89, shows the drafters reached into this precinct to place a single, majority-black block of 33 persons in majority-black **HD 85**.

i. In Wiregrass Park precinct, the drafters placed 4,190 blacks and 2,813 whites in majority-black **HD 85**, and placed 497 blacks and 2,456 whites in majority-white **HD 86**. SDX 405 at 175, 176. The part of this precinct placed in the majority-black district was 57.3% black, while the part placed in the majority-white district was 15.1% black. The split precinct map, APSX 90, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

129. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 85**.

HD 97, Mobile County.

130. The drafters reached and exceeded their 60.73% black target in **HD 97** by only 0.07%. But they fell short of their super-majority targets in the other three majority-black Mobile County House districts, 65.23%, 73.45%, and 69.90%. APSX 01. There simply was not enough contiguous black population available. As it is, 113,286 of the 147,695 black 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 $\pm 1\%$ 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.

131. A net total of 9,665 persons were added to **HD 97** to bring it within $\pm 1\%$ deviation, 5,863 blacks and 3,532 whites. SDX 403 at 8; SDX 406 at 8.

132. To get **HD 97** up to 60.8% black, the drafters had to split 9 precincts.

a. In 100 Black Men of Greater Mobile precinct, the drafters placed 474 blacks and 1 white in majority-black **HD 97**, and they placed 2,384 blacks and

9 whites in majority-black **HD 98**. SDX 190, 193. The split precinct map, APSX 174, shows how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

b. In Chickasaw Auditorium precinct, the drafters placed 1,143 blacks and 2,743 whites in majority-black **HD 97**, and placed 827 blacks and 942 whites in majority-black **HD 98**, while they placed 79 blacks and 163 whites in majority-white **HD 96**. SDX 189, 190, 192. The part of this precinct placed in majority-black **HD 97** was 28.6% black, the part placed in majority-black **HD 98** was 45.0% black, while the part placed in the majority-white district was 28.8% black. The split precinct map, APSX 179, shows how the drafters separated majority-black blocks from majority-white blocks in this precinct, although the split between **HD 96** and **HD 97** may have been intended to fair the boundary between these two districts. The map does show how significant concentrations of black population were split between majority-black districts to help them reach their racial targets.

c. In Augusta Evans School precinct, the drafters placed 153 blacks and 1,370 whites in majority-black **HD 97**, and they placed 426 blacks and 324 whites in majority-black **HD 99**. The split precinct map, APSX 175, shows how large concentrations of black population were split between majority-black

districts to help them reach their racial targets.

d. In Figures Rec Ctr precinct, the drafters placed 2,821 blacks and 30 whites in majority-black **HD 97**, and they placed 2,134 blacks and 10 whites in majority-black **HD 99**. SDX 190, 194. The split precinct map, APSX 182, shows how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

e. In Rock of Faith Bapt Ch precinct, the drafters placed 5,319 blacks and 78 whites in majority-black **HD 97**, and they placed 1,459 blacks and 7 whites in majority-black **HD 103**. SDX 191, 199. The split precinct map, APSX 196, shows how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

f. In Saraland Civic Ctr precinct, the drafters placed 101 blacks and 161 whites in majority-black **HD 97**, and they placed 118 blacks and 1,246 whites in majority-black **HD 98**, while they placed 237 blacks and 1,982 whites in majority-white **HD 96**. SDX 189, 190, 192. The part of this precinct placed in majority-black **HD 97** was 33.0% black, and the part placed in majority-black **HD 98** was 8.3% black, while the part placed in the majority-white district was 10.2% black. This split precinct map, APSX 197, shows how the drafters tried to avoid adding white population to the majority-black districts. As noted above, majority-

black **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 further below its target. Here is a good example of the kind of manipulation of deviation from perfect population equality that was condemned in *Larios*, even though in this case the overall deviation is less than 2%.

g. In St. Andrews Episcopal precinct, the drafters placed 567 blacks and 545 whites in majority-black **HD 97**, and they placed 951 blacks and 1,271 whites in majority-black **HD 103**. The split precinct map, APSX 202, shows how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

h. In Vigor HS precinct, the drafters placed 824 blacks and 38 whites in majority-black **HD 97**, and they placed 2,384 blacks and 88 whites in majority-black **HD 98**. SDX 405 at 190, 193. The split precinct map, APSX 207, shows how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

i. In Murphy HS Library precinct, the drafters placed 212 blacks and

2,550 whites in majority-black **HD 97**, and they placed 326 blacks and 340 whites in majority-black **HD 99**. SDX 405 at 191, 194. The split precinct map, APSX 194, shows how the drafters tried to divide heavily white precincts between majority-black districts in a way that least impacted their attempts to reach their racial targets. The fact that the higher percentage of blacks was placed in majority-black **HD 99** shows how the drafters were trying to reach **HD 99**'s racial target once the racial target for **HD 97** had been reached.

133. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 97**.

HD 98, Mobile County.

134. The drafters fell short of their 65.23% target for **HD 98** by -5.23%. APSX 01. The fact that they split 13 precincts is evidence they did not fail for lack of trying. A net total of 7,238 persons were added to **HD 98** to bring it within $\pm 1\%$ deviation, 2,376 blacks and 4,492 whites. SDX 403 at 8; SDX 406 at 8.

a. The splits in 100 Black Men of Greater Mobile, Chickasaw Auditorium, Saraland Civic Ctr, and Vigor HS precincts in **HD 98** are discussed in the analysis above of **HD 97**.

b. In College Park Bapt Ch precinct, the drafters placed 878 blacks and 1,106 whites in majority-black **HD 98**, and they placed 209 blacks and 1,103

whites in majority-black **HD 99**, while they placed 0 blacks and 156 whites in majority-white **HD 102**. SDX 405 at 192, 193, 198. The part of this precinct placed in majority-black **HD 98** was 43.5% black, and the part placed in majority-black **HD 99** was 15.3% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 180, shows both how the drafters reached into this precinct to grab four all-white blocks to place in majority-white **HD 102**, and how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

c. In First Bapt Ch of Axis, the drafters placed 496 blacks and 1,790 whites in majority-black **HD 98**, while they placed 11 blacks and 661 whites in majority-white **HD 102**, and placed 8 blacks and 490 whites in majority-white **HD 96**. SDX 405 at 189, 192, 198. The part of this precinct placed in the majority-black district was 20.5% black, while the part placed in majority-white **HD 102** was 1.6% black, and the part placed in majority-white **HD 96** was 1.5% black. The split precinct map, APSX 183, shows how the drafters were trying to remove as many whites as possible from majority-black **HD 98** in an effort to reach its racial target.

d. In Havenwood Bapt Ch precinct, the drafters placed 28 blacks and 43 whites in majority-black **HD 98**, while they placed 80 blacks and 3,938 whites

in majority-white **HD 102**. SDX 405 at 192, 198. The part of this precinct placed in the majority-black district was 39.4% black, while the part placed in the majority-white district was 1.9% black. The split precinct map, APSX 186, shows how the drafters took two blocks with the highest black concentration out of this precinct to put in majority-black **HD 98** to keep its deviation above -1%.

e. In Joseph Dotch Comm. Ctr precinct, the drafters placed 2,317 blacks and 185 whites in majority-black **HD 98**, and they placed 235 blacks and 5 whites in majority-black **HD 99**. SDX 405 at 193, 194. The split precinct map, APSX 188, shows how large concentrations of black population were split between majority-black districts to help them reach their racial targets.

f. In Little Welcome Bapt precinct, the drafters placed 1,238 blacks and 185 whites in majority-black **HD 98**, and they placed 2,264 blacks and 1,059 whites in majority-black **HD 99**, while they placed 19 blacks and 87 whites in majority-white **HD 101**. SDX 405 at 193, 194, 196. The part of this precinct placed in majority-black **HD 98** was 86.0% black, the part placed in majority-black **HD 99** was 66.0% black, while the part placed in the majority-white district was 16.5% black. The split precinct map, APSX 190, shows both how the drafters were trying to remove as many whites as possible from majority-black **HD 98** and **HD 99** in an attempt to reach their racial targets, and how large concentrations of

black population were split between majority-black districts to help them reach their racial targets.

g. In Mt. Vernon Civic Ctr precinct, the drafters placed 859 blacks and 415 whites in majority-black **HD 98**, while they placed 111 blacks and 520 whites in majority-white **HD 102**. SDX 405 at 191, 197. The part of this precinct placed in the majority-black district was 64.6% black, while the part placed in the majority-white district was 5.9% black. The split precinct map, APSX 193, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

h. In Satsuma City Hall precinct, the drafters placed 403 blacks and 369 whites in majority-black **HD 98**, while they placed 168 blacks and 3,167 whites in majority-white **HD 96**. SDX 405 at 189, 192. The part of this precinct placed in the majority-black district was 50.6% black, while the part placed in the majority-white district was 4.9% black. The split precinct map, APSX 198, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

i. In Shelton Beach Rd. Bapt Ch precinct, the drafters placed 593 blacks and 2,234 whites in majority-black **HD 98**, while they placed 27 blacks and 695 whites in majority-white **HD 96**. SDX 405 at 189, 192. The part of this

precinct placed in the majority-black district was 19.9% black, while the part placed in the majority-white district was 3.5% black. The split precinct map, APSX 200, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

j. In Turnerville Comm precinct, the drafters placed 96 blacks and 1,167 whites in majority-black **HD 98**, while they placed 86 blacks and 2,994 whites in majority-white **HD 102**. SDX 405 at 192, 198. The part of this precinct placed in the majority-black district was 7.5% black, while the part placed in the majority-white district was 2.7% black. The split precinct map, APSX 205, illustrates the problems the drafters had finding enough black population to reach their racial target for **HD 98**.

135. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 98**.

HD 99, Mobile County.

136. The drafters fell short of their super-majority 73.45% target for **HD 99** by -7.75%, reaching 65.7%. APSX 01. The fact that, as in **HD 98**, they split 13 precincts is evidence they did not fail for lack of trying. A net total of 5,278 persons were added to **HD 99** to bring it within $\pm 1\%$ deviation, 386 blacks and 4,587 whites. SDX 403 at 8; SDX 406 at 8.

a. Split precincts Augusta Evans School, Figures Rec Ctr, and Murphy HS Library in **HD 99** have been discussed in analyses of **HD 97**, and the splits in College Park Bapt Ch, Joseph Dotch Comm. Ctr, and Little Welcome Bapt Ch are discussed in the analyses of **HD 98**. The following additional precinct splits display clear racial patterns.

b. In Azalea City Ch of Christ precinct, the drafters placed 836 blacks and 935 whites in majority-black **HD 99**, while they placed 133 blacks and 694 whites in majority-white **HD 102**. SDX 405 at 193, 198. The part of this precinct placed in the majority-black district was 46.5% black, while the part placed in the majority-white district was 15.2% black. The split precinct map, APSX 176, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Friendship Missionary Bapt Ch precinct, the drafters placed 790 blacks and 208 whites in majority-black **HD 99**, while they placed 7 blacks and 158 whites in majority-white **HD 101**. SDX 405 at 195, 197. The part of this precinct placed in the majority-black district was 77.9% black, while the part placed in the majority-white district was 3.9% black. The split precinct map, APSX 185, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Moffett Road AOG precinct, the drafters placed 3,646 blacks and 1,567 whites in majority-black **HD 99**, while they placed 181 blacks and 387 whites in majority-white **HD 102**. SDX 405 at 194, 199. The part of this precinct placed in the majority-black district was 68.2% black, while the part placed in the majority-white district was 30.2% black. The split precinct map, APSX 192, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Pleasant Valley Meth precinct, which had been located entirely in majority-white **HD 100** in the 2001 plan, SDX 413 at 59, the drafters placed 1,072 blacks and 1,548 whites in majority-black **HD 99**, and they placed 475 blacks and 420 whites in majority-black **HD 103**. SDX 405 at 199. The split precinct map, APSX 195, shows how concentrations of black population were split between majority-black districts to help them reach their racial targets.

f. In Semmes First Bapt precinct the drafters placed 437 blacks and 393 whites in majority-black **HD 99**, while they placed 746 blacks and 5,277 whites in majority-white **HD 102**. SDX 405 at 193, 198. The part of this precinct placed in the majority-black district was 50.2% black, while the part placed in the majority-white district was 11.8% black. The split precinct map, APSX 199, clearly shows how the drafters separated majority-black blocks from majority-

white blocks in this precinct.

g. In St. John UMC precinct, the drafters placed 2,572 blacks and 1,571 whites in majority-black **HD 99**, while they placed 202 blacks and 505 whites in majority-white **HD 101**. SDX 405 at 194, 196. The part of this precinct placed in the majority-black district was 60.4% black, while the part placed in the majority-white district was 28.3% black. The split precinct map, APSX 203, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

h. In University Ch of Christ precinct the drafters placed 927 blacks and 508 whites in majority-black **HD 99**, while they placed 594 blacks and 1,323 whites in majority-white **HD 101**. SDX 405 at 194, 197. The part of this precinct placed in the majority-black district was 62.4% black, while the part placed in the majority-white district was 28.5% black. The split precinct map, APSX 206, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

137. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 99**.

HD 103, Mobile County.

138. The drafters fell short of their super-majority 69.90% target for **HD**

103 by -4.6%, reaching 65.3%. APSX 01. The fact that they split 10 precincts is evidence they did not fail for lack of trying. A net total of 4,464 persons were added to **HD 103** to bring it within $\pm 1\%$ deviation, 1,043 blacks and 2,554 whites. SDX 403 at 8; SDX 406 at 8.

a. The racial splits in Pleasant Valley Meth Ch precinct were discussed in the analyses of **HD 99**, and the splits in Rock of Faith Bapt Ch, and St. Andrews Episcopal precincts were discussed above in the analyses of **HD 97**.

b. In Bay of Holy Spirit Ch precinct, the drafters placed 2,705 blacks and 2,029 whites in majority-black **HD 103**, while they placed 738 blacks and 1,626 whites in majority-white **HD 101**. SDX 405 at 197, 199. The part of this precinct placed in the majority-black district was 48.8% black, while the part placed in the majority-white district was 28.9% black. The split precinct map, APSX 177, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Dodge School precinct, the drafters placed 123 blacks and only 1 white in majority-black **HD 103**, while they placed 1,370 blacks and 5,018 whites in majority-white **HD 104**. SDX 405 at 200, 201. The part of this precinct placed in the majority-black district was 96.9% black, while the part placed in the majority-white district was 20.6% black. The split precinct map, APSX 181,

clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In First Independent Meth precinct, the drafters placed 119 blacks and only 2 whites in majority-black **HD 103**, while they placed 1,117 blacks and 3,815 whites in majority-white **HD 104**. SDX 200, 201. The part of this precinct placed in the majority-black district was 98.3% black, while the part placed in the majority-white district was 21.7% black. The split precinct map, APSX 184, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct. Note that the drafters might have grabbed an additional majority-black block of 120 persons from majority-white **HD 104**, but **HD 104** was only 6 persons over -1% deviation. SDX 403 at 8.

e. In Hollingers Island Sch precinct, the drafters placed 95 blacks and 1,482 whites in majority-black **HD 103**, while they placed 31 blacks and 761 whites in majority-white **HD 105**. SDX 200, 202. The part of this precinct placed in the majority-black district was 5.6% black, while the part placed in the majority-white district was 3.8% black. The split precinct map, APSX 187, shows this split probably was driven by the need to keep both **HD 103** and **HD 105** over -1% population deviation. See SDX 403 at 8.

f. In Kate Shepard School precinct, the drafters placed 304 blacks

and 316 whites in majority-black **HD 103**, while they placed 176 blacks and 2,058 whites in majority-white **HD 104**. SDX 405 at 200, 201. The part of this precinct placed in the majority-black district was 46.1% black, while the part placed in the majority-white district was 7.6% black. The split precinct map, APSX 189, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

g. In St Philip Neri Ch precinct, the drafters placed 186 blacks and 62 whites in majority-black **HD 103**, while they placed 181 blacks and 3,252 whites in majority-white **HD 105**. SDX 200, 202. The part of this precinct placed in the majority-black district was 74.4% black, while the part placed in the majority-white district was 5.1% black. The split precinct map, APSX 201, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

h. In The Mug Café precinct, the drafters placed 84 blacks and 14 whites in majority-black **HD 103**, while they placed 1,358 blacks and 2,707 whites in majority-white **HD 101**. SDX 405 at 199, 197. The part of this precinct placed in the majority-black district was 84.0% black, while the part placed in the majority-white district was 31.0% black. The split precinct map, APSX 204, clearly shows how the drafters separated majority-black blocks from majority-

white blocks in this precinct.

139. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **HD 103**.

C. Examination of the Majority-black Senate Districts.

As was the case with the majority-black House districts, mere eyeball review of the county boundary splits and precinct splits makes it obvious that the drafters of the 2012 Senate districts routinely subordinated Alabama's traditional districting principles to race by moving as many black residents as possible into the majority-black districts, while minimizing the number of whites who unavoidably had to come with them.

Undisputed material facts:

SD 18, Jefferson County.

142. There simply was not enough black population in Jefferson County to allow reaching the drafters' racial targets in the three majority-black Senate districts. 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.

143. The remaining 26,447 blacks obviously were too dispersed in census blocks noncontiguous to the majority-black districts; otherwise, given the drafters'

willingness to populate all 5 of the majority-white districts with majority-white populations in other counties, they would have reached their racial targets in at least some of the 3 majority-black districts.

144. But the drafters tried nonetheless. They came within -0.81% of their 59.93% target for **SD 18**. A net total of 22,786 persons were added to **SD 18** to bring it within $\pm 1\%$ deviation, 12,550 blacks and 9,290 whites. SDX 402; SDX 475 at 53.

145. According to Sen. Dial, maximizing the 3 majority-black Senate districts in Jefferson County required extending all 5 majority-white districts outside Jefferson County, causing additional splits in Jackson, Marshall, Talladega, St. Clair, Shelby, Clay, Coosa, and Blount Counties. Dial depo, APX 66 at 47:13 to 51:1; testimony of Sen. Dial, Doc. 215, Tr. Vol. I, at 69:11-70:7.

146. **SD 11** was drawn in a semi-donut-shape that splits St. Clair, Talladega, and Shelby Counties because of the need to preserve the black majorities in Jefferson County Senate districts. Dial depo., APX 66 at 111:2 to 114:15.

147. The drafters split 5 precincts in **SD 18**. The relatively large numbers of whites they had to move into **SD 18** to round up additional black population show how dispersed blacks were at the outer margins of the majority-black

districts.

a. In Homewood Pub Lib precinct, the drafters placed 399 blacks and 399 whites in majority-black **SD 18**, while they placed 170 blacks and 5,952 whites in majority-white **SD 16**. SDX 475 at 42, 49. The part of this precinct placed in the majority-black district was 41.4% black, while the part placed in the majority-white district was 2.7% black. The precinct split map, APSX 321, shows that, even though it contains only one small majority-black block, The drafters placed in majority-black HD 18 the narrow strip that contains most of the blacks residing in Homewood Public Library precinct.

b. In Mountain Brook City Hall precinct, the drafters placed 60 blacks and 844 whites in majority-black **SD 18**, while they placed 9 blacks and 3,903 whites in majority-white **SD 15**. SDX 475 at 39, 49. The part of this precinct placed in the majority-black district was 6.5% black, while the part placed in the majority-white district was 0.2% black. The precinct split map, APSX 324, shows that, even though it contains no majority-black blocks, The drafters placed in majority-black HD 18 the narrow strip that contains most of the very few blacks residing in Mountain Brook City Hall precinct.

c. In Birmingham Botanical Gardens precinct, the drafters left only 0 blacks and 37 whites in majority-black **SD 18** and placed 12 blacks and 933 whites

in majority-white **SD 15**. The part of this precinct placed in the majority-black district was 0.0% black, while the part placed in the majority-white district was 1.2% black. The precinct split map, APSX 317, suggests that, given the absence of any blacks in this precinct and the evenly shaped segment of Birmingham Botanical Gardens precinct placed in **SD 18**, this split was to help get within 1% population deviation at -0.96%. SDX 400.

d. In Muscoda Comm Ctr precincts (there are two of them), the drafters placed 317 blacks and 651 whites in majority-black **SD 18**, and they placed 256 blacks and 593 whites in majority-black **SD 19**. SDX 475 at 52, 55. The precinct split map, APSX 326, shows that, in their attempt to reach **SD 18**'s target of 59.93%, the drafters took as many blacks as they could from **SD 19**. They left one majority-black block of 147 persons in **SD 19**, because moving it to **SD 18** would have underpopulated **SD 19** by -1.09%. SDX 400.

e. In an apparent effort to raise at least one of the three majority-black Senate districts up to its target percentage, in Robinson Elem precinct, the drafters placed 3,445 blacks and 635 whites in majority-black **SD 18**, leaving 824 blacks and 547 whites in **SD 20**. SDX 475 at 53, 59. The precinct split map, APSX 329, shows, once again, that there were several majority-black blocks that could have been moved out of **SD 19** to get **SD 18** closer to its 59.93% target. But

SD 19 was only 19 persons short of -1% deviation. SDX 400. There was one majority-white 19-person block the drafters could have moved to **SD 18**, but that would have reduced its black percentage. There is one majority-black 19-person block they could have reached by going through three 0 population blocks, but that would have been very ugly.

f. In Pleasant Hill UMC precinct, the drafters placed 1,455 blacks and 5,989 whites in majority-black **SD 19**, and they placed 443 blacks and 2,966 whites in majority-black **SD 18**. SDX 475 at 49, 54. The split precinct map, APSX 328, shows that the drafters placed as many majority-black blocks as they could in **SD 18**, but had to leave one majority-black block with 233 persons in **SD 19**, because **SD 19** was only 19 persons short of -1% deviation. SDX 400.

148. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **SD 18**.

SD 19, Jefferson County.

149. The drafters fell short of their super-majority target of 71.65% for **SD 19** by -6.26%, reaching a still large black majority at 65.39%. A net total of 26,053 persons were added to **SD 19** to bring it within $\pm 1\%$ deviation, 10,165 blacks and 15,282 whites. SDX 402; SDX 475 at 57.

150. The drafters split 5 precincts along racial lines.

a. In Valley Creek Bapt Ch precinct, the drafters placed 130 blacks and 327 whites in majority-black **SD 19**, while they placed 300 blacks and 2,381 whites in majority-white **SD 5**. SDX 475 at 12, 54. The part of this precinct placed in the majority-black district was 28.2% black, while the part placed in the majority-white district was 11.0% black. The split precinct map, APSX 331, shows that to add 130 blacks to **SD 19**, The drafters had to take noncontiguous segments out of Valley Creek Bapt Ch precinct, one in the northeast corner and one in the southeast corner. If the drafters had been splitting this precinct just to get **SD 19** within -1% population deviation, they would have used contiguous segments.

b. The Pleasant Hill UMC precinct split is discussed in the analysis of **SD 18**.

c. In Johns Comm Ctr precinct, the drafters placed 130 blacks and 650 whites in majority-black **SD 19**, leaving 29 blacks and 641 whites in majority-white **SD 5**. SDX 475 at 13, 56. The part of this precinct placed in the majority-black district was 16.1% black, while the part placed in the majority-white district was 4.2% black. The split precinct map, APSX 322, shows that the drafters placed all but three tiny majority-black blocks in **SD 19**.

d. In Maurice L West Comm precinct, the drafters placed 30 blacks

and 541 whites in majority-white **SD 17**, leaving 493 blacks and 1,049 whites in majority-black **HD 19**. SDX 475 at 57. The part of this precinct placed in the majority-black district was 31.2% black, while the part placed in the majority-white district was 5.2% black. The split precinct map, APSX 323, shows clearly that the drafters picked the two noncontiguous segments of Maurice L West Comm precinct with the most whites to place in majority-white **SD 17**.

e. In Hillview Fire Station #1 precinct, the drafters placed 177 blacks and 167 whites in majority-black **SD 19** and 1,585 blacks and 314 whites in majority-black **SD 20**, while they placed 14 blacks and 425 whites in majority-white **SD 17**. SDX 475 at 47, 57, 61. The part of this precinct placed in majority-black **SD 19** was 48.4% black, the part placed in majority-black **SD 20** was 81.0% black, while the part placed in the majority-white district was 2.9% black. The split precinct map, APSX 320, shows clearly that The drafters picked majority-white blocks to place in majority-white **SD 17**, including one noncontiguous block with only 5 persons in it on the northeast side of the precinct.

151. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **SD 19**.

SD 20, Jefferson County.

152. The drafters fell short of their super-majority target of 77.96% for **SD**

20 by -14.58%, thus leaving a black majority at 63.38%. A net total of 27,836 persons were added to **SD 20** to bring it within $\pm 1\%$ deviation, 1,828 blacks and 23,510 whites. SDX 402; SDX 475 at 61.

153. The drafters split 5 precincts along racial lines.

a. In Trussville First Bapt Ch precinct, the drafters placed 347 blacks and 327 whites in majority-black **SD 20**, while they placed 366 blacks and 8,695 whites in majority-white **SD 17**. SDX 475 at 45, 58. The part of this precinct placed in the majority-black district was 43.6% black, while the part placed in the majority-white district was 3.9% black. The split precinct map, APSX 330, shows that the drafters placed all the majority-black blocks in majority-black **SD 20**, including one noncontiguous block in the southwest corner with 568 persons in it.

b. In Mountain View Bapt Ch precinct, the drafters placed 1,849 blacks and 5,216 whites in majority-black **SD 20**, while they placed just 1 black and 127 whites in majority-white **SD 17**. SDX 475 at 45, 58. The part of this precinct placed in the majority-black district was 25.2% black, while the part placed in the majority-white district was 0.8% black. Like **SD 20**, which is only 12 persons shy of -1% deviation, **SD 17** is underpopulated by -0.98% and could only lose 29 more persons to break the $\pm 1\%$ rule. The split precinct map, APSX 325, shows that in balancing this close population tolerance in Mountain View

Bapt Ch precinct the drafters picked blocks farthest from black population to place in majority-white **SD 17**.

c. In Gardendale Civic Ctr precinct, the drafters placed 498 blacks and 914 whites in majority-black **SD 20**, while they placed 635 blacks and 11,887 whites in majority-white **SD 17**. SDX 475 at 46, 59. The part of this precinct placed in the majority-black district was 33.2% black, while the part placed in the majority-white district was 4.9% black. The split precinct map, APSX 319, shows that in keeping both **SD 17** and **SD 20** under -1% population deviation the drafters chose the blocks in Gardendale Civic Center precinct with the most blacks to move into **SD 20**.

d. In Pinson UMC precinct, the drafters placed 2,785 blacks and 1,318 whites in majority-black **SD 20**, while they placed 254 blacks and 2,092 whites in majority-white **SD 17**. SDX 475 at 46, 59. The part of this precinct placed in the majority-black district was 65.4% black, while the part placed in the majority-white district was 10.3% black. The split precinct map, APSX 327, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Fultondale First Bapt Ch precinct, the drafters placed 894 blacks and 1,259 whites in majority-black **SD 20**, while they placed 94 blacks and

1,490 whites in majority-white **SD 17**. SDX 475 at 47, 61. The part of this precinct placed in the majority-black district was 39.4% black, while the part placed in the majority-white district was 5.7% black. The split precinct map, APSX 318, shows that the drafters chose noncontiguous segments of Fultondale First Bapt Ch precinct to place as many blacks as possible in majority-black **SD 20**.

154. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **SD 20**.

155. Viewed overall, it is clear that, given the fact that most of the black population of Jefferson County was already located in the majority-black Senate districts, to move enough total population to bring all three severely underpopulated **SD 18**, **SD 19**, and **SD 20** within -1% deviation, the drafters had to make precinct splits that frequently contained more whites than blacks. It is clear they chose those splits that would reduce the black percentages as little as possible.

SD 23, Butler, Clarke, Conecuh, Dallas, Lowndes, Marengo, Monroe, Perry, Washington, and Wilcox Counties.

156. The drafters reached and exceeded their target of 64.79% for **SD 23** by +0.02%. A net total of 23,399 persons were added to **SD 23** to bring it within

±1% deviation, 15,265 blacks and 7,841 whites. SDX 402; SDX 475 at 81.

157. The drafters split the boundaries of 5 counties and 27 precincts. The drafters split Clarke, Conecuh, Marengo, Monroe, and Washington Counties in **SD 23**. APX 17; SDX 475 at 75-81.

158. Sen. Dial testified that maintaining the majority-black percentages in Senators Singleton's and Sanders' districts (**SD 23** and **SD 24**) was one reason why he had to extend Democrat Senator Tammy Irons' **SD 1** over into Madison County. Dial depo., APX 66 at ¶ 87; Doc. 125-3 at 51:2 to 52:15. Sen. Dial testified that Sen. Singleton's **SD 24** had to grow north into Lamar County. Testimony of Sen. Dial, Doc. 215, Tr. Vol. I at 47:2-49:7.

159. In fact, in the Act 603 plan, **SD 24** does not extend into Lamar. APX 17. **SD 21**, whose incumbent is white Republican Gerald Allen, does extend into Lamar County. Compare APX 4 with APX 17; Testimony of Mr. Hinaman Doc. 217, Tr. Vol. III, at 123:1 to 126:6. "It all rotated around because it's like dominos." Testimony of Sen. Dial, Doc. 215, Tr. Vol. I, at 48:5-6.

160. Sen. Dial's mandate to maintain the size of the black majorities in **SD 23** (Sen. Hank Sanders) and **SD 24** (Sen. Bobby Singleton), was the main reason **SD 22**, where the incumbent is white Democrat Sen. Marc Keahey, was "drastically" changed. Testimony of Sen. Dial, Doc. 215, Tr. Vol. I, at 44:10-

45:11. “[T]here was no way possible for me to appease him and keep him a, quote, as he said, democratic district, with what had happened in Baldwin County and what had happened with Senator Sanders’ district and also with Senator Singleton’s district.” Id. at 45:7-8.

161. Sen. Dial summarized the widespread impact of packing the majority-black districts:

Q. So basically, the need to repopulate the African American districts down in the black belt, which had been systematically underpopulated in the 2001 plan and had lost population since then, pushed up along the Mississippi border into north Alabama and rolled around?

A. That exactly what happened. Plus, it also had the same effect -- Senate District 2 also pushed up people in east Alabama and rolled it into Madison County as well. So it all had an impact into that area. And then when you factor in the fact that -- of what happened in Jefferson County in fixing those three districts that we've already talked about, it compressed the whole process and it forced out and **it forced even to the fact that we had to divide my county that I live in [Clay County, APX 55], which I was not extremely happy with,** too. But because of the numbers, that had to happen.

Testimony of Sen. Dial, Doc. 215, Tr. Vol. I, at 48:18-49:7 (bold emphasis added).

162. The ALBC remand Senate plan demonstrates that it was not necessary to split any counties to produce a compact, 54.19% black **SD 23** that is overpopulated by +1.47% deviation, simply by putting together whole Dallas, Wilcox, Clarke, Monroe, Conecuh, and Butler Counties. APSX 26, 27.

163. The drafters split the following precincts in Clarke County:

a. In Jackson City Hall precinct, the drafters placed 1,819 blacks and 634 whites in majority-black **SD 23**, while they placed 44 blacks and 204 whites in majority-white **SD 22**. SDX 475 at 68, 75. The part of this precinct placed in the majority-black district was 73.1% black, while the part placed in the majority-white district was 17.1% black. The split precinct map, APSX 296, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Overstreet Grocery precinct, the drafters placed 287 blacks and 79 whites in majority-black **SD 23**, while they placed 50 blacks and 228 whites in majority-white **SD 22**. SDX 475 at 69, 75. The part of this precinct placed in the majority-black district was 78.0% black, while the part placed in the majority-white district was 17.5% black. The split precinct map, APSX 298 clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Skipper Fire Station-Jackson Nat Guard-Jackson Fire Dept. precinct, the drafters placed 184 blacks and 123 whites in majority-black **SD 23**, while they placed 793 blacks and 3,039 whites in majority-white **SD 22**. SDX 475 at 69, 76. The part of this precinct placed in the majority-black district was 59.4%

black, while the part placed in the majority-white district was 20.2% black. The split precinct map, APSX 299, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct. APSX 299A zooms in closer to reveal majority-black blocks not visible in the whole precinct map.

d. In Old Engineers Building precinct, the drafters placed 297 blacks and 236 whites in majority-black **SD 23**, while they placed 768 blacks and 2,255 whites in majority-white **SD 22**. SDX 475 at 69, 76. The part of this precinct placed in the majority-black district was 55.1% black, while the part placed in the majority-white district was 25.0% black. The split precinct map, APSX 297, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct, including one majority-black block of 226 persons placed in **SD 23**.

e. In Thomasville Nat Guard Armory precinct, the drafters placed 76 blacks and 5 whites in majority-black **SD 23** and 1,057 blacks and 185 whites in majority-black **SD 24**, while they placed 24 blacks and 205 whites in majority-white **SD 22**. SDX 475 at 69, 76, 77. The part of this precinct placed in majority-black **SD 23** was 93.8% black, the part placed in majority-black **SD 24** was 83.4% black, while the part placed in the majority-white district was 10.4% black. The split precinct map, APSX 300, clearly shows how the drafters separated majority-

black blocks from majority-white blocks in this precinct.

f. In Fulton City Hall precinct, the drafters placed 59 blacks and 82 whites in majority-black **SD 23** and 244 blacks and 70 whites in majority-black **SD 24**, while placing 48 blacks and 841 whites in majority-white **SD 22**. SDX 475 at 70, 77, 83. The part of this precinct placed in majority-black **SD 23** was 40.4% black, the part placed in majority-black **SD 24** was 77.2% black, while the part placed in the majority-white district was 5.3% black. The split precinct maps, APSX 294 and 295, clearly show how the drafters separated majority-black blocks from majority-white blocks in this precinct.

164. The drafters split the following precincts in Conecuh County:

a. In Belleville Bapt Ch precinct, the drafters placed 563 blacks and 145 whites in majority-black **SD 23**, while they placed 0 blacks and 51 whites in majority-white **SD 22**. SDX 475 at 70, 77. The part of this precinct placed in the majority-black district was 78.1% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 301, shows how the drafters placed a single all-white block in majority-white **SD 22**.

b. In Castleberry Fire Dept. 1 precinct, the drafters placed 191 blacks and 32 whites in majority-black **SD 23**, while they placed 54 blacks and 665 whites in majority-white **SD 22**. SDX 475 at 70, 77. The part of this precinct

placed in the majority-black district was 84.9% black, while the part placed in the majority-white district was 7.3% black. The split precinct map, APSX 303, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Paul Fire Dept. precinct, the drafters placed 79 blacks and 58 whites in majority-black **SD 23**, while they placed 2 blacks and 120 whites in majority-white **SD 22**. SDX 475 at 70, 77. The part of this precinct placed in the majority-black district was 57.7% black, while the part placed in the majority-white district was 1.6% black. The split precinct map, APSX 305 clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Herbert FD precinct, the drafters placed 36 blacks and 60 whites in majority-black **SD 23**, while they placed 7 blacks and 129 whites in majority-white **SD 22**. SDX 475 at 70, 78. The part of this precinct placed in the majority-black district was 36% black, while the part placed in the majority-white district was 3.8% black. The split precinct map, APSX 304, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Bermuda Comm House precinct, the drafters placed 91 blacks

and 79 whites in majority-black **SD 23**, while they placed 51 blacks and 200 whites in majority-white **SD 22**. SDX 475 at 71, 78. The part of this precinct placed in the majority-black district was 53.5% black, while the part placed in the majority-white district was 19.5% black. The split precinct map, APSX 302, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

165. The drafters split one precinct in Marengo County.

a. In Cornerstone Ch precinct, the drafters placed 836 blacks and 605 whites in majority-black **SD 23**, and they placed 1,352 blacks and 640 whites in majority-black **SD 24**. SDX 475 at 78, 85. The split precinct map, APSX 337, shows how the large number of majority-black blocks in this precinct allowed the drafters to hit the precise racial targets in both **SD 23** and **SD 24**.

166. The drafters split the following precincts in Monroe County:

a. In Chrysler/Eliska/McGill precinct, the drafters placed 19 blacks and 5 whites in majority-black **SD 23**, while they placed 110 blacks and 560 whites in majority-white **SD 22**. SDX 475 at 71, 79. The part of this precinct placed in the majority-black district was 79.2% black, while the part placed in the majority-white district was 15.2% black. The split precinct map, APSX 344, shows how the drafters were able to place a single majority-black block in

majority-black **SD 23**.

b. In Perdue Hill Masonic Lodge precinct, the drafters placed 271 blacks and 57 whites in majority-black **SD 23**, while they placed 39 blacks and 141 whites in majority-white **SD 22**. SDX 475 at 71, 80. The part of this precinct placed in the majority-black district was 78.3% black, while the part placed in the majority-white district was 21.2% black. The split precinct map, APSX 350, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Purdue Hill precinct, the drafters placed 34 blacks and 36 whites in majority-black **SD 23**, while they placed 7 blacks and 49 whites in majority-white **SD 22**. SDX 475 at 71, 80. The part of this precinct placed in the majority-black district was 44.2% black, while the part placed in the majority-white district was 11.7% black. The split precinct map, APSX 352, shows that the single majority-black block was placed in majority-black **SD 23**.

d. In Bethel Bapt House precinct, the drafters placed 1,266 blacks and 266 whites in majority-black **SD 23**, while they placed 0 blacks and 38 whites in majority-white **SD 22**. SDX 475 at 71, 80. The part of this precinct placed in the majority-black district was 81.0% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 343, shows a single

block with no blacks in it was placed in majority-white **SD 22** (colored in purple).

e. In Days Inn/Ollie precinct, the drafters placed 71 blacks and 18 whites in majority-black **SD 23**, while they placed 215 blacks and 490 whites in majority-white **SD 22**. SDX 475 at 71, 80. The part of this precinct placed in the majority-black district was 79.8% black, while the part placed in the majority-white district was 29.1% black. The split precinct map, APSX 345, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. In Monroeville Armory precinct, the drafters placed 784 blacks and 695 whites in majority-black **SD 23**, while they placed 293 blacks and 935 whites in majority-white **SD 22**. SDX 475 at 72, 80. The split precinct map, APSX 348, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

g. In Mexia Fire Station precinct, the drafters placed 12 blacks and 0 whites in majority-black **SD 23**, while they placed 99 blacks and 699 whites in majority-white **SD 22**. SDX 475 at 72, 80. The part of this precinct placed in the majority-black district was 100% black, while the part placed in the majority-white district was 12.1% black. The split precinct map, APSX 346, shows how the drafters moved the only majority-black block in this precinct to majority-black **SD**

23.

h. In Monroeville Housing Auth precinct, the drafters placed 1,243 blacks and 446 whites in majority-black **SD 23**, while they placed 0 blacks and 46 whites in majority-white **SD 22**. SDX 475 at 72, 80. The part of this precinct placed in the majority-black district was 72.3% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 349, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

i. In Monroe Beulah Ch precinct, the drafters placed 51 blacks and 20 whites in majority-black **SD 23**, while they placed 19 blacks and 119 whites in majority-white **SD 22**. SDX 475 at 72, 80. The part of this precinct placed in the majority-black district was 71.8% black, while the part placed in the majority-white district was 13.5% black. The split precinct map, APSX 347, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

j. In Shiloh/Grimes precinct, the drafters placed 66 blacks and 24 whites in majority-black **SD 23**, while they placed 1 black and 21 whites in majority-white **SD 22**. SDX 475 at 72, 81. The part of this precinct placed in the majority-black district was 72.5% black, while the part placed in the majority-

white district was 4.5% black. The split precinct map, APSX 352, shows how the drafters placed two majority-white blocks into majority-white **SD 22**.

167. The drafters split the following precincts in Washington County:

a. In Malcolm Voting House precinct, the drafters placed 18 blacks and 6 whites in majority-black **SD 23**, while they placed 343 blacks and 176 whites in majority-white **SD 22**. SDX 475 at 71, 80. The part of this precinct placed in the majority-black district was 75% black, while the part placed in the majority-white district was 61.5% black. The split precinct map, APSX 374, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct. (It is not apparent why the drafters did not add to **SD 23** the remaining 558 persons left in majority-white **SD 22**, which would have increased **SD 23** to 64.83% black, slightly decreasing both the under-population of **SD 23** and the over-population of **SD 22**.)

b. In McIntosh Comm Ctr precinct, the drafters placed 755 blacks and 30 whites in majority-black **SD 23**, leaving no population in **SD 22**. SDX 475 at 74, 81. The part of this precinct placed in the majority-black district was 94.3% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 375, appears to show the entire McIntosh Comm Ctr precinct placed entirely in majority-black **SD 23**, even though SDX 475 says the

precinct is split. What happened is that the drafters overlooked several 0 population blocks running along the western precinct boundary that are very narrow, as shown in the zoom map, APSX 375A. This shows the drafters were clicking on blocks, not the precinct, when they placed it in **SD 23**.

c. In McIntosh Voting House precinct, the drafters placed 384 blacks and 92 whites in majority-black **SD 23**, while placing 58 blacks and 400 whites in majority-white **SD 22**. SDX 475 at 74, 81. The part of this precinct placed in the majority-black district was 73.4% black, while the part placed in the majority-white district was 4.0% black. The split precinct map, APSX 376, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Cortelyou precinct, the drafters placed 272 blacks and 127 whites in majority-black **SD 23**, while they placed 0 blacks and 85 whites in majority-white **SD 22**. SDX 475 at 71, 80. The part of this precinct placed in the majority-black district was 66.0% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 373, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Carson/Preswick precinct, the drafters placed 207 blacks and 25

whites in majority-black **SD 23**, while they placed 56 blacks and 270 whites in majority-white **SD 22**. SDX 475 at 74, 81. The part of this precinct placed in the majority-black district was 85.9% black, while the part placed in the majority-white district was 17.0% black. The split precinct map, APSX 372, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

168. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **SD 23**.

SD 24, Choctaw, Clarke, Greene, Hale, Marengo, Pickens, Sumter, and Tuscaloosa Counties.

169. The drafters reached and exceeded their target of 62.82% for **SD 24** by +0.48%. A net total of 18,892 persons were added to **SD 24** to bring it within $\pm 1\%$ deviation, 12,473 blacks and 5,702 whites. SDX 402; SDX 475 at 88.

170. The drafters split the boundaries of 5 counties and 18 precincts.

171. The drafters split the boundaries of Choctaw, Clarke, Hale, Pickens and Tuscaloosa Counties in **SD 24**. APX 17; SDX 475 at 82-88. The ALBC remand Senate plan demonstrates that it was necessary to split only one county to produce a compact, 60.42% black **SD 24** that is overpopulated by +2.82% deviation, simply by putting together whole Choctaw, Marengo, Sumter, Greene,

Hale, and Perry Counties, splitting only Tuscaloosa County, which must be split for population equality. APSX 26, 27. The ALBC plan splits no precincts in Tuscaloosa County. APSX 27A at 53-54.

172. The drafters split the following precincts in Choctaw County:

a. In Butler-Lavaca-Mt. Sterlin precinct, the drafters placed 1,111 blacks and 1,855 whites in majority-black **SD 24**, while they placed just 7 blacks and 141 whites in majority-white **SD 22**. SDX 475 at 68, 82. The part of this precinct placed in the majority-black district was 36.8% black, while the part placed in the majority-white district was 4.7% black. The split precinct map, APSX 289, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Bogueloosa precinct, the drafters the drafters placed 251 blacks and 702 whites in majority-black **SD 24**, while they placed 29 blacks and 391 whites in majority-white **SD 22**. SDX 475 at 68, 82. The part of this precinct placed in the majority-black district was 26.1% black, while the part placed in the majority-white district was 6.8% black. The split precinct map, APSX 287, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Toxey-Gilbertown-Melvin-Hurricane precinct, the drafters

placed 344 blacks and 388 whites in majority-black **SD 24**, while they placed 36 blacks and 385 whites in majority-white **SD 22**. SDX 475 at 68, 82. The part of this precinct placed in the majority-black district was 46.7% black, while the part placed in the majority-white district was 8.5% black. The split precinct map, APSX 292, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Branch-Bladon precinct, the drafters placed 326 blacks and 59 whites in majority-black **SD 24**, while they placed 10 blacks and 43 whites in majority-white **SD 22**. SDX 475 at 68, 82. The part of this precinct placed in the majority-black district was 83.8% black, while the part placed in the majority-white district was 18.9% black. The split precinct map, APSX 288, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Silas-Souwilpalsney-Toomey precinct, the drafters placed 850 blacks and 818 whites in majority-black **SD 24**, while they placed 0 blacks and 237 whites in majority-white **SD 22**. SDX 475 at 68, 82. The part of this precinct placed in the majority-black district was 50.8% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 291, clearly shows how the drafters separated majority-black blocks from majority-white

blocks in this precinct.

f. In Lusk-Pleasant Valley-Ararat precinct, the drafters placed 41 blacks and 14 whites in majority-black **SD 24**, while they placed 32 blacks and 755 whites in majority-white **SD 22**. SDX 475 at 68, 83. The part of this precinct placed in the majority-black district was 74.5% black, while the part placed in the majority-white district was 3.9% black. The split precinct map, APSX 289A, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

g. In Riderwood-Rock Springs precinct, the drafters placed 335 blacks and 339 whites in majority-black **SD 24**, while they placed 0 blacks and 43 whites in majority-white **SD 22**. SDX 475 at 68, 83. The part of this precinct placed in the majority-black district was 49.5% black, while the part placed in the majority-white district was 0.0% black. The split precinct map, APSX 290, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

173. In Clarke County, the drafters split 3 precincts:

a. In Bashi Methodist Ch precinct, the drafters placed 1,012 blacks and 1,041 whites in majority-black **SD 24**, while they placed 270 blacks and 1,969 whites in majority-white **SD 22**. SDX 475 at 70, 83. The part of this precinct

placed in the majority-black district was 48.3% black, while the part placed in the majority-white district was 11.8% black. The split precinct map, APSX 293, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. The split in Thomasville National Guard Armory precinct is discussed in the analysis of **SD 23**.

c. The split in Fulton City Hall precinct is discussed in the analysis of **SD 23**.

174. In Hale County the drafters split the following precincts:

a. In Havanna-A precinct, the drafters placed 52 blacks and 70 whites in majority-black **SD 24**, while they placed 6 blacks and 47 whites in majority-white **SD 14**. SDX 475 at 36, 84. The part of this precinct placed in the majority-black district was 35.2% black, while the part placed in the majority-white district was 11.3% black. The split precinct map, APSX 306, clearly shows how the drafters separated majority-black block from majority-white blocks in this precinct.

b. In Valley B precinct, the drafters placed 34 blacks and 23 whites in majority-black **SD 24**, while they placed 7 blacks and 29 whites in majority-white **SD 14**. SDX 475 at 36, 84. The part of this precinct placed in the majority-

black district was 58.6% black, while the part placed in the majority-white district was 19.4% black. The split precinct map, APSX 307, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Valley C precinct, the drafters placed 14 blacks and 8 whites in majority-black **SD 24**, while they placed 13 blacks and 44 whites in majority-white **SD 14**. SDX 475 at 36, 84. The part of this precinct placed in the majority-black district was 63.6 % black, while the part placed in the majority-white district was 22.8% black. The split precinct map, APSX 308, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

175. In Marengo County, the drafters split one precinct:

a. They split in Cornerstone Church precinct is discussed in the analysis of **SD 23**.

176. In Pickens County, the drafters split one precinct:

a. In Carrollton 4 Service Ctr precinct, the drafters placed 603 blacks and 155 whites in majority-black **SD 24**, while they placed 250 blacks and 612 whites in majority-white **SD 21**. SDX 475 at 63, 86. The part of this precinct placed in the majority-black district was 78.3% black, while the part placed in the

majority-white district was 28.1% black. The split precinct map, APSX 360, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

177. In Tuscaloosa County, the drafters split 6 precincts:

a. In Jayces Park precinct, the drafters placed 3,681 blacks and 1,948 whites in majority-black **SD 24**, while they placed 176 blacks and 617 whites in majority-white **SD 21**. SDX 475 at 63, 87. The part of this precinct placed in the majority-black district was 61.7% black, while the part placed in the majority-white district was 19.3% black. The split precinct map, APSX 369, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Holt Armory precinct, the drafters placed 2,543 blacks and 1,895 whites in majority-black **SD 24**, while they placed 282 blacks and 808 whites in majority-white **SD 21**. SDX 475 at 63, 87. The part of this precinct placed in the majority-black district was 55.0% black, while the part placed in the majority-white district was 23.2% black. The split precinct map, APSX 368, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Peterson Meth Ch precinct, the drafters placed 340 blacks and

331 whites in majority-black **SD 24**, while they placed 134 blacks and 1,723 whites in majority-white **SD 21**. SDX 475 at 63, 87. The part of this precinct placed in the majority-black district was 50.4% black, while the part placed in the majority-white district was 7.0% black. The split precinct map, APSX 371, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct in the southwest corner of this precinct.

d. In McFarland Mall precinct, the drafters the drafters placed 6,923 blacks and 5,600 whites in majority-black **SD 24**, while they placed 809 blacks and 2,410 whites in majority-white **SD 21**. SDX 475 at 63, 87. The part of this precinct placed in the majority-black district was 52.9% black, while the part placed in the majority-white district was 24.1% black. The split precinct map, APSX 370, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Hillcrest HS precinct, the drafters placed 311 blacks and 645 whites in majority-black **SD 24**, while they placed 2,385 blacks and 6,463 whites in majority-white **SD 21**. SDX 475 at 64, 87. The part of this precinct placed in the majority-black district was 31.9% black, while the part placed in the majority-white district was 26.0% black. The split precinct map, APSX 367, clearly shows how the drafters separated majority-black blocks from majority-white blocks in

this precinct.

f. In the Fosters-Ralph Fire Dept precinct, the drafters placed 977 blacks and 1,730 whites in majority-black **SD 24**, while they placed 47 blacks and 239 whites in majority-white **SD 21**. SDX 475 at 64, 87. The part of this precinct placed in the majority-black district was 35.6% black, while the part placed in the majority-white district was 16.1% black. The split precinct map, APSX 366, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

178. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **SD 24**.

SD 26, Montgomery County.

The drafters reached and exceeded their super-majority target of 72.75% for **SD 26** by +2.47% at 75.22%, next to **HD 59** the largest black percentage in either the House or Senate plan. A net total of 15,785 persons were added to **SD 26** to bring it within $\pm 1\%$ deviation, adding 14,806 blacks and adding 36 whites. SDX 400, 402.

179. Here's what the Supreme Court said about **SD 26**:

In order for Senate District 26, for example, to meet the State's no-more-than-1% population-deviation objective, the State would have to add about 16,000 individuals to the district. And, prior to

redistricting, 72.75% of District 26's population was black. Accordingly, Alabama's plan added 15,785 new individuals, and only 36 of those newly added individuals were white.

135 S.Ct. at 1263.

Transgressing their own redistricting guidelines, Committee Guidelines 3–4, the drafters split seven precincts between the majority-black District 26 and the majority-white District 25, with the population in those precincts clearly divided on racial lines. And the District Court conceded that race “was a factor in the drawing of District 26,” and that the legislature “preserved” “the percentage of the population that was black.” 989 F.Supp.2d, at 1306.

Id. at 1271. Here is a closer look at those precinct splits.

a. In 1A Cloverdale Comm Ctr precinct, the drafters placed 687 blacks and 248 whites in majority-black **SD 26**, while they placed 1,120 blacks and 5,444 whites in majority-white **SD 25**. SDX 475 at 90, 93. The part of this precinct placed in the majority-black district was 68.0% black, while the part placed in the majority-white district was 16.6% black. The split precinct map, APSX 353, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In 1B Vaughn Park Ch of Christ precinct, the drafters placed 3,322 blacks and 2,273 whites in majority-black **SD 26**, while they placed 992 blacks and 2,787 whites in majority-white **SD 25**. SDX 475 at 90, 93. The part of this precinct placed in the majority-black district was 55.6% black, while the part

placed in the majority-white district was 25.5% black. The split precinct map, APSX 354, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In 1C Montgomery Museum of Fine Arts precinct, the drafters placed 2,651 blacks and 941 whites in majority-black **SD 26**, while they placed 1,335 blacks and 2,085 whites in majority-white **SD 25**. SDX 475 at 90, 93. The part of this precinct placed in the majority-black district was 69.2% black, while the part placed in the majority-white district was 37.1% black. The split precinct map, APSX 355, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In 1D Whitfield Memorial UMC precinct, the drafters placed 3,054 blacks and 1,345 whites in majority-black **SD 26**, while they placed 319 blacks and 1,441 whites in majority-white **SD 25**. SDX 475 at 90, 93. The part of this precinct placed in the majority-black district was 66.9% black, while the part placed in the majority-white district was 17.9% black. The split precinct map, APSX 356, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In 3F Goodwyn Comm Ctr precinct, the drafters placed 437 blacks and 344 whites in majority-black **SD 26**, while they placed 1,206 blacks and 5,319

whites in majority-white **SD 25**. SDX 475 at 91, 95. The part of this precinct placed in the majority-black district was 54.2% black, while the part placed in the majority-white district was 17.9% black. The split precinct map, APSX 357, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. In 3G Alcazar Shrine Temple precinct, the drafters placed 1,755 blacks and 336 whites in majority-black **SD 26**, while they placed 609 blacks and 709 whites in majority-white **SD 25**. SDX 475 at 91, 95. The part of this precinct placed in the majority-black district was 79.7 % black, while the part placed in the majority-white district was 43.2 % black. The split precinct map, APSX 358, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct. (The drafters could not move the majority-black block containing 822 persons to **SD 26** without dropping **SD 25**'s population deviation below -1%.)

g. In 5M Bell Road YMCA precinct, the drafters placed 532 blacks and 251 whites in majority-black **SD 26**, while they placed 2,213 blacks and 5,463 whites in majority-white **SD 25**. SDX 475 at 92, 97. The part of this precinct placed in the majority-black district was 65.4% black, while the part placed in the majority-white district was 24.7% black. The split precinct map, APSX 359,

clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

180. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **SD 26**.

SD 28, Lee, Macon, Bullock, Russell, Barbour, Henry, and Houston Counties.

181. The drafters reached and exceeded their 51.05% target for **SD 28** by 8.91% at 59.96% black. A net total of 6,541 persons were added to **SD 28** to bring it within $\pm 1\%$ deviation, by adding 15,543 blacks and **removing** 8,812 whites. SDX 400; SDX 402.

182. The drafters split 3 counties and 18 precincts along racial lines. APX 39; SDX 475 at 101-04. The ALBC remand Senate plan demonstrates that a compact 50.24% black **SD 28** can be produced with a -4.75% population deviation without splitting a single county, simply by putting together Macon, Bullock, Russell, Barbour, and Henry Counties. APSX 27, 28.

183. The drafters split the following precincts in Houston County:

a. In Kinsey precinct, the drafters placed 969 blacks and 774 whites in majority-black **SD 28**, while they placed 42 blacks and 362 whites in majority-white **SD 29**. SDX 475 at 101, 105. The part of this precinct placed in the

majority-black district was 53.6% black, while the part placed in the majority-white district was 9.8% black. The split precinct map, APSX 312, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Johnson Homes precinct, the drafters placed 4,367 blacks and 278 whites in majority-black **SD 28**, while they placed 44 blacks and 165 whites in majority-white **SD 29**. SDX 475 at 102, 105. The part of this precinct placed in the majority-black district was 91.7% black, while the part placed in the majority-white district was 20.5% black. The split precinct map, APSX 311, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Farm Ctr precinct, the drafters placed 666 blacks and 223 whites in majority-black **SD 28**, while they placed 1,289 blacks and 3,630 whites in majority-white **SD 29**. SDX 475 at 102, 105. The part of this precinct placed in the majority-black district was 71.8% black, while the part placed in the majority-white district was 25.1% black. The split precinct map, APSX 310, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Doug Tew Comm Ctr precinct, the drafters placed 1,626 blacks

and 1,385 whites in majority-black **SD 28**, while they placed 676 blacks and 3,704 whites in majority-white **SD 29**. SDX 475 at 102, 105. The part of this precinct placed in the majority-black district was 50.9% black, while the part placed in the majority-white district was 14.9% black. The split precinct map, APSX 309, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Library precinct, the drafters placed 2,595 blacks and 551 whites in majority-black **SD 28**, while they placed 556 blacks and 3,990 whites in majority-white **SD 29**. SDX 475 at 102, 105. The part of this precinct placed in the majority-black district was 77.9% black, while the part placed in the majority-white district was 11.8% black. The split precinct map, APSX 313, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

f. In Lincoln Comm Ctr precinct, the drafters placed 1,027 blacks and 202 whites in majority-black **SD 28**, while they placed 132 blacks and 708 whites in majority-white **SD 29**. SDX 475 at 102, 106. The part of this precinct placed in the majority-black district was 82.0% black, while the part placed in the majority-white district was 15.3% black. The split precinct map, APSX 314, clearly shows how the drafters separated majority-black blocks from majority-white blocks in

this precinct.

g. In Wiregrass Park precinct, the drafters placed 3,490 blacks and 1,737 whites in majority-black **SD 28**, while they placed 1,197 blacks and 3,532 whites in majority-white **SD 29**. SDX 475 at 102, 106. The part of this precinct placed in the majority-black district was 64.1% black, while the part placed in the majority-white district was 23.2% black. The split precinct map, APSX 316, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

h. In Vaughn Blumberg Ctr precinct, the drafters placed 1,329 blacks and 1,167 whites in majority-black **SD 28**, while they placed 232 blacks and 633 whites in majority-white **SD 29**. SDX 475 at 102, 106. The part of this precinct placed in the majority-black district was 50.3% black, while the part placed in the majority-white district was 24.4% black. The split precinct map, APSX 315, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

184. The drafters split the following precincts in Lee County:

a. In Waverly precinct, the drafters placed 180 blacks and 32 whites in majority-black **SD 28**, while they placed 53 blacks and 198 whites in majority-white **SD 27**. SDX 475 at 98, 102. The part of this precinct placed in the

majority-black district was 84.9% black, while the part placed in the majority-white district was 20.6% black. The split precinct map, APSX 336, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Loachapoka precinct, the drafters placed 1,471 blacks and 277 whites in majority-black **SD 28**, while they placed 53 blacks and 198 whites in majority-white **SD 27**. SDX 475 at 98, 102. The part of this precinct placed in the majority-black district was 81.3% black, while the part placed in the majority-white district was 16.4% black. The split precinct map, APSX 334, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Auburn precinct, the drafters placed 2,578 blacks and 918 whites in majority-black **SD 28**, while they placed 35 blacks and 1,252 whites in majority-white **SD 13**, and 6,513 blacks and 38,132 whites in majority-white **SD 27**. SDX 475 at 34, 98, 102. The part of this precinct placed in the majority-black district was 70.7% black, while the part placed in majority-white **SD 13** was 2.5% white, and the part placed in majority-white **SD 27** was 13.3% black. The split precinct map, APSX 332, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Beuaregard School precinct, the drafters placed 25 blacks and 42 whites in majority-black **SD 28**, while they placed 1,042 blacks and 3,514 whites in majority-white **SD 27**. SDX 475 at 98, 102. The part of this precinct placed in the majority-black district was 35.2% black, while the part placed in the majority-white district was 22.1% black. The split precinct map, APSX 333, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Marvyn precinct, the drafters placed 240 blacks and 167 whites in majority-black **SD 28**, while they placed 48 blacks and 195 whites in majority-white **SD 27**. SDX 475 at 98, 102. The part of this precinct placed in the majority-black district was 57.3% black, while the part placed in the majority-white district was 19.7% black. The split precinct map, APSX 335, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

185. The drafters split the following precincts in Russell County:

a. In Roy Martin Ctr precinct, the drafters placed 1,115 blacks and 1,601 whites in majority-black **SD 28**, while they placed 818 blacks and 4,724 whites in majority-white **SD 27**. SDX 475 at 98, 102. The part of this precinct placed in the majority-black district was 34.4% black, while the part placed in the

majority-white district was 14.2% black. The split precinct map, APSX 364, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

b. In Ladonia Fire Dept precinct, the drafters placed 61 blacks and 7 whites in majority-black **SD 28**, while they placed 922 blacks and 6,139 whites in majority-white **SD 27**. SDX 475 at 98, 103. The part of this precinct placed in the majority-black district was 85.9% black, while the part placed in the majority-white district was 12.5% black. The split precinct map, APSX 362, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Seale Courthouse precinct, the drafters placed 556 blacks and 705 whites in majority-black **SD 28**, while they placed 152 blacks and 750 whites in majority-white **SD 27**. SDX 475 at 99, 102. The part of this precinct placed in the majority-black district was 42.8% black, while the part placed in the majority-white district was 16.2% black. The split precinct map, APSX 365, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Nat Guard Armory precinct, the drafters placed 3,452 blacks and 1,997 whites in majority-black **SD 28**, while they placed 390 blacks and 1,852

whites in majority-white **SD 27**. SDX 475 at 99, 103. The part of this precinct placed in the majority-black district was 60.9% black, while the part placed in the majority-white district was 17.0% black. The split precinct map, APSX 363, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In Austin Sumbry Park precinct, the drafters placed 279 blacks and 294 whites in majority-black **SD 28**, while they placed 48 blacks and 282 whites in majority-white **SD 27**. SDX 475 at 99, 104. The part of this precinct placed in the majority-black district was 47.1% black, while the part placed in the majority-white district was 14.0% black. The split precinct map, APSX 361, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

186. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **SD 28**.

SD 33, Mobile County.

187. The drafters reached and exceeded their 64.89% target for **SD 33** by 6.82% at 71.71% black. A net total of 24,299 persons were added to **SD 33** to bring it within $\pm 1\%$ deviation, adding 25,015 blacks and **removing** 1,285 whites. SDX 400; SDX 402.

188. The drafters split the boundaries of Mobile County in two places between **SD 22** and **SD 34**, and split 5 precincts along racial lines.

189. The ALBC remand Senate plan demonstrates that the drafters could have drawn three compact Senate districts, majority-black **SD 33** with -0.09% population deviation and majority white **SD 34** and **SD 35** at +1.93% and +0.58% deviation, while keeping Mobile County whole and splitting no precincts. **SD 33** would have been 62.83% black. APSX 31; APSX 27; APSX 27A at 67-71.

190. Here are the precinct splits in SD33:

a. In Satsuma City Hall precinct, the drafters placed 0 blacks and 0 whites in majority-black **SD 33**, while they placed 571 blacks and 3,536 whites in majority-white **SD 34**. SDX 475 at 113, 117. The part of this precinct placed in the majority-black district was 0.0% black, while the part placed in the majority-white district was 13.5% black. The split precinct map, APSX 341, shows that the drafters clicked on several uninhabited blocks to place in **SD 33**.

b. In Chickasaw Auditorium precinct, the drafters placed 1,594 blacks and 1,942 whites in majority-black **SD 33**, while they placed 455 blacks and 1,906 whites in majority-white **SD 34**. SDX 475 at 113, 117. The part of this precinct placed in the majority-black district was 43.2% black, while the part placed in the majority-white district was 18.8% black. The split precinct map,

APSX 338, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

c. In Morningside Elem precinct, the drafters placed 3,647 blacks and 922 whites in majority-black **SD 33**, while they placed 92 blacks and 340 whites in majority-white **SD 35**. SDX 475 at 116, 120. The part of this precinct placed in the majority-black district was 77.1% black, while the part placed in the majority-white district was 20.9% black. The split precinct map, APSX 339, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

d. In Riverside Ch of the Nazarene precinct, the drafters placed 709 blacks and 503 whites in majority-black **SD 33**, while they placed 38 blacks and 425 whites in majority-white **SD 35**. SDX 475 at 116, 120. The part of this precinct placed in the majority-black district was 57.3% black, while the part placed in the majority-white district was 8.2% black. The split precinct map, APSX 340, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

e. In St. Andrews Episcopal Ch precinct, the drafters placed 1,496 blacks and 1,438 whites in majority-black **SD 33**, while they placed 22 blacks and 378 whites in majority-white **SD 35**. SDX 475 at 116, 121. The part of this

precinct placed in the majority-black district was 48.9% black, while the part placed in the majority-white district was 5.2% black. The split precinct map, APSX 342, clearly shows how the drafters separated majority-black blocks from majority-white blocks in this precinct.

191. Race was the predominant factor motivating the drafters' decision to place a significant number of voters within or without **SD 33**.

D. *Summary of Shaw Analyses.*

Investigation of a *Shaw* violation requires looking for evidence that the drafters “place[d] a significant number of voters within or without *a particular district.*” 135 S.Ct. at 1265 (quoting *Miller v. Johnson*, 515 U.S. 900, 916 (1995)) (emphasis added by the Supreme Court). Nearly every one of the evidentiary factors that demonstrate racial predominance is present in each of the majority-black districts:

(1) The direct evidence that the drafters attempted to reach or exceed their racial percentage targets to the extent feasible applies to every majority-black House and Senate district. The defendants have the burden of showing that this overarching unconstitutional strategy was **not** the predominant factor motivating the legislature's decision to place a significant number of voters within or without each majority-black House and Senate district.

(2) The $\pm 1\%$ maximum population deviation rule the Legislature imposed required far more black population to be added to each majority-black district in the attempt to reach its racial target, and it required far more county and precinct boundaries to be split than would be necessary to satisfy the Supreme Court's standard of substantial population equality. Blacks were the majority of residents added to every House and Senate district except HD 19 (which had to share its black population with newly created HD 53), HD 58 (which received 37 more whites than blacks out of a total 7,645 added population and still reached 73% black), HD 77 (which received 274 more whites than blacks out of a total 10,956 added population and still reached 67% black), HD 98, HD 99, and HD 103 in Mobile County (where there was only enough black population to reach the racial target for HD 97), and SD 19 and SD 20 in Jefferson County (where there was only enough black population to reach the racial target for SD 18). The drafters actually **removed** whites, while **adding** blacks in reaching their black percentage targets in HD 59, HD 76, HD 82, SD 28, and SD 33.

(3) The drafters accomplished their objective of reaching or exceeding the racial percentage target in House Districts 32, 52, 53, 54, 55, 56, 57, 59, 60, 67, 68, 69, 70, 71, 72, 76, 82, 83, 84, 85, and 97, and in Senate Districts 23, 24, 26, 28, and 33. The drafters did not reach their racial targets in House

Districts 19, 58, 77, 78, 98, 99, and 103, and in Senate Districts 18, 19, and 20 only because the absence of additional contiguous black population made it infeasible to do so.

(4) To reach their racial targets in the Jefferson County and Montgomery County House districts, the drafters cannibalized HD 53 and HD 73, moving them entirely to other counties miles away, which violated the Reapportionment Committee's guidelines of preserving the cores of existing districts and avoiding conflicts among incumbents. All of the remaining House districts in Jefferson County and Montgomery County had additional black populations added to them because of the cannibalization of HD 53 and HD 73, even those majority-black districts that did not receive population directly from precincts formerly located in the cannibalized districts.

(5) The shape of each majority-black district was made more irregular, particularly at its split county and precinct margins.

(6) Precincts were split along racial lines in every one of the majority-black districts. The numbers in APSX 44 and the maps of each split precinct in APSX 50 through APSX 376, show that the drafters separated black residents from white residents wherever possible in order to reach their racial targets. Even where precincts were split between majority-black House and Senate districts to

help them reach their racial percentage targets, the traditional districting principle of preserving precinct boundaries was subordinated to racial considerations.

(7) County boundaries were split unnecessarily in Madison and DeKalb Counties as a result of moving HD 53 to Madison County and maintaining its black percentage target; in Jefferson, Walker, Blount, St. Clair, Shelby, Bibb, Tuscaloosa, Lamar, Fayette, Chilton, Winston, and Talladega Counties, as a result of efforts to maintain the black percentage targets of both House and Senate districts in Jefferson County; in Perry, Autauga, Montgomery, Pickens, Tuscaloosa, Sumter, Greene, Marengo, Choctaw, Clarke, Washington, Conecuh, Escambia, Mobile, Baldwin, Coffee, Dale, Houston, Lee, Tallapoosa, Chambers, Coosa, and Etowah Counties as a result of efforts to maintain the black percentage targets in the other majority-black House and Senate districts. According to Senator Dial and Rep. McClendon, the effort to reach or exceed the drafters' racial targets in the Madison County House districts, in the Jefferson County House and Senate districts, and in Senate Districts 23, 24, and 26 affected the boundaries of majority-white districts throughout the state.

Each of the 28 majority-black House districts and each of the 8 majority-black Senate districts displays unmistakable evidence of racial sorting. That is not surprising when the drafters openly and proudly admitted that they were aiming to

reach or exceed racial targets created for each district based solely on census data within a narrow $\pm 1\%$ deviation constraint. The Supreme Court has held that Section 5 of the Voting Rights Act does not provide a narrowly tailored, compelling interest that justifies this racial targeting. Consequently, every one of the majority-black districts created by Acts 2012-602 and 2012-603 is unconstitutional.

VII. THE UNNECESSARY SPLITTING OF COUNTY BOUNDARIES VIOLATES THE ONE-PERSON, ONE-VOTE RIGHTS OF COUNTY RESIDENTS AND IS RACIALLY DISCRIMINATORY.

In its August 2, 2013, opinion and judgment, this Court held, with Judge Thompson dissenting, that it lacked subject matter jurisdiction of the ALBC plaintiffs' one-person, one-vote claims on behalf of county residents until the Legislature elected in November 2014 had held its organizational session in January 2015. *Alabama Legislative Black Caucus v. Alabama*, 988 F.Supp.2d 1285 (M.D. Ala.) (three-judge court), appeal dismissed for want of jurisdiction, 134 S.Ct. 694 (2013), vacated and remanded, 988 S.Ct. 1285 (2015). Before then, this Court said, the constitutional claim based on unnecessary splitting of county boundaries was not ripe and, for that reason, plaintiffs lacked Article III standing. 988 F.Supp.2d at 1297.

On February 23, 2015, the Supreme Court granted the ALBC plaintiffs'

motion for leave to file a post-argument supplemental brief addressing their county boundary claims, a copy of which is APSX 47. On March 9, 2015, the Supreme Court granted the State appellees' motion for leave to file their response to the ALBC supplemental brief, a copy of which is APSX 48. On March 25, 2015, the Supreme Court vacated this Court's final judgment and said:

We note that appellants have also raised additional questions in their jurisdictional statements, relating to their one-person, one-vote claims (Caucus) and vote dilution claims (Conference), which were also rejected by the District Court. We do not pass upon these claims. The District Court remains free to reconsider the claims should it find reconsideration appropriate. And **the parties are free to raise them**, including as modified by the District Court, on any further appeal.

135 S.Ct. at 1274 (bold emphasis added).

The State appellees concluded their supplemental brief by urging the Supreme Court to affirm this Court's ruling against the one-person, one-vote claims on behalf of county residents. State Supp. Br. 4. But, the State concluded, "[i]f it reverses on the racial gerrymandering claim, then there is no reason for the Court to address the county-splitting claim at all." *Id.* The Supreme Court has vacated and remanded the racial gerrymandering claims for reconsideration in light of constitutional standards that doom all the majority-black House and Senate districts. As this brief has shown, the crucial role county boundaries play in the *Shaw* analyses of the majority-black districts should, indeed, make reconsideration

of the one-person, one-vote claim unnecessary. Its pendency on remand should reinforce this Court's *Shaw* focus on county boundaries. In particular, this Court should require the State to demonstrate how clinging to a strict $\pm 1\%$ population deviation constraint can serve a narrowly tailored, compelling state interest when it necessarily doubles the number of counties whose boundaries must be split, subordinating the most important traditional principle in Alabama.

In their supplemental Supreme Court brief, the ALBC pointed out that the questions of ripeness and standing had been resolved by the January 2015 organizational session, in which “the Legislature adopted again the Rules and Standing Committees that undergird and enshrine the local delegation system.” ALBC Supp. Br. 6.²⁸ Addressing the merits, the ALBC pointed out that “[t]hroughout the proceedings below, appellants contended that respecting country [sic: county] boundaries—the most important traditional districting principle in Alabama—is central to assuring one-person, one-vote and to constraining racial discrimination.” *Id.* at 3 (footnote omitted).

This Court addressed in the alternative the merits of plaintiffs' one-person, one-vote claims in its August 2, 2013, opinion, concluding that it was bound by Eleventh Circuit precedent in *DeJulio v. Georgia*, 290 F.3d 1291 (11th Cir.2002),

²⁸ The 2015 House and Senate rules are APSX 1 and APSX 2.

to reject those claims. 988 F.Supp.2d at 1306 et seq. Even if it were not bound by *DeJulio*, this Court concluded, the one-person, one-vote claim on behalf of all county residents must fail, because “local delegations do not perform the kind of governmental functions identified by the Supreme Court as necessary to subject a local governmental official to the requirement of one person, one vote.” *Id.* at 1309. Again, Judge Thompson dissented on the merits. *Id.* at 1312.

On remand, if it is not rendered moot by reconsideration of the racial gerrymandering claims, this Court should give the parties an opportunity to submit additional briefs and evidence on the one-person, one-vote, county boundaries issue. In their supplemental Supreme Court brief, the ALBC plaintiffs gave the following example of how the unnecessary crossing of county boundaries among districts violates the Equal Protection Clause, both by diluting the votes of county residents when local bills affecting only their county are being considered, and by opening the door for racial discrimination by legislators who represent majority-white electorates in other counties:

Jefferson County has a population of 658,466, a little less than the number needed for five Senate districts. Under the 2012 plan there are three Senate districts wholly within Jefferson County. The remaining 252,779 county residents, however, although in number only about the size of two additional districts, are divided among five other Senate districts; a large majority of the voters in each of those five districts actually live outside Jefferson County. All five of the

Senators from those trans-county districts sit on the Jefferson County delegation. Thus the 405,687 residents of the three Jefferson-County-only Senate districts, although constituting 61% of the county population, elect only 37.5% (3/8) of the eight member Senate Jefferson County delegation that (together with the House Jefferson County delegation) effectively controls the local laws for Jefferson County.

ALBC Supp. Br 2-3. A bill just enacted by the Legislature provides a perfect example of why this Court should reconsider its earlier decision and rule that the indiscriminate splitting of county boundaries in Acts 2012-602 and 2012-603 are unconstitutional. See APSX 4 to APSX 25.

That bill, SB89, now Act 2015-164, would hand over to officials elected by voters in other municipalities and other counties the power to appoint members to the Birmingham Water Works Board. This was a local bill masquerading as a general bill, and its sponsors included all five white members of the Jefferson County Senate delegation, every one of whom has a majority of constituents outside Jefferson County. The bill was opposed by the only three Senators whose districts lie entirely inside Jefferson County, all of whom are elected by black majorities.

The City of Birmingham created its water works board in 1951 under the general law governing municipal water works boards throughout Alabama, which gives the Birmingham City Council sole authority to appoint the members of its

board. Ala Code § 11-50-230 et seq. Today Birmingham has a majority-black electorate and City Council. If all Jefferson County Senate districts were located entirely within Jefferson County, as the ALBC remand Senate plan provides, the Jefferson County delegation would have to be responsive solely to Jefferson County voters, and it is unlikely a bill like SB89 would even have been suggested, much less allowed to pass the Senate over the opposition of the only Senators whose districts lie entirely within Jefferson County.

At the very least, the Supreme Court's decision to remand the one-person, one-vote issue for reconsideration, instead of affirming summarily this Court's August 2, 2013, ruling, suggests that this Court is not bound by the Eleventh Circuit's decision in *DeJulio* and should give more serious consideration to the constitutional analysis in Judge Thompson's dissent. In particular, it should revisit its conclusion that local legislative delegations are not engaged in governmental functions. Lawmaking is the quintessential governmental function. And even though county delegations exercise their gatekeeping and approval powers over local laws as a matter of informal custom, as opposed to formal law, in reality, they are, as Judge Thompson said, "the single most important legislating bodies for [the] counties." 988 F.Supp.2d at 1316 (Thompson, J., dissenting).

It is, of course, true that statewide population equality necessarily conflicts

with county residents' one-person, one-vote rights. As Professor James Gardner points out, there is an inherent tension between representation by territorial districts and providing each person an equally weighted vote when electing members of a state legislature. The former principle presupposes that the bonds of local community have priority, the latter that statewide bonds and interests are preeminent. Territorial districts are intended to make legislators responsive to the local interests of the communities they represent. Statewide population equality, on the other hand, tends to favor partisan allegiances in the legislature.²⁹ Where there are conflicting goals of fair representation, "it seems overly fussy to demand that no compromise impugn any design assumption."³⁰

VIII. CONCLUSION.

The ALBC plaintiffs' motion for summary judgment to comply with the Supreme Court's mandate should be granted. All 36 of the majority-black House and Senate districts in Acts 2012-602 and 2012-603 should be declared unconstitutional in violation of the Equal Protection standards of *Shaw v. Reno*, and the State should be enjoined from enforcing these plans in future elections.

²⁹ James A. Gardner, *What Is "Fair" Partisan Representation, and How Can It Be Constitutionalized? The Case For a Return To Fixed Election Districts*, 90 MARQ. L. REV. 555, 573-80 (2006)

³⁰ *Id.* at 588.

In the alternative, the redistricting plans in Acts 2012-602 and 2012-603 should be declared unconstitutional in violation of the one-person, one-vote rights of county residents, under the Equal Protection standards of *Reynolds v. Sims*.

This Court should retain jurisdiction of this action, and the Legislature should be given an opportunity to draw new House and Senate redistricting plans with 2010 census data that comply with all state and federal constitutional and statutory standards. The new, constitutional plans should be implemented no later than the March 2016 statewide primary elections and November 2016 general election. The qualifying deadline for the March 1, 2016, primary is November 6, 2015. Doc. 245. To allow the Court sufficient time to review the plans proposed by the parties or to review the plans enacted by the Legislature, the Court should require the Legislature to adopt a plan and submit it to this Court no later than September 1, 2015.

If the Legislature is unable to draw constitutional House and Senate plans in time for use in the March 2016 primary elections, the parties should be given an opportunity to propose new plans, and this Court should adopt its own redistricting House and Senate plans for use in the 2016 elections.

Plaintiffs should be awarded their reasonable attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988 and 52 U.S.C. § 10310(e).

Respectfully submitted this 12th day of June, 2015.

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