

**IN THE UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF
ARKANSAS HELENA DIVISION**

FUTURE MAE JEFFERS; MARY JEFFERS; HENRY
PEACOCK; SHIRLEY HARVELL; REV. RONALD
WILLIAMS; PEGGY R. WRIGHT; LAURA LOVE;
FRANK SHAW; C.W. CAMPBELL; LEO CHITMAN;
ETTA CAMPBELL; PLEZ LUCAS; VICKIE
ROBERTSON; JOSEPH PERRY; ELBERT SMITH;
SANDRA BAGLEY; NIKKI DISMUKE; ALICE W.
VALLEY; LAKETHA BROWN FLUKER; KATRINA
HARRELL; CHESTER HARRELL; EDDIE O'NEAL;
CHRISTOPHER FRANKLIN; and JACK BERNARD
CRUMBLY

PLAINTIFFS

v.

No. 2:12CV00016 JLH

MIKE BEEBE, in his capacity as Governor of Arkansas and
Chairman of the Arkansas Board of Apportionment; MARK
MARTIN, in his capacity as Secretary of State of Arkansas
and as a member of the Arkansas Board of Apportionment;
DUSTIN MCDANIEL, in his capacity as Attorney General
of Arkansas and a member of the Arkansas Board of
Apportionment; and ARKANSAS BOARD OF
APPORTIONMENT

DEFENDANTS

JOINT STIPULATION OF FACTS

The Parties stipulate to the following facts:

1. On February 9, 1990, in a case under the Voting Rights Act, the Court ordered that Crittenden County be divided, with the southern part placed into a new Senate District 30 along with portions of Cross, Lee, Phillips, and St. Francis Counties. 1990 Senate District 30 had a Black voting-age population (“BVAP”) of 62%, according to the 1980 Census. *See Jeffers v. Clinton*, 756 F. Supp. at 1202-03 (Mar. 5, 1990).

2. At the Democratic primary held May 29, 1990, Roy C. “Bill” Lewellen defeated Paul B. Benham, 7,248 votes to 6,409 votes, which was 53.1% to 46.9%.

3. At the general election held November 6, 1990, Roy C. “Bill” Lewellen, a Democrat, defeated Charles L. Robinson, a Republican, 10,009 votes to 4,899 votes, which was 67.1% to 32.9%.

4. In 1991, the Board of Apportionment redrew the boundaries of 1990 Senate District 30 so that it that still included portions of Crittenden, Lee, Phillips, and St. Francis Counties, but excluded Cross County. The 1991 district was numbered Senate District 22.

5. When drawn in 1991, Senate District 22 had a BVAP of 61.9%, according to the 1990 Census. *See Jeffers v. Tucker*, 847 F. Supp. 655, 661 (E.D. Ark. 1994).

6. In the May 1992 Democratic primary for Senate District 22, Senator Bill Lewellen defeated L.T. Sims II, 10,573 votes to 2,841 votes. He was unopposed in the November general election.

7. Senator Lewellen was unopposed for re-election in 1996.

8. In the 2000 election, Senator Lewellen was not a candidate.

9. Since 2000, there have been five elections in 2001 Senate District 16 and its predecessor, 1991 Senate District 22. Alvin Simes was a candidate in four of those contests.

10. In the 2000 election, Alvin Simes was elected to represent Senate District 22.

11. Alvin Simes defeated Steve Higginbothom in the 2000 primary election for Senate District 22 by a margin of 52.8% to 47.2%, which was 5,909 votes to 5,276 votes.

12. At the November 2000 general election, Alvin Simes defeated Carolyn “Brown” Elliott, 11,502 votes to 6,238 votes, which was 65% to 35%.

13. In 2001, the Board of Apportionment drew Senate District 16 with portions of the same counties — Crittenden, Lee, Phillips, and St. Francis — that contributed to 1991 Senate District 22.

14. 2001 Senate District 16 had a BVAP of 55.48%, according to the 2000 Census.

15. Simes lost to Higginbothom in the May 2002 Democratic Primary Election for Senate District 16, 4,299 votes to 6,079 votes, which was 36.5% to 51.6%. Candidate Gordon McCoy received 12% of the votes.

16. In the November 2002 general election, Steve Higginbothom defeated write-in candidate Rose McGee 14,034 votes to 1,555 votes, which was 90% to 10%.

17. Plaintiffs' expert witness, Dr. Handley, believes that in the 2006 and 2010 elections, only African-American candidates competed for office in Senate District 16.

18. According to Dr. Handley, the 2006 Democratic primary election for Senate District 16 featured only Black candidates. The winner did not face a Republican opponent. The BVAP of this district was higher than 55%.

19. The 2006 Democratic primary runoff election for Senate District 16 featured only Black candidates according to Dr. Handley. The winner did not face a Republican opponent. The BVAP of this district was higher than 55%.

20. The 2010 Democratic primary election for Senate District 16 featured only Black candidates according to Dr. Handley. The winner did not face a Republican opponent. The BVAP in this district was higher than 55%.

21. In the 2006 election for Senate District 16, Senator Steve Higginbothom was not a candidate.

22. The May 2006 Democratic primary election for Senate District 16 featured only African-American candidates according to Dr. Handley. The three candidates received votes as follows:

Candidate	Votes	Percentage
Representative Arnell Willis	3,923	34.6%
Jack B. Crumbly	3,882	34.2%
Alvin Simes	3,544	31.2%

23. In the June 2006 runoff election, Jack B. Crumbly defeated Representative Arnell Willis by 68 votes (4,768 votes to 4,700 votes), which was 50.4% to 49.6%.

24. Mr. Crumbly was unopposed in the general election.

25. The BVAP of this district was higher than 55%.

26. Senator Crumbly was unopposed in the 2010 general election.

27. The BVAP for Senate District 16 increased from 55%, according to the 2000 Census, to 61%, according to the 2010 Census.

28. The portions of Crittenden, Lee, and St. Francis Counties that were not included in 2001 Senate District 16, were included in Senate District 17, along with all of Cross, Monroe, and Woodruff Counties and the portions of Phillips County that were not included in Senate District 16 or 5.

29. 2001 Senate District 17 had a BVAP of 27%, according to the 2000 Census.

30. In the 2004 Democratic Primary election for Senate District 17, the Black-preferred candidate according to Handley (Jones) received the most votes in the parts of the district in the combined region of Crittenden, St. Francis, Phillips, and Lee Counties. The BVAP

of this region, considering only the polling areas shown in Dr. Handley's data, was approximately 28.9%.

31. Jones lost the district-wide election to Luker by 5,192 votes to 8,288 votes, which was 38.5% to 61.5%.

32. 2001 House District 13 is all of Phillips County.

33. According to the 2000 Census, 2001 House District 13 had a BVAP of 52.88%.

34. In the 2002 Democratic primary for House District 13, Willis lost to King by less than 100 votes (2,576 votes to 2,667 votes), which was 49.1% to 50.9%.

35. Representative King was unopposed in the November 2002 general election.

36. In the 2004 Democratic primary for House District 13, Willis defeated Hall by 3,419 votes to 2,631 votes, which was 56.5% to 43.5%.

37. Willis was unopposed in the November 2004 general election.

38. The results of the May 2006 primary in Phillips County were reported at the county level only, so it is not possible to determine whether African Americans and Whites voted cohesively or whether they tended to vote for different candidates.

39. In the June 2006 runoff, Clark Hall defeated Bill Brandon, 2,002 votes to 1,990 votes, which was 50.15% to 49.85%.

40. According to the 2010 Census, the BVAP for House District 13 was 58.7%.

41. In the May 2010 Democratic primary for House District 13, Weaver lost to Hall by 1,355 votes to 3,326 votes, which was 29% to 71.1%.

42. Hall was unopposed in the November 2010 general election for House District 13.

43. 2001 House District 51 consists of Monroe County and portions of Lee, Phillips, and Woodruff Counties.

44. According to the 2010 Census, the BVAP for House District 51 was 34.8%.

45. In the May 2010 Democratic primary for House District 51, Gilcrest lost to Wright by 2,515 votes to 2,898 votes, which was 46.5% to 53.5%.

46. House District 52 consists of the portions of Lee and St. Francis Counties that are not included in House District 51.

47. According to the 2000 Census, the BVAP for House District 52 was 58%.

48. The 2004 Democratic primary election for House District 52 featured only Black candidates according to Dr. Handley. The winner did not face a Republican opponent. The BVAP of this district was higher than 55%.

49. The 2010 Democratic primary election for House District 52 featured only Black candidates according to Dr. Handley. The winner did not face a Republican opponent. The BVAP of this district was higher than 55%.

50. In the May 2004 Democratic primary for House District 52, Nancy Duffy Blount defeated Reginald Murdock, 2,578 votes to 2,395 votes, which was 51.8% to 48.2%.

51. Dr. Handley believes that both candidates were African American. She did not analyze this contest because of time constraints and her belief that there was no White candidate.

52. Nancy Duffy Blount was unopposed in the November 2004 general election.

53. In 2006, Nancy Duffy Blount was unopposed in both the May primary and the November general election.

54. In 2008, Nancy Duffy Blount was unopposed in both the May primary and the November general election.

55. According to the 2010 Census, the BVAP of House District 52 was 59.9%.

56. In 2010, Nancy Duffy Blount was not a candidate for House District 52. In the May primary, Reginald Murdock defeated Elizabeth Johnson by 2,819 votes to 1,743 votes, or 61.8% to 38.2%.

57. Dr. Handley believes that both candidates were African American. She did not analyze this contest because of time constraints and her belief that there was no White candidate.

58. Reginald Murdock was unopposed in the November 2010 general election.

59. House District 53 from 2001 is in Crittenden County and consists of portions of West Memphis and its adjacent cities and towns.

60. According to the 2000 Census, the BVAP of House District 53 was 21%.

61. According to the 2010 Census, the BVAP of House District 53 was 33.9%.

62. In the May 2006 Democratic primary for House District 53, Basil L. Joiner lost to Representative Denny Sumpter by 439 votes to 682 votes, which was 39.2% to 60.8%.

63. 2001 House District 54 consists of the portions of Crittenden County that are not included in House District 53.

64. According to the 2000 Census, the BVAP of House District 54 was 66%.

65. The 2004 Democratic primary election for House District 54 featured only Black candidates according to Dr. Handley. The winner prevailed in the general election against a Republican opponent.

66. In the May 2004 Democratic primary for House District 54, Dr. Handley believes there were three African American candidates. The candidates received votes, as follows:

Candidate	Votes	Percentage
Phillip Carter	743	37.1%
Otis L. Davis	703	35.1%
Vickie Miles-Robertson	555	27.7%

67. Dr. Handley believes that all the candidates were African American. She did not analyze this contest because of time constraints and her belief that there was no White candidate.

68. In the June 2004 runoff for House District 54, Davis defeated Carter, 798 votes to 721 votes, or 52.5% to 47.5%.

69. In the November 2004 general election for House District 54, Democrat Otis L. Davis defeated Republican Ray Nassar by 5,112 votes to 2,425 votes, which was 67.8% to 32.2%.

70. According to the 2010 Census, the BVAP of House District 54 was 65.1%.

71. The 2010 Democratic primary election for House District 54 featured only Black candidates according to Dr. Handley. The winner did not face a Republican opponent.

72. In the May 2010 Democratic primary for House District 54, Dr. Handley believes all four candidates were African American. The candidates received votes, as follows:

Candidate	Votes	Percentage
Fred Smith	1,034	39.3%
James Pulliaum	695	26.4%
Gary Tobar	494	18.8%
D'James Rogers II	410	15.6%

73. Dr. Handley did not analyze this contest because of time constraints and her belief that there was no White candidate.

74. In the June 2010 runoff for House District 54, Fred Smith defeated James Pulliaum, 1,960 votes to 1,705 votes, which was 53.5% to 46.5%.

75. Dr. Handley believes that both candidates were African American. She did not analyze this contest because of time constraints and her belief that there was no White candidate.

76. In the 5-county region of Cross, Crittenden, St. Francis, Phillips, and Lee counties, the Black-preferred candidate according to Dr. Handley (Sheffield) received the most votes in the 2002 Democratic primary election for Lt. Governor. The BVAP of this region was approximately 42.3%.

77. In the 4-county region of Crittenden, St. Francis, Phillips, and Lee counties, the Black-preferred candidate according to Dr. Handley (Sheffield) received the most votes in the 2002 Democratic primary election for Lt. Governor. The BVAP of this region was approximately 45.9%.

78. Sheffield defeated Kurt Dilday in the statewide election, 205,502 votes to 61,379 votes, which was 77% to 23%.

79. In the 5-county region of Cross, Crittenden, St. Francis, Phillips, and Lee counties, the Black-preferred candidate according to Dr. Handley (Sheffield) received the most votes in the 2002 general election for Lt. Governor. The BVAP of this region was approximately 42.3%.

80. In the 4-county region of Crittenden, St. Francis, Phillips, and Lee counties, the Black-preferred candidate according to Dr. Handley (Sheffield) received the most votes in the 2002 general election for Lt. Governor. The BVAP of this region was approximately 45.9%.

81. Sheffield lost to Rockefeller in the statewide election, 318,592 votes to 477,062 votes, which was 40% to 60%.

82. In the 2004 judicial election for Chief Justice, the candidates were Wendell L. Griffen and Jim Hannah.

83. In the 4-county region of Crittenden, St. Francis, Phillips, and Lee counties, the Black-preferred candidate according to Handley (Griffen) received the most votes in the 2004 election for Chief Justice. The BVAP of this region was approximately 45.9%.

84. Griffen lost to Hannah in the statewide election, 114,835 votes to 191,695 votes, which was 37.5% to 62.5%.

85. In the 2006 judicial election for Associate Justice of the Supreme Court, the candidates were Wendell L. Griffen and Paul E. Danielson.

86. In the 5-county region of Cross, Crittenden, St. Francis, Phillips, and Lee counties, the Black-preferred candidate according to Dr. Handley (Griffen) received the most votes in the 2006 election for Associate Justice. The BVAP of this region was approximately 46%.

87. In the 4-county region of Crittenden, St. Francis, Phillips, and Lee counties, the Black-preferred candidate according to Dr. Handley (Griffen) received the most votes in the 2006 election for Associate Justice. The BVAP of this region was approximately 50.1%.

88. Griffen lost to Danielson in the statewide election, 132,789 votes to 177,406 votes, which was 42.8% to 57.2%.

89. In the 4-county region of Crittenden, St. Francis, Phillips, and Lee counties, the Black-preferred candidate according to Dr. Handley (Obama) received the most votes in the 2008 Democratic primary election for president. The BVAP of this region was approximately 50.1%.

90. Obama lost to Clinton in the statewide election, 82,476 votes to 220,136 votes, which was 26.3% to 70.1%.

91. In the 4-county region of Crittenden, St. Francis, Phillips, and Lee counties, the Black-preferred candidate according to Dr. Handley (Obama) received the most votes in the 2008 general election for President. The BVAP of this region was approximately 50.1%.

92. Obama lost to McCain in the statewide election, 42,310 votes to 638,017 votes, which was 38.9% to 58.8%.

93. In the 5-county region of Cross, Crittenden, St. Francis, Phillips, and Lee counties, the Black-preferred candidate according to Handley (Obama) received the most votes in the 2008 general election for President. The BVAP of this region was approximately 46%.

94. The Delta that Dr. Handley analyzed includes Monroe County.

95. Monroe County is not adjacent to the Mississippi River.

96. Monroe County does not comprise any part of New Senate District 24.

97. The 2010 BVAP of Monroe County is 37.4%.

98. The Delta that Dr. Handley analyzed includes Woodruff County.

99. Woodruff County is not adjacent to the Mississippi River.

100. Woodruff County does not comprise any part of New Senate District 24.

101. The 2010 BVAP of Woodruff County is 26%.

102. Dr. Handley's bloc-voting analysis included only election contests that featured one or more African American candidates. In other words, Dr. Handley did not consider contests in which the only candidates were White.

103. With the exception of three election contests in old Senate District 16 that featured only Black candidates, Dr. Handley analyzed polarization only in contests featuring a Black candidate and a White candidate.

104. Dr. Handley did not report on the polarization (or lack thereof) in five of the contests set forth in Table 1 of her report, which featured only Black candidates. Those five contests are as follows: (1) State Representative Dist. 52 – May 2004 Primary (Murdock v. Blount); (2) State Representative Dist. 54 – May 2004 Primary (Carter v. Davis. v. Robertson); (3) State Representative Dist. 52 – May 2010 Primary (Murdoch v. Johnson); (4) State Representative Dist. 54 – May 2010 Primary (Smith v. Tobar v. Rogers v. Pulliaum); and (5) State Representative Dist. 54 – June 2010 Primary (Smith v. Pulliaum).

105. Dr. Handley cannot determine whether contests featuring only Black candidates are more polarized than interracial contests because she did not analyze enough contests featuring only Black candidates.

106. Dr. Handley did not analyze polarization in any municipal elections.

107. Dr. Handley did not analyze polarization in any county elections.

108. Dr. Handley relied on Plaintiffs' lawyers to get the election returns for county contests and was "unable" to get the returns.

109. Dr. Handley relied on Peter Wattson (counsel of record for Plaintiffs) to supply her with information containing election results alongside demographic racial data from the U.S. Census Bureau.

110. The U.S. Census Bureau's geographic unit for reporting demographic data does not coincide with how election results in Arkansas have usually been tabulated from 2000-2010. The U.S. Census Bureau reports racial demographic information by Voter Tabulation District ("VTD"), whereas election results in Arkansas have typically been reported by "polling place."

111. A polling place is a location, such as a church or fire station, where citizens cast their votes.

112. In some cases, there is no polling place within a precinct; voters who live there must travel to a different precinct to cast their votes.

113. Official proclamations from county boards of election commissioners show which precincts are assigned to a polling place for a given election.

114. Plaintiffs have not produced any official proclamations from a county board of election commissioners in this case.

115. In the course of preparing her expert report, Dr. Handley did not review any documents showing which precincts are assigned to a polling place for a given election.

116. In the course of preparing her expert report, Dr. Handley did not review any official proclamations from a county board of election commissioners.

117. Dr. Handley did not check the accuracy of Peter Wattson's work with regard to determining which precincts are assigned to a polling place for a given election.

118. If Dr. Handley's election results have been mistakenly paired with demographic information from a precinct that was not officially assigned to the polling place, the mistake will produce errors.

119. Dr. Handley applied three statistical techniques to the eighteen election contests that met her race-based criteria: homogenous precinct analysis, bivariate regression, and ecological inference.

120. Dr. Handley describes the three techniques as "complementary."

121. Dr. Handley does not make assumptions about a particular contest if one technique shows one thing and another technique shows something dramatically different.

122. Ecological inference estimates are not necessarily exact, and Dr. Handley did not calculate a margin of error for any of her estimates.

123. In her analysis, Dr. Handley did not consider reconstituted election results with regard to national and statewide elections that took place within the precise geography of new Senate District 24.

124. The percentage minority population needed to create an "effective minority district" (that is, a district that provides minority voters with the ability to elect candidates of their choice to office) varies depending on the locality—there is no single target (for example, 65 percent) that can be applied universally.

125. Dr. Handley says that her clients asked her to "ascertain the level of Black population required in this region of the state to provide African Americans with the ability to elect candidates of their choice to legislative office, particularly in the general area of 2011 Senate District 24." However, Dr. Handley did not "fully" answer this question.

126. Dr. Handley did a “tentative try” at applying her model for Senate District 16, but she did not generate any calculations that she will “comment on.”

127. 98.4% of the people who live within the boundaries of new Senate District 24 reside within the 4-county region of Crittenden, St. Francis, Lee, and Phillips counties.

128. Part IV of Dr. Handley’s expert report is titled “Providing Minority Voters with the Ability to Elect Their Preferred Candidates.” The only information that Dr. Handley provides in this section is Table 4, which shows the BVAP percentage needed to equalize turnout on election day.

129. In Dr. Handley’s earlier writings, she wrote that “[o]ne cannot adhere slavishly to the most easily quantifiable part of minority vote calculations, namely, to the equalization percentage.” Brace, Groffman, Handley & Niemi, *Minority Voting Equality: The 65 Percent Rule in Theory and Practice*, 10 Law & Policy 1 (Jan. 1988), Exhibit 3 to Handley Dep. (Doc. 55-7), at 57. In Chicago, for example, Dr. Handley and her co-authors noted that “for blacks, incumbency, polarization, and other factors may now be as significant as differences in [turnout factors such as] registration rates, voting, and even VAP [Voting-age Population].” *Id.*

130. More recently, Dr. Handley and her co-authors advanced a formal model for determining “the percentage minority necessary to provide minority voters with an equal opportunity to elect their candidates of choice.” Groffman, Handley & Lublin, *Drawing Effective Minority Districts: A Conceptual Framework And Some Empirical Evidence*, 79 U.N.C. L. Rev. 1383 (2001), Exhibit 4 to Handley Dep. (Exhibit 7). The purpose of the model is to “estimate[] future minority voting strength.” *Id.* at 1387. On page 1404 of the article, Dr. Handley discusses the first component of the model—namely, the equalization of Black and White turnout. On page 1407 of the article, Dr. Handley discusses additional critical variables:

cohesion and cross-over voting. Dr. Handley wrote: “Equalizing turnout is not the best indicator of whether minority voters will have an equal opportunity to elect minority candidates. We also need to incorporate the level of minority cohesion and the degree of White crossover voting that can be expected when a minority-preferred candidate competes for office.” *Id.* at 1407 (emphasis added). “If, for example, White voters regularly cross over to vote for Black candidates, the percentage Black necessary to create an effective Black district decreases.” *Id.*

131. Dr. Handley noted that, after majority-minority districts were redrawn in the wake of the Supreme Court’s anti-gerrymandering decisions, the Black population in eight districts fell to a level below 50 percent, and the African American candidates won in every contest in which they sought re-election.

132. In her article, Dr. Handley considered 20 congressional races in the South. In every case, the “% black needed to equalize turnout” exceeded 50%, and it was as high as 58% in the contest for Georgia’s second congressional district. *Drawing Effective Minority Districts*, Exhibit 4 to Handley Dep. (Doc. 55-7), at 1406. But when crossover and cohesion numbers were introduced into the model, the “effectiveness” number was substantially smaller than the “turnout equalization” number in every instance. For example, in Georgia’s second congressional district, Dr. Handley calculated that the “% black needed to win, incorporating cohesion and crossover,” was only 37.1%. *Id.* at 1408. In most cases, the effectiveness number was “in the range of 33%-39%. *Id.* “This is because, even though blacks are typically turning out to vote at lower rates than Whites, blacks are voting very cohesively—over 95% of the black voters consistently voted for the black Democrat in the general election—and approximately one-third of the White voters supported the black Democrat in the general election.” *Id.*

133. If Blacks engage in bloc voting or cohesion more intensely than Whites in a given election, that fact tends to lower the percentage of Black population needed to have effective districts.

134. Dr. Handley's model is represented in the equation in footnotes 68 and 72 of her *North Carolina Law Review* article.

135. Dr. Handley recently applied this equation when she served as a consultant for the Alaska Redistricting Board.

136. In Part 3 of the Alaska Report, Dr. Handley calculated the minority VAP percentage needed to have the ability to elect a minority-preferred candidate. Dr. Handley considered numerous elections and applied the model as set forth in her *North Carolina Law Review* article.

137. Dr. Handley calculated a "target percentage of 41.8" and concluded that, on average, any district with an Alaska Native VAP greater than 41.8% should be able to elect an Alaska Native-preferred candidate to office." *Id.* "This percentage is lower than 50% Alaska Native," Dr. Handley explained," because of the turnout rates and cross-over votes that minority-preferred candidates "can usually expect." *Id.*

138. In this case, Dr. Handley has only "gone through the first stage" of her model. Dr. Handley considered turnout equalization, but she did not incorporate cohesion or cross-over voting.

139. Professor Zax calculated that Dr. Handley's model would show that a BVAP of 49.9% in the new Senate District 24 is the threshold above which the Black-preferred candidate would expect to receive more than 50% of the vote.

140. According to Dr. Handley, the presence of a minority incumbent should be taken into account.

141. African Americans have recently been elected to county-wide offices in St. Francis and Lee counties.

142. The 2010 U.S. Census data showed that Arkansas's 2010 population was 2,915,918.

143. Arkansas's 2010 population of 2,915,918 represented a 9.1% increase over the state's 2000 population.

144. The 2010 U.S. Census data showed that the Black population was 15.4% of Arkansas's total population.

145. The total population of Benton County increased by 44.3%.

146. The total population of Washington County increased by 28.8%.

147. The total population of Faulkner County increased by 31.6%.

148. The Black population of Faulkner County increased by 58.5%.

149. The total population of Pulaski County increased by 5.9%.

150. The Black population of Pulaski County increased by 16.2%.

151. The total population of Lonoke County increased by 29.4%.

152. The Black population of Lonoke County increased by 19.7%.

153. The total population of Lee County decreased by 17.1%.

154. The Black population of Lee County decreased by 20%.

155. The total population of Phillips County decreased by 17.7%.

156. The Black population of Phillips County decreased by 12.1%.

157. Crittenden County has a Black population of 51.2% according to the 2010 census data.

158. The 2010 BVAP of St. Francis County was 48.2%.

159. The 2010 BVAP of Lee County was 52.9%.

160. The 2010 Senate Variance Map (Doc. 55-4) accurately shows Arkansas's population under the 2010 census data in relation to the borders of the previous Senate districts.

161. The 2010 Senate Variance Map (Doc. 55-4) correctly shows the extent of the deviation if the Senate district boundaries were left unchanged.

162. If the boundaries of old Senate District 5 and old Senate District 16 were to remain the same after the 2010 census, they would each fall short of the ideal population size by over 14,000 people.

163. The 2010 Census reported that Senate District 16 had a population of 68,732, which was 14,580, or 17.5%, less than the ideal population of 83,312.

164. To meet equal population requirements, so that the population of Senate District 16 was no more than five percent below the ideal, its boundaries needed to be redrawn to add at least 10,415 people, to bring its population up to at least 79,147.

165. St. Francis, Lee, Crittenden, and Phillips counties each have a 2010 Census total population whose majority is African-American, though the voting-age population of St. Francis County is 48.2% African American and the voting-age population of Crittenden County is 47% African American.

166. The 2010 Census reported that the population of District 16 included the following, classified by race:

Table 1 – District 16 Population by Race

Total Population

White	Black	White %	Black %
21,622	45,252	31%	66%

Voting-age Population

White	Black	White %	Black %
18,183	30,602	36%	61%

167. The 2010 Census reported that the White and Black racial classifications of District 16, allocated by county, were approximately as follows:

Table 2 – District 16 Population by Race by County

Total Population

	White	Black	White %	Black %
Crittenden	3,410	16,101	17%	81%
Lee	2,934	4,970	36%	61%
Phillips	4,568	10,375	30%	68%
St. Francis	10,710	13,806	42%	54%
Total	21,622	45,252	31%	66%

Voting-age Population

	White	Black	White %	Black %
Crittenden	2,888	10,309	22%	77%
Lee	2,573	3,737	40%	58%
Phillips	3,775	6,814	35%	63%
St. Francis	8,947	9,742	46%	50%
Total	18,183	30,602	36%	61%

168. Phillips, Lee, and St. Francis counties have the first, second, and fifth highest percentage of African-American population of any counties in the state.

169. The members of the Arkansas Board of Apportionment in 2011 were Governor Mike Beebe, Attorney General Dustin McDaniel, and Secretary of State Mark Martin. They all participated in drawing new legislative districts following the 2010 Census.

170. Governor Beebe wanted to make sure that the respective districts contained the appropriate number of people within the parameters of what the law provided.

171. General McDaniel made it a clear priority to his staff that throughout the redistricting process they must be ever vigilant and vocal if they ever had a concern that the Board was not in compliance with the law.

172. Defendant Governor Mike Beebe and Defendant Attorney General Dustin McDaniel (“the Separate Defendants”) wanted to keep communities of interest together where possible.

173. The Separate Defendants wanted to take into consideration the wants and desires of the people in the state that expressed those desires, including, but not limited to incumbents.

174. Plaintiff Jack Crumbly is a State Senator whose residence is in Senate District 24 under the plan adopted by the Board of Apportionment in 2011.

175. Senator Crumbly believes that a higher BVAP will likely enhance his chances for re-election to the Senate.

176. Before the Board of Apportionment adopted Senate District 24 in 2011, Senator Crumbly proposed that the district have boundaries that are different from those that the Board actually adopted.

177. Defendant Secretary Martin submitted his own plan of apportionment, which included a Black voting-age population of 56.1% for the area that most closely reflects the boundaries of old Senate District 16 and new Senate District 24.

178. On July 29, 2011, Defendant Board of Apportionment met and by a 2-1 vote adopted the current maps for the state’s 35 senate districts and 100 house of representatives districts.

179. Governor Mike Beebe and Attorney General Dustin McDaniel voted in favor of the plans; Secretary of State Mark Martin voted against them.

180. There is no evidence that Defendant Secretary Martin intentionally discriminated against Plaintiffs.

181. There is no evidence that Defendant Secretary Martin intentionally discriminated in any of his actions as a member of the Board of Apportionment.

182. New Senate District 24 has a Black population of 57.05%.

183. New Senate District 24 has a Black voting-age population (“BVAP”) of 52.88%.

184. New Senate District 24 has a minority voting-age population of 55.72%.

185. East Arkansas Regional Unit is a prison that exists within new Senate District 24.

186. The 2010 Census Block Information for East Arkansas Regional Unit (Doc. 55-6) shows a Black adult prisoner population of 849.

187. The 2010 Census Block Information for East Arkansas Regional Unit (Doc. 55-6) shows a non-Black adult prisoner population of 833.

188. Rounding to the nearest tenth of a percent, the census data shows that the BVAP of the prison was 50.5% on census day.

189. Excluding the prison from the tabulation of new Senate District 24’s BVAP would increase the district’s BVAP to above 52.88%.

190. The Board of Apportionment’s 2001 Senate plan had four majority-minority districts.

191. The Board of Apportionment’s 2011 Senate plan has four majority-minority districts.

192. New Senate District 24 includes all of Crittenden County.

193. New Senate District 24 includes part of Cross County.
194. New Senate District 24 includes part of St. Francis County.
195. New Senate District 24 includes part of Lee County.
196. New Senate District 24 includes part of Phillips County.
197. Plaintiff Jack Crumbly is a member of the Arkansas State Senate.
198. Senator Crumbly is an African American.
199. Senator Crumbly was elected to the State Senate from old Senate District 16.
200. Senator Crumbly resides in new Senate District 24.
201. New Senate District 25 has a total African American population 58.37%.
202. New Senate District 25 has a BVAP of 55.85%.
203. New Senate District 25 includes part of Phillips County.
204. New Senate District 25 includes part of Desha County.
205. New Senate District 25 includes part of Lincoln County.
206. New Senate District 25 includes part of Arkansas County.
207. New Senate District 25 includes parts of Jefferson County and Monroe County.
208. Stephanie Flowers is a member of the Arkansas State Senate.
209. Senator Flowers is an African American.
210. Senator Flowers was elected to the State Senate from old Senate District 5.
211. Senator Flowers resides in new Senate District 25.
212. New Senate District 30 has a total African American population of 56.33%.
213. New Senate District 30 has a BVAP of 53.19%.
214. New Senate District 30 is in Pulaski County.
215. New Senate District 30 includes part of Little Rock.

216. Linda Chesterfield is a member of the Arkansas State Senate.
217. Senator Chesterfield is an African American.
218. Senator Chesterfield was elected to the State Senate from old Senate District 34.
219. Senator Chesterfield resides in new Senate District 30.
220. New Senate District 31 has a total African population of 61.53%.
221. New Senate District 31 has a BVAP of 58.26%.
222. New Senate District 31 is in Pulaski County.
223. New Senate District 31 includes part of Little Rock.
224. Joyce Elliot is a member of the Arkansas State Senate.
225. Senator Elliot is an African American.
226. Senator Elliot was elected to the State Senate from old Senate District 33.
227. Senator Elliot resides in new Senate District 31.
228. Whereas African Americans made up about 66% of the total population of 2001 District 16, and about 61% of its voting-age population, the areas of Crittenden County in 2011 District 24 that were not in 2001 District 16 are about two-thirds White. The following table shows the approximate numbers:

Table 3 – Crittenden County Whites Added

Total Population

	Population	White	Black	White %	Black %
District 16					
Crittenden	19,864	3,410	16,101	17%	81%
Added	31,038	20,036	9,950	65%	32%
District 24					
Crittenden	50,902	23,446	26,051	46%	51%

Voting-Age Population

	18+Pop	White	Black	White %	Black %
District 16					
Crittenden	13,421	2,888	10,309	22%	77%
Added	22,672	15,371	6,654	68%	29%
District 24					
Crittenden	36,093	18,259	16,963	51%	47%

229. A voting-age population of approximately 11,952 in St. Francis County that had been included in 2001 District 16 is not included in 2011 District 24.

230. Senator Crumbly resides in St. Francis County.

231. District 24 has the largest population of any Senate district: 87,147, which is 3,835, or 4.6%, more than the target size.

232. The 2010 Census figures for 2001 District 16, 2011 District 24, and Jeffers_01 District 24 are shown in the following table:

Table 6 – Population by Race: 2001 Dist. 16, 2011 Dist. 24, Jeffers_01 Dist. 24

Total Population

	White	Black	White %	Black %
2001 District 16	21,622	45,252	31%	66%
2011 District 24	35,227	49,716	40%	57%
Jeffers_01 District 24	27,397	52,657	33%	64%

Voting-Age Population

	White	Black	White %	Black %
2001 District 16	18,183	30,602	36%	61%
2011 District 24	28,132	33,137	45%	53%
Jeffers_01 District 24	22,823	35,749	38%	59%

233. Plaintiffs’ proposed plan, Jeffers_01 (Doc. 1-1), has a BVAP of 59.49%. It has a lower population deviation than 2011 District 24 (-1,105 or -1.33% vs. 3,835 or 4.60%). It splits the same number of counties (4) as 2001 District 16 and 2011 District 24 do.

234. Plaintiffs' proposed plan, Jeffers_03 (Doc. 28-5), has a BVAP of 58.41%. It is a statewide plan, but impacts only one other district—Senate District 23. Jeffers_03 District 24 has a lower population deviation than 2011 District 24 (867 or 1.04% vs. 3,835 or 4.60%). District 24 splits the same number of counties (4) as 2001 District 16 and 2011 District 24 do. Jeffers_03 District 23 splits fewer counties (5) than 2011 District 23 does (6).

235. State Representatives Jerry R. Brown, Clark Hall, and Keith Ingram are all White Democratic incumbent State Representatives residing in 2001 Senate District 17 during their 2011-12 term.

236. Representatives Brown and Hall are serving their third term in the House, and thus are term-limited from running for the House again in 2012.

237. Senator Jim Luker is serving his third term in the Senate, and thus is term-limited from running for the Senate again in 2012.

238. Representative Keith Ingram is currently serving his second term in the Arkansas House of Representatives, and thus is not term-limited from running for the House again in 2012.

239. The 2011 Senate plan for Districts 23 and 24, as drawn by Defendant Board of Apportionment, places Representative Jerry R. Brown in the successor to 2001 District 17, which is 2011 Senate District 23.

240. Representatives Hall and Ingram reside in Senate District 24, along with Senator Crumbly.

241. On September 14, 2011, Representative Jerry R. Brown announced his intention to run for the Arkansas Senate from District 23.

242. On October 17, 2011, Representative Clark Hall announced his intention to run for Congress from the First Congressional District.

243. On January 16, 2012, Representative Keith Ingram announced his intention to run for the Arkansas Senate from District 24.

244. Crittenden County has 58% of the voting-age population of Senate District 24 (36,093 out of 62,666).

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