

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

FUTURE MAE JEFFERS, et al.

PLAINTIFFS

vs.

No.: 2:12-CV-16-JLH

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

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW BY SEPARATE  
DEFENDANT SECRETARY OF STATE MARK MARTIN**

**FINDINGS OF FACT**

1. On February 9, 1990, a three judge panel of the federal courts found a violation of the Voting Rights Act by the State of Arkansas and ordered that Crittenden County be divided to create a new state senate district in which African Americans have an equal opportunity to elect representatives of their choice. The result was the creation of Senate District 30 which included the Southern part of Crittenden County combined with portions of Cross, Lee, Phillips, and St. Francis Counties. Senate District 30 is the predecessor to the current Senate District 24.

2. The predecessor 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).

3. In 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% and was elected to the newly created Senate District 30. Mr. Lewellen was the African American candidate and Paul B. Benham was the white candidate.

4. 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%.

5. 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.

6. 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).

7. 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. Both candidates were African American.

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

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

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. Steve Higginbothom was a white candidate.

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) and reduced the black voting age population to 55.48%, according to the 2000 Census.

14. 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. Alvin Simes is African American.

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, an African American, 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. Subsequently, Steve Higginbothom did not run for reelection and Jack Crumbly was elected as state senator for Senate District 16 in the 2006 primary contest against two other African American candidates.

18. Senator Crumbly was reelected in 2010.

19. After the 2010 census, the Arkansas Board of Apportionment in a 2 to 1 vote adopted a senate redistricting plan that created a new senate district comprised of all of Crittenden County and parts of Lee, Phillips and St. Francis counties. The new senate district was named Senate District 24.

20. Governor Mike Beebe and Attorney General Dustin McDaniel voted for the plan and Secretary of State Mark Martin voted against the plan.

21. Senate District 24 has a BVAP of 52.8%.

22. The new Senate District 24 added approximately 30,000 residents in North Crittenden County, mostly white residents.

23. The new Senate District 24 split St. Francis County and by doing so removed approximately 7,000 African American residents from the district.

24. The Board of Apportionment had received at least two alternative plans from Senator Jack Crumbly and Secretary of State Mark Martin which would have created a BVAP in the new senate district of 57.2% and 56.1%, respectively.

25. The proposed senate district of Secretary Mark Martin had a BVAP of 56.1% for the area that most closely reflects the boundaries of old Senate District 16 and new Senate District 24. The proposed senate district of Martin did not unify Crittenden County and satisfied the other redistricting standards of minimal population deviation, geographic compactness and maintaining community of interests.

26. In the creation of Senate District 24, Governor Beebe had a priority of avoiding an elongated district that combined White County with Crittenden County.

27. Attorney General McDaniel acquiesced and ultimately supported the priorities of Governor Beebe.

28. The result of this priority of Beebe and McDaniel was the addition of North Crittenden County to Senate District 24, which had the effect of reducing the BVAP in the entire district as compared to the former Senate District 16.

29. Racial polarized voting is part of the history of electoral politics in the Delta and it continues to the present.

30. African Americans are sufficient in population to constitute a majority of people in a compact geographic area that comprised old Senate District 16 and makes up the new Senate District 24.

31. Legislative primary races are the most endogenous and reliable indicators in determining the extent of racial bloc voting.

32. The opinions of Dr. Lisa Handley on whether voting in the Delta counties of Arkansas is racially polarized are based upon the commonly accepted techniques of analysis and her finding of racially polarized voting is accepted.

33. The methodology of Dr. Lisa Handley includes a complementary review of three statistical techniques: homogeneous precinct analysis; bivariate regression; and ecological inference. The methodology employed by Dr. Handley is generally accepted by experts in the field and the first two methods have been relied upon by the Courts.

34. In every election contest analyzed by Dr. Handley, the voting is consistently racially polarized and when the contest is racially polarized, the minority candidate usually loses.

35. Secretary of State Mark Martin did not act with the intent to discriminate based upon race and the claim of intentional discrimination against Secretary Martin was dismissed at the conclusion of the Plaintiffs' case.

### **CONCLUSIONS OF LAW**

1. The Plaintiffs have established a violation of Section 2 of the Voting Rights Act by the actions of the Board of Apportionment in adopting a senate redistricting plan that dilutes black voting age population to the extent that African Americans are deprived of an equal opportunity to elect candidates of their choice in new Senate District 24.

2. The Plaintiffs are entitled to relief from the Court in order to remedy this voting rights violation. The Board of Apportionment should be directed to redraw senate district lines in a way that creates an effective majority minority district.

3. In order to constitute an effective majority minority district in the area of Senate District 24 the black voting age population must be in excess of 56%.

4. A special election should be held on or before the general election date in November of 2012 in order to provide the voters of Senate District 24 with the equal opportunity to elect candidates of their choice.

Respectfully submitted,

/s/ Asa Hutchinson

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**CERTIFICATE OF SERVICE**

I, Asa Hutchinson, hereby certify that on May 15, 2012, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the listed CM/ECF participants as follows:

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