

Exhibit G



FLORIDA STATE CONFERENCE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Adora Obi Nweze
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Turner Clayton
1st Vice President

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Pat Spencer
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T.H. Poole
President Emeritus

Leon Russell
Vice Chairman, NAACP
Immediate Past President

August 7, 2014

VIA E-MAIL

Rep. Richard Corcoran, Chair
214 House Office Building
402 South Monroe Street
Tallahassee, FL 32399-1100
(850) 717-5037
Richard.Corcoran@myfloridahouse.gov

Re: Florida legislature's special session on redistricting

Dear Representative Corcoran and members of the House Select Committee,

The Florida State Conference of NAACP Branches submits the following letter outlining its positions on the special session commencing this week to craft a remedial congressional redistricting plan. The action your committee is about to take is of the utmost importance to the Florida NAACP and this committee and the legislature as a whole must pay close attention to ensure that the rights of voters of color in North Central Florida are not harmed in any way by the redistricting plan that results from this special session.

As background information, in 2012, the Florida NAACP intervened as a defendant in Article III, Section 20, litigation to defend Congressional District 5—an African-American opportunity district created in the 1990s as a result of a Voting Rights Act lawsuit brought by the Florida NAACP. As you likely know, the Florida NAACP has over 11,000 individual members and is comprised of 67 local branches throughout the state. Like the National NAACP, the mission of the Florida NAACP is the advancement and improvement of the political, educational, social and economic status of minority persons, including African-Americans; the elimination of racial prejudice; the publicizing of negative effects of discrimination; and the initiation of litigation to secure the elimination of discrimination on the basis of race or ethnicity. The Florida NAACP has participated actively in litigation on behalf of minority voters in Florida, including earlier redistricting litigation. *See, e.g., Pleus v. Crist*, 14 So. 3d 941 (Fla. 2009); *Florida State Conference of the NAACP v. Browning*, 522 F.3d 1153 (11th Cir. 2008).

Following the 1990 decennial census, Florida was entitled to an additional four Congressional seats, for a total delegation of 23 members. *De Grandy v. Wetherell*, 794 F. Supp. 1076, 1078 (N.D. Fla. 1992). No African American had

been elected to Congress from Florida since Reconstruction. *Id.* at 1079. When the legislature could not agree on a congressional redistricting plan, the Florida NAACP, along with other plaintiffs, filed suit in federal court, and asked the court to remedy the vote dilution present in the state for decades by drawing a majority-black district in north-central Florida. *Id.* at 1086. Congressional District 3 was the result. *Id.* at 1088. The Florida NAACP would continue to defend CD 3 later in the decade against racial gerrymandering charges. *Johnson v. Mortham*, 926 F. Supp. 1460 (N.D. Fla. 1996).

After the 2000 census, the Florida NAACP likewise continued to defend the need for a majority black district in north-central Florida. In ensuring litigation, a Florida federal court upheld CD 3, the preceding version of CD 5, as a reasonably compact district that ensured that black voting strength in north-central Florida was not diluted. *Martinez v. Bush*, 234 F. Supp. 2d 1275, 1307-09 (S.D. Fla. 2002).

The Florida NAACP thus has a demonstrated interest in protecting political participation of black voters in the state and, more specifically, protecting the ability of black voters in North Central Florida to elect the candidate of their choice. This commitment underpinned the 2010 decision of the Florida NAACP to publicly support Amendments 5 and 6, which imposed on the Florida legislature specific criteria to be employed in redrawing congressional and state legislative electoral districts.¹ The position of the Florida NAACP has always been that the first tier of Amendments 5 and 6 embed in the state constitution the protections of Section 2 and Section 5 of the Voting Rights Act (VRA), applicable to the entire state. As such, the Florida Constitution now prohibits congressional redistricting plans that would dilute the opportunity for voters of color to participate in the political process, and it prohibits changes to redistricting plans that would diminish the ability of minority voters to elect the candidates of their choosing. The Florida NAACP took the explicit position that the Amendments would “give Florida’s minority voters even more protection than they presently have under the federal Voting Rights Act.”² That is, districts that might not be compelled under the Federal Voting Rights Act could nonetheless be compelled by the voting rights provisions in the state constitution.

When interpreting in 2012 the analogous constitutional provision governing legislative redistricting, the Florida Supreme Court essentially agreed with the Florida NAACP. The Supreme Court recognized that the voting rights language in the amendments does indeed mirror federal voting rights protections and establishes those protections as state constitutional law. That is, the protections of Section 2 and Section 5 of the Voting Rights Act now have an independent basis in state law, and apply to the entire state of Florida, and the Florida Supreme Court has indicated that federal voting rights law is instructive as a starting point for analyzing challenges under these constitutional provisions. *In re: Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597, 620 (Fla. 2012) (“*Apportionment I*”).

With all of this in mind, the Florida NAACP intervened in litigation under the new constitutional provisions when Congressional District 5 was attacked as violating the state

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constitution's compactness requirement and being needlessly "packed" with black voters. Both accusations were inaccurate. Over the course of a nearly three-week trial in *Romo v. Detzner*, in Leon County Circuit Court earlier this summer, the Florida NAACP put on substantial evidence of the need for a district in North Central Florida—a district that would offer black voters the opportunity to elect their candidates of choice.

Plaintiffs in the *Romo* case have urged a remedial map that essentially places CD 5 in an entirely new area of the state. This is unacceptable, for several reasons.

First, placing CD 5 along the Florida-Georgia border will strand thousands of black voters in central Florida in districts in which they will no longer be able to elect their candidates of choice. Black voters in Orange, Marion, Alachua and other counties have enjoyed substantial benefits from being able to elect their candidate of choice to represent them in Congress. And if the Plaintiffs' in the litigation have their way, these voters will now be deprived of those benefits that accrue from being represented from a person of their choosing. The law does not support Plaintiffs' solution, either. If vote dilution, or the potential for it, exists in one part of the state, then that problem is not and cannot be solved by placing a minority opportunity district in another part of the state. *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 429 (2006) ("The vote-dilution injuries suffered by these persons in one area of the state where vote dilution evidence is accepted] are not remedied by creating a safe majority-black district somewhere else in the State.") (citing *Shaw v. Hunt*, 517 U.S. 899, 917, n. 9 (1996)).

Second, all available evidence in the *Romo* trial and now demonstrates that the potential for vote dilution *does exist* along the corridor of existing CD 5. That district was not created by chance. There exists there a community of interest, and a community that has been hard hit by political exclusion and racialized voting patterns since Reconstruction. Black voters in this region are faced with numerous barriers to political participation, from inadequate public services to constantly-moving polling places. They struggle with the lack of affordable housing, segregated housing and segregated schools, glaring disparities in the criminal justice system, lack of city services, and urban renewal encroaching on affordable housing. Significantly, they face the persistent inability to elect black candidates in local elections. These challenges mean that in this area of the state, a district is still necessary to preserve the opportunity for black voters to participate in the political process. Plaintiffs in the litigation proffered no evidence that such a district is necessary in an entirely different part of the state, which is essentially what their east-west configuration offers.

Furthermore, the Florida NAACP submits for the legislature's consideration the expert report of Dr. Richard Engstrom, one of the nation's leading experts in racial voting patterns. Dr. Engstrom concluded that racially polarized voting was pronounced in the regions encompassing old CD 3/new CD 5. His report is attached to this letter.

Third, Plaintiffs' proposed east-west remedial district, when substituted for the existing north-south district, would diminish the ability of black voters to elect their candidates for choice in violation of the Florida Constitution. The African-American population in this district is somewhat illusory because of the number of prisons in this east-west configuration—with population that cannot vote. Indeed, Dr. Engstrom also concluded that taking the district west

out to Tallahassee would diminish the ability of black voters to elect their candidates of choice.³ Finally, The NAACP's calculations indicated that in both the Romo and Coalition Plaintiffs' proposed remedial maps, for the 2008 general election, white voters constituted 47.15% of the electorate, while black voters constituted only 45.53% of the electorate. In 2012, those numbers were slightly improved, with white voters constituting 46.05% of the electorate and black voters constituting 46.57% of the electorate. But most tellingly, in the 2010 election—a mid-term election without Barack Obama on the ballot, similar to what voters will encounter in 2014—white voters constituted 52.68% of the electorate, while black voters only constituted 41.99% of the electorate. That is, not only is Plaintiffs' proposed district one in which white voters generally control the outcome of the election, it is one where they do so by a substantial margin in off-year elections. In comparison, in enacted CD 5, an analysis of reconstituted 2010 general election turnout indicates that black voters would have constituted a plurality of the electorate in that election. Engstrom Report, at 31. As such, the east-west district cannot be considered a replacement for a version of CD 5 that maintains the north-south configuration, even if such a trade-off were legally acceptable (which it is not).

Judge Lewis' decision in the *Romo* case does seem to require that some minor changes be made to CD 5 during the special session, but it does not require a dramatic reconfiguration of the district. The only attribute of CD 5 that he specifically found fault with was the part of the district in Seminole County. Order, July 10, 2014, at 18. Furthermore, a north-south configuration of the district has been upheld by multiple federal courts as a reasonably compact way to provide black voters in North Central Florida, who have been largely excluded from the political process for over a hundred years, the opportunity to finally elect a candidate of their choosing. The position of the Florida NAACP is unequivocal—a district must be maintained in this area of the state, and the legislature should not dramatically reconfigure the district to have it stretch to Tallahassee instead.

If you have any questions about the information submitted in this letter or its attachments, please do not hesitate to contact us.

Sincerely,

Adora Obi Nweze

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President
Florida State Conference of Branches, NAACP

Leon Russell
Immediate Past President

³In Dr. Engstrom's analysis, the "Romo A" plan that he analyzed is substantially the same district as that proposed by Plaintiffs as a remedial plan.

Cc (w/attachments):

Rep. Charles McBurney, Vice Chair

Rep. Matthew Caldwell

Rep. Travis Cummings

Rep. Larry Metz

Rep. Jose Oliva

Rep. Kathleen Passidomo

Rep. Dana Young

Rep. Lori Berman

Rep. Reggie Fullwood

Rep. Kionne McGhee

Rep. Jose Rodriguez

Rep. Perry Thurston



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August 7, 2014

VIA E-MAIL

Senator Bill Galvano, Chair
326 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100
(850) 487-5026
Galvano.bill.web@flsenate.gov

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Cc w/ attachments:

Sen. Chris Smith, Vice Chair

Sen. Rob Bradley

Sen. Audrey Gibson

Sen. Tom Lee

Sen. Bill Montford

Sen. David Simmons