

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

**MAYTEE BUCKLEY, an individual,
YVONNE PARMS, an individual, and
LESLIE PARMS, an individual,**

CIVIL ACTION NO.:

Plaintiffs

VERSUS

JUDGE _____

**TOM SCHEDLER, in his official capacity as
The Secretary of State of Louisiana,**

MAG. JUDGE _____

Defendant

COMPLAINT

INTRODUCTION

1. Plaintiffs bring this action to challenge the constitutionality of Louisiana's Congressional District 2 as a racial gerrymander in violation of the Equal Protection Clause of the Fourteenth Amendment.

2. Until recently, Louisiana was deemed a covered jurisdiction under the Voting Rights Act of 1965. Accordingly, its congressional maps were subject to preclearance by the federal government.

3. In the name of avoiding retrogression, Louisiana has used Section 5 as a justification to racially gerrymander congressional districts, specifically by packing African-American voters into Congressional District 2 and thereby diminishing their influence in surrounding districts.

4. On June 25, 2013, in *Shelby County v. Holder*, 570 U.S. ____, 133 S. Ct. 2612 (2013), the United States Supreme Court held that the coverage formula provided

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in Section 4(b) of the Voting Rights Act is unconstitutional. As a result, Louisiana is no longer a covered jurisdiction for purposes of Section 5.

5. Louisiana can no longer seek refuge in Section 5 as an excuse to racially gerrymander Congressional District 2. Drawn with race as its predominant purpose, this district cannot pass constitutional muster.

6. Plaintiffs seek a declaration that Louisiana's Congressional District 2 is invalid and an injunction prohibiting the Defendant from calling, holding, supervising, or taking any action with respect to Congressional elections based on the Congressional District 2 as it currently stands.

PARTIES

7. Plaintiff Maytee Buckley is a United States citizen and registered voter in the State of Louisiana. She currently resides in Congressional District 2.

8. Plaintiff Yvonne Parns is a United States citizen and registered voter in the State of Louisiana. She currently resides in Congressional District 2.

9. Plaintiff Leslie Parns is a United States citizen and registered voter in the State of Louisiana. He currently resides in Congressional District 2.

10. Defendant Tom Schedler, Louisiana's Secretary of State, is the chief election officer of the state. He, in his official capacity as Louisiana's Secretary of State, is responsible for preparing and certifying the ballots for all elections, promulgating all election returns, and administering the election laws.

JURISDICTION AND VENUE

11. This Court has jurisdiction to hear Plaintiffs' claim pursuant to 42 U.S.C. §§ 1983 and 1988, and 28 U.S.C. §§ 1331, 1343(a)(3), and 1357. This Court has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

12. A three-judge district court is requested pursuant to 28 U.S.C. § 2284(a), as Plaintiffs' action "challeng[es] the constitutionality of the apportionment of congressional districts" in Louisiana.

13. Venue is proper under 28 U.S.C. § 1391(b).

FACTUAL ALLEGATIONS

14. On April 13, 2011, the Louisiana State Legislature established Louisiana's six Congressional districts, set forth at La. Rev. Stat. §18:1276.1 (hereinafter "2011 Congressional Plan").

15. Between 2000 and 2010, Louisiana's total population grew by 1.4 percent from 4,468,976 to 4,533,372. Louisiana's growth rate was far below the national growth rate of 9.7 percent over the same period. As a result, Louisiana lost one congressional district, reducing its delegation in the U.S. House of Representatives from seven members to six.

16. Before considering congressional redistricting plans in 2011, committees in both houses of the Louisiana State Legislature established various guidelines to govern the redistricting process.

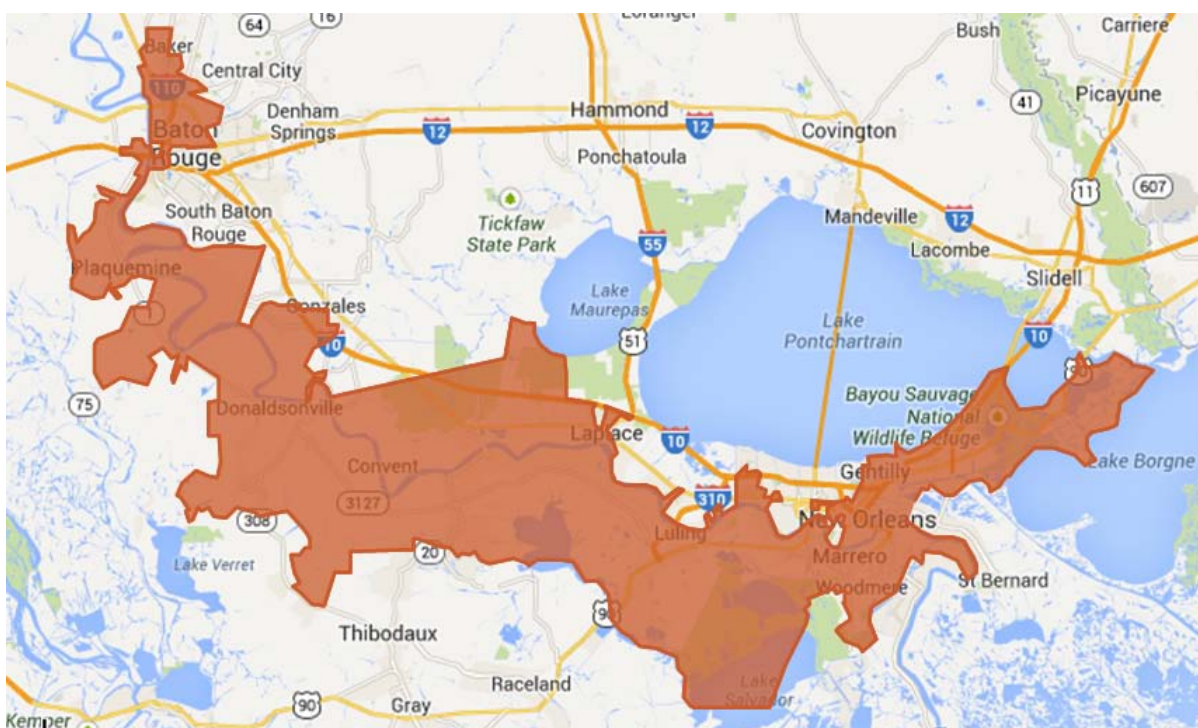
17. Those guidelines provided "minimally acceptable criteria" for consideration of any redistricting plan, including:

- a. "All redistricting plans shall comply with the Equal Protection Clause of the Fourteenth Amendment and the Fifteenth Amendment to the U.S.

Constitution; Sections 2 and 5 of the Voting Rights Act of 1965, as amended; and all other applicable federal and state law.”

- b. “All redistricting plans shall respect the recognized political boundaries and natural geography of this state, to the extent practicable.”
- c. “[D]ue consideration shall be given to,” under the Senate rules, “existing district alignments,” and, under the House rules, “traditional district alignments.”

18. The end result of the redistricting process was the 2011 Congressional Plan, which includes Congressional District 2, shown below.



19. Congressional District 2 includes parts of New Orleans, excluding the western suburbs, and weaves around to Baton Rouge, capturing its western and northern neighborhoods.

20. The shape of Congressional District 2, as redrawn in 2011, is significantly more contorted than it had been under the prior congressional districting plan, adopted in 2001 (“Former Congressional District 2”). Former Congressional District 2 was relatively more compact and did not stretch west of Kenner or Jefferson Parish. Instead, it represented primarily one community: New Orleans.

21. Based on the 2010 Census, current Congressional District 2 has a total African-American population of 62.9%. The African-American voting age population is 59.7%, and 61.6% of the District’s registered voters are African-American.

22. When enacted, Former Congressional District 2 had a total African-American population of 64.8%, and an African-American voting age population of 60.3%. At that time, 60.7% of registered voters were African-American.

23. As both a qualitative and quantitative matter, Congressional District 2 is not compact. Congressional District 2 also disregards key political subdivisions and geographical boundaries and subordinates other traditional districting principles.

24. The shape of Congressional District 2 is bizarre on its face. It snakes up the Mississippi River in southeastern Louisiana, connecting western New Orleans with eastern and northern Baton Rouge. The District starts in New Orleans and Orleans Parish but stops short of the border with Jefferson Parish, leaving part of New Orleans and Metairie in Congressional District 1. It then follows the southern shore of the Mississippi River, hopping across the river to cut Kenner, St. Rose, and New Sarpy out of Congressional Districts 1 and 6 on the north shore. It continues up the Mississippi to include Gonzales, White Castle, Plaquemine, Addis, and Port Allen. The District makes a final jump back over the Mississippi to include eastern and northern Baton Rouge.

25. Congressional District 2's tortured shape further contorts the districts around it. Congressional District 6 surrounds Congressional District 2 on three sides, appearing to shoot Congressional District 2 out of its cragged jaws like a crooked tongue.

26. One widely used measure of compactness is the Reock score, which measures the ratio between the area of the district and the area of the smallest circle that can fit around the district. The Reock scale ranges from 0.0 to 1.0. Districts that have a lower Reock score are generally less compact than districts that have a higher Reock score. Congressional District 2 has a Reock score of 0.18.

27. The Reock score of Congressional District 2 is far worse than it had been before the 2011 Congressional Plan. Former Congressional District 2 had a Reock score of 0.32, almost twice the score of the new district.

28. The Reock score of Congressional District 2 is also far worse than any other district under the 2011 Congressional Plan:

- a.* District 1: 0.46
- b.* District 3: 0.40
- c.* District 4: 0.34
- d.* District 5: 0.37
- e.* District 6: 0.38

The mean Reock score of all six congressional districts is 0.35, nearly double the score of Congressional District 2.

29. Congressional District 2 also violates the redistricting guidelines established by the Louisiana State Legislature. It does not respect the recognized

political boundaries and natural geography of Louisiana. Former Congressional District 2 included parts of two parishes: Orleans and Jefferson. Current Congressional District 2 includes parts of 10 parishes: Orleans Parish, Jefferson Parish, St. Charles Parish, St. John the Baptist Parish, St. James Parish, Assumption Parish, Ascension Parish, Iberville Parish, West Baton Rouge Parish, and East Baton Rouge Parish. Of these, only St. James Parish is located entirely in Congressional District 2. All of the other parishes are split between Congressional District 2 and neighboring districts.

30. Congressional District 2 also divides the cities of New Orleans and Baton Rouge into multiple districts, further disregarding recognized political boundaries.

31. The 2011 Congressional Plan also violates the guideline that “due consideration shall be given to existing district alignments.” Congressional District 2 includes portions of four different congressional districts drawn in 2001.

32. Congressional District 2 subordinates traditional redistricting criteria and violates Louisiana’s redistricting guidelines because the Louisiana State Legislature was primarily motivated by race when it adopted the new boundaries for Congressional District 2. Between 2000 and 2010, the total population and the African-American population of New Orleans decreased. On information and belief, the Louisiana State Legislature cherry-picked African-American neighborhoods in New Orleans and Baton Rouge and packed them into one district. The result is a contorted congressional district based primarily--if not entirely--on race.

33. The decrease in African-American population in Congressional District 6, which is adjacent to Congressional District 2, is further evidence of the Louisiana State Legislature’s racial motivations. Former Congressional District 6 included Baton Rouge

and has now been split between current Congressional Districts 2, 5, and 6. When enacted, former Congressional District 6 had a total African-American population of 33.6%, and an African-American voting age population of 31.7%. At that time, 28.1% of the registered voters were African-American. Current Congressional District 6 now has a total African-American Population of 23.6%--a decrease of almost ten percentage points--and an African-American voting age population of 21.5%. As of 2011, 20.1% of the registered voters in current Congressional District 6 were African-American--a decrease of eight percentage points. Current Congressional District 5, which includes parts of a number of former districts such as Congressional District 5 and Congressional District 6, also increased its African-American population, but the increase did not come from the parishes captured from former Congressional District 6.

34. As of the date of the enactment of the 2011 Congressional Plan, Louisiana was considered a covered jurisdiction under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c. Accordingly, the 2011 Congressional Plan was subject to preclearance by either the United States Department of Justice or the United States District Court for the District of Columbia before it could take effect.

35. On June 2, 2011, the State of Louisiana submitted its submission under Section 5 to the United States Department of Justice.

36. On June 25, 2013, the United States Supreme Court issued its opinion in *Shelby County v. Holder*, 570 U.S. ____, 133 S. Ct. 2612 (2013), holding that the coverage formula provided in Section 4(b) of the Voting Rights Act is unconstitutional. As a result, the State of Louisiana is no longer a covered jurisdiction and need not meet preclearance requirements under Section 5.

37. Upon information and belief, Section 5 preclearance requirements were used as a justification to pack African-American voters into the bizarrely-shaped Congressional District 2.

38. Race was the predominant consideration in the creation of Congressional District 2. No other factor explains the tortured shape of this district, its failure to comply with traditional districting principles, its failure to comply with the Louisiana State Legislature's own redistricting guidelines, or the high concentration of African-American voters in the district.

39. The predominant consideration of race with respect to Congressional District 2 is not justified by a compelling state interest.

40. In particular, in the wake of *Shelby County*, Section 5 cannot justify the use of race as a predominant factor in drawing congressional district lines.

41. Nor can Section 2 of the Voting Rights Act of 1965 justify the use of race as a predominant factor in drawing Congressional District 2. African-American voters in this district are able to elect candidates of their choice without constituting 59.7% of the District's voting age population.

42. Even if there were a compelling state interest to create and maintain Congressional District 2 with race as the predominant factor, Congressional District 2 is not narrowly tailored to achieve that interest. There are other viable and constitutionally permissible alternatives to Congressional District 2.

CAUSE OF ACTION

Violation of the Equal Protection Clause of the United States Constitution

43. Plaintiffs reallege and incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1-42 above.

44. The Fourteenth Amendment of Section 1 of the United States Constitution provides in relevant part: “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

45. Race was the predominant factor in the creation of Congressional District 2.

46. The use of race as the predominant factor with respect to Congressional District 2 is not narrowly tailored to serve a compelling state interest.

47. Accordingly, Congressional District 2 violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

48. Plaintiffs have no adequate remedy at law other than the judicial relief sought here. The failure to temporarily and permanently enjoin the conduct of elections based on Congressional District 2 will irreparably harm Plaintiffs by violating their constitutional rights.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court:

A. Convene a court of three judges pursuant to 28 U.S.C. § 2284(a);

B. Declare that Congressional District 2 under the 2011 Congressional Plan is a racial gerrymander in violation of the Equal Protection Clause of the Fourteenth Amendment;

C. Issue a permanent injunction enjoining Defendant from enforcing or giving any effect to the boundaries of Congressional District 2 as drawn in the 2011 Congressional Plan, including an injunction barring Defendant from conducting any elections for the United States House of Representatives based on Congressional District 2;

D. Hold hearings, consider briefing and evidence, and otherwise take actions necessary to determine and order a valid plan for new congressional districts in the State of Louisiana; and

E. Grant such other or further relief the Court deems to be appropriate, including but not limited to an award of Plaintiffs' attorneys' fees and reasonable costs.

RESPECTFULLY SUBMITTED:

/s/ Christopher L. Whittington
CHRISTOPHER L. WHITTINGTON
Bar Roll No.: 22184
P. O. Box 3035
Baton Rouge, LA 70821-3035
Telephone: (225) 346-8777
Facsimile: (225) 346-0009
Email: chris@whittingtonlawfirm.com

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