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September 17, 2015

The Honorable Robert E. Payne
United States District Court
Eastern District of Virginia
701 East Broad Street
Richmond, VA 23219

Re: *Personhuballah v. Alcorn*, No. 3:13-cv-678

Dear Judge Payne:

I am a Virginia resident in the current 3rd Congressional District ("CD"), and I submit these comments in my capacity as an individual. I have an avid interest in elections and redistricting and have followed the proceedings of this case since 2014. I present for the court a proposed congressional map (attached as Exhibit A) to address the issue of impermissible racial gerrymandering regarding Virginia's 3rd CD while otherwise adhering to the legally permissible original intent of the legislature as much as possible. The main focus of this proposal is to address the packing of black voters into the 3rd CD, which prevents black voters in the adjacent 4th CD from having an equal opportunity to elect the candidate of their choice under the Voting Rights Act.

Since this court's ruling only addressed the unconstitutionality of a single CD, my proposal leaves unaltered a majority of the state's CDs, specifically the 5th, 6th, 8th, 9th, 10th, and 11th CDs. Virginia's current (unconstitutional) map combines two disparate communities of interest, Richmond and the cities of the Hampton Roads region, into the 3rd CD via water contiguity along the James River. This combination is unnecessary to comply with the Voting Rights Act, and dividing these two urban communities into separate districts would greatly enhance the opportunity for black voters to elect the candidates of their choice while diminishing the overriding reliance on race that was present in the legislature's redistricting plan.

To achieve this end, I propose moving 314,724 residents in Charles City County, Henrico County, Prince George County, Petersburg City, and Richmond City from the 3rd CD to the 4th CD. In exchange, 308,112 residents in Isle of Wight County, Southampton County, Sussex County, Chesapeake City, Emporia City, Franklin City, and Suffolk City would move from the 4th CD to the 3rd CD. To ensure that the 3rd CD maintains a Black Voting Age Population ("BVAP") majority in keeping with *Bartlett v. Strickland*, 556 U.S. 1 (2009), my proposal moves 7,090 residents from the 1st CD in Newport News City and 34,899 residents from the 2nd CD in Hampton City, Newport News City, and Norfolk City to the 3rd CD. For the same reason, 8,038 3rd CD residents in Newport News City would move to the 1st CD while and 27,329 residents in Norfolk City would move from the 3rd CD to the 2nd CD.

In total, these changes to the 3rd CD reverse the legislature's increase of the BVAP from 53.1% to 56.3%, when compared to the 2010 benchmark version of the 3rd CD, and result in a BVAP of approximately 50.7%.¹ While this proposed configuration splits 15 Voting Tabulation Districts ("VTDs") as they existed in 2013 between the 3rd CD and its neighbors, these splits are necessary to achieve a BVAP required under *Bartlett* without resorting to the racial gerrymandering of combining distant cities such as Norfolk and Richmond.

Furthermore, the use of split VTDs enables the preservation of counties and independent cities elsewhere, as this map reduces by four the number of divided counties or county equivalents statewide compared to the current map. Moreover, election administrations frequently redraw VTDs between elections, without posing any undue burden on voters. City and county lines, by contrast, are far more rigid political boundaries that affect the fabric of Virginia civil culture. Therefore city and county boundaries deserve a stronger consideration than VTDs when it comes to preserving jurisdictional integrity.

To the west, the redrawn 4th CD would gain 84,749 residents from the 7th CD in Chesterfield County, Henrico County, and Richmond City while moving the remaining 91,361 residents of Chesapeake City to the 2nd CD. As a result, the 4th CD would attain a BVAP of approximately 40.2%, which would give minority voters an equal opportunity to elect a candidate of their choice—namely, a black Democrat. According to my calculations, then-Sen. Barack Obama, himself a black Democrat, would have received 61.3% of the vote in my proposed 4th CD. From this, it is reasonable to conclude that a sufficient number of white voters would vote for minority voters' candidate of choice.

Elsewhere, the remaining districts are reconfigured no more than is necessary to achieve exact population equality. Therefore, 84,749 residents in Fauquier County, King William County, Spotsylvania County, and Fredericksburg City move from the 1st CD to the 7th, while 83,801 residents in Hampton City and Newport News City move from the 2nd CD to the 1st CD. In total, all five altered CDs maintain exactly zero deviation from the target population of 727,366 residents. In keeping with past history of extensive judicial deference to legislative intent regarding the redistricting process, only 1,044,842 residents, or 13.1% of the state total, are moved between districts, and the majority of congressional districts remain completely unchanged.

I believe that my proposal best achieves the court's stated goals with a minimum of disruption. I also believe that alternative plans pose problems of their own. For instance, one could combine Richmond and its suburbs with the rural, heavily black counties in the Southside region into a black-majority 4th CD while uniting the core Hampton Roads cities of Hampton, Newport News, Norfolk, and Portsmouth into a roughly 40% black 3rd CD. However, such a configuration is

¹ I have relied on data provided by Prof. Michael McDonald's Public Mapping Project ("PMP"), which groups blacks who identify as more than one race with blacks who identify as only black. Using this data yields a BVAP of 57.2% for the current 3rd CD, compared to the 56.3% cited by the court, which counts only single-race blacks. That is a difference of 0.9%. According to the PMP's data, my proposed 3rd CD would have a BVAP of 51.6% (which again includes multi-race blacks). Assuming a similar 0.9% difference, the single-race BVAP of my proposed 3rd CD would be approximately 50.7%. More information on the PMP's data is available at <http://www.publicmapping.org/resources/data>.

less optimal than my proposal because: (a) it would represent a much greater departure from the legislature's intent; (b) it would move far more residents between districts; and (c) it would require extensive alternations to the 5th CD, which is left untouched in my proposal.

Another option would shift black residents from the 3rd CD to the 2nd CD in Hampton Roads in exchange for white residents. In theory, such a change would technically resolve the legislature's original problem of relying on a racial threshold without justification, and the changes would not be large. However, such changes would contravene the spirit of the court's holding that the 3rd CD as currently constituted undermines the opportunity of minority voters *outside* the 3rd CD to elect their candidate of choice.

These changes would only increase the 2nd CD's BVAP from 22% to 25%. This small increase would be insufficient to alter the current state of affairs in the 2nd CD, where the white majority consistently votes as a bloc to defeat minority voters' candidate of choice, just as it has done in the past three elections with the election of white Republican Scott Rigell. Such a minimal change is inadequate given the demands of Voting Rights Act jurisprudence, which is why a remedial congressional map must reconfigure the 3rd and 4th CDs sufficiently for the purposes of adequate minority representation, while still respecting the legislature's intent elsewhere.

For your convenience, I have included a USB drive with a copy of this letter; maps of my proposal in electronic format (Exhibit A, also attached to this letter); a GIS shapefile (Exhibit B); a Census block assignment file (Exhibit C); a district-by-district summary of demographic and electoral data (Exhibit D); and an analysis of how citizens would be redistributed from the current set of districts to my proposed districts (Exhibit E).

Sincerely,

A handwritten signature in black ink, appearing to read "Jacob Rapoport". The signature is written in a cursive, flowing style with some loops and flourishes.

Jacob Rapoport