

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

GLORIA PERSONHUBALLAH, et al.,)
)
Plaintiffs,)
)
v.)
)
JAMES B. ALCORN, et al.,)
)
Defendants.)
)
)
)
)
)
)
)

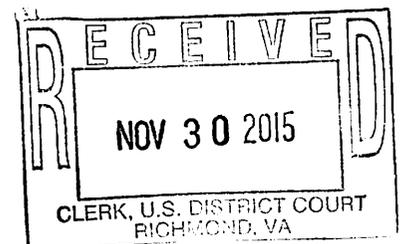
Civil Action No. 3:13cv678 REP/LO/AD

**NON-PARTY DONALD GARRETT STATEMENT OF POSITION REGARDING THE
REPORT OF THE SPECIAL MASTER**

Non-party Donald Garrett (“Garrett”), appearing *pro se*, submits this Statement of Position regarding the Report of the Special Master (ECF No. 272) (the “Report”) under this Court’s Order of October 22, 2015 (ECF No. 263). Garrett objects to the Report because the Special Master did not analyze his redistricting plan that was properly submitted to this Court (ECF No. 238) (“Garrett’s Plan”). Below, Garrett explains the submission of his Plan, responds to the objections raised by other parties, and attempts to analyze his Plan under the framework offered by the Special Master.

Procedural Background of the Submission of Garrett’s Plan

It appears the Special Master analyzed all redistricting plans that were “offered pursuant to the Court’s September 18 deadline” (Report, p.2). Although it was impossible for Garrett of follow the letter of the Court’s Order of September 17, 2015, he followed the spirit of the Order,



which was not objected to by the Clerk of the Court, at least one Judge of the Court, and any of the parties or non-parties that submitted redistricting plans.

This Court's Order of September 17, 2015 directed, "non-parties submitting proposed remedial plans shall file their briefs supporting their respective proposals, along with any accompanying exhibits, through the Court's CM/ECF system" (ECF No. 221). Garrett, as a *pro se* non-party, is unable to use the CM/ECF system, according to the Court's website (See <http://www.vaed.uscourts.sov/ecf/E-Filins%20Resistration.html>). However, in order to comply with the spirit of the Order, he provided a faxed copy of Garrett's Plan to the parties and mailed a copy to the Clerk's Office, who then uploaded it to the CM/ECF system.

The Clerk's Office did not object to this filing and uploaded Garrett's Plan to the CM/ECF system and listed Garrett as an interested party in the system. The parties and interested parties to this case did not object to the submission to Garrett's Plan in their various briefs. In addition, various parties and interested parties to this case served Garrett with documents related to the case. Finally, Garrett received a copy of this Court's Order of September 25, 2015 (ECF No. 241) via USPS mail from one of the Judges overseeing this case. The above examples show that the various stakeholders of this case did not object to the filing of Garrett's Plan; nonetheless, the Special Master failed to even consider it in the Report. Garrett objects to the further consideration of the Report until the Special Master analyzes Garrett's Plan under the criteria the other plans were considered.

The Objections to Garrett's Plan

Although parties and interested parties to this case did not object to the submission of Garrett's Plan, several did object to the merits of it. These objections have no merit and the Court should consider Garrett's plan in lieu of the plan offered in the Report.

Plaintiffs objected to Garrett's Plan on the grounds that it is in violation of 2 U.S.C. §2c, which provides that congressional districts may not "elect more than one Representative" (ECF No. 250, p. 15). Garrett's Plan does not propose multiple Representatives for a single district, instead each of the eleven districts would have one representative each. Although the eleven districts share the same boundaries, this is in line with Federal law.

Intervenor-Defendant Members of Congress objected, "Mr. Garrett, moreover, does not explain how his at-large plan could comply with Virginia's obligations of the Voting Right [sic] Act," citing *Thornburg v. Gingles*, 478 U.S. 30,47 (ECF No. 251, p. 23). Garrett, in his brief in support of his Plan (ECF No. 261), thoroughly explains how his Plan complies with *Thornburg*.

Bull Elephant Media and non-party Fred Hussain object to the idea of at-large representatives (ECF No. 256, p. 37; ECF No. 258, p. 2). Garrett, in his brief in support of his Plan (ECF No. 261), explains the legislative and judicial precedent in favor of at-large representation. Garrett's Plan is *not* a novel idea in the Commonwealth.

Analysis of Garret's Plan under the Special Master's Framework

The Special Master used the following criteria to analyze the proposed redistricting plans: 1) conformity to a standard of one person one vote; 2) avoidance the fragmentation or packing of minority communities; 3) avoidance of the use of race as a predominate criterion; 4) contiguity; 5) avoidance of splitting cities and counties into multiple districts; and 6) compactness (ECF No. 272, pp. 8-10).

Garrett's Plan exceeds the plan proposed by the Special Master in each of these six categories. All eleven districts in Garrett's Plan have exactly equal popularity, are perfectly contiguous and compact, and splits *zero* cities and counties into multiple districts. Bull Elephant Media agrees with this assertion. *Bull Elephant Media Brief*, ECF No. 256, p. 37 ("The plan, by

its nature, excels at equalization, preserving political boundaries, avoiding the use of race, compactness, and contiguity.”). Garrett’s Plan also does not “pack” or “split” minority communities in an effort to dilute their voting power and does not use race as a predominate factor in crafting the plan. The plan proposed by the Special Master splits localities into separate districts and has an irregular shape for the third district.

Conclusion

In conclusion, Garrett asks this Court for an Order accepting his Plan in lieu of the Plan proposed by the Special Master or for an Order delaying the further consideration of the Special Master’s Report until the Special Master analyzes his plan.

Respectfully submitted,



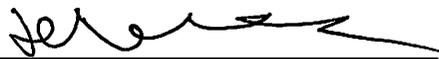
Donald Garrett, *pro se*
5792 First Landing Way
Burke, Virginia 22015
804-349-8553
dgarrett@masonlive.gmu.edu

CERTIFICATION

I declare under penalty of perjury that:

- (1) No attorney has prepared, or assisted in the preparation of this document.

Donald Garrett
Name of *Pro Se* Party (Print or Type)



Signature of *Pro Se* Party

Executed on: 11/22/2015

Certificate of Service

I certify, under penalty of perjury, that on November 22, 2015:

- 1) A copy of the above memorandum was mailed for filing to the Clerk of the Court;
- 2) I served the following a copy of the above memorandum by electronic mail, after

receiving written consent to do so under Rule 5(b)(2)(E) of the Federal Rules of Civil Procedure:

John Michael Devaney (jdevaney@perkinscoie.com)
Marc Erik Elias (melias@perkinscoie.com)
Kevin John Hamilton (khamilton@perkinscoie.com)
Mark Buchanan Rhoads (mrhoads@lawmh.com)
John Kuropatkin Roche (jroche@perkinscoie.com)
Counsel for Plaintiffs

Trevor Stephen Cox (tcox@oag.state.va.us)
Mike Melis (mmelis@oag.state.va.us)
Stuart Alan Raphael (sraphael@oag.state.va.us)
Counsel for Defendants

Mark Robert Lentz (mrlentz@jonesday.com)
Michael Anthony Carvin (macarvin@jonesday.com)
John Matthew Gore (jmgore@jonesday.com)
Counsel for Intervenor-Defendants

Carlos LeMont Hopkins (carlos.hopkins@governor.virginia.gov)
Noah Patrick Sullivan (noah.sullivan@governor.virginia.gov)
Counsel for Governor of Virginia

Efrem Mark Braden (mbraden@bakerlaw.com)
Frederick W. Chockley, III (fchockley@bakerlaw.com)
Jennifer Marie Walrath (jwalrath@bakerlaw.com)
Counsel for Members of the House of Delegates

Paul Prados (pprados@pradoslaw.com)
Counsel for Bull Elephant Media, LLC

Gregory E. Lucyk (gglucy@comcast.net)
Counsel for OneVirginia2021

Jacob Rapoport (rapoportjacob@gmail.com)
Interested Party, pro se; and

3) A copy of the above memorandum was mailed to the following:

Richmond First Club
Cherry Peters, President
6107 Robin Road
Richmond, VA 23226
Interested Party

Senator J. Chapman Petersen
P.O. Box 1066
Fairfax, VA 23038
Interested party

David O. Prince, Esquire
411 East Franklin Street
Richmond, VA 23219
Counsel for Virginia NAACP



Donald Garrett, *pro se*
5792 First Landing Way
Burke, Virginia 22015
804-349-8553
dgarrett@masonlive.gmu.edu