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ELECTIONS

Alabama's redistricting brawl rehashes bitter fight over voting rights

A federal court directed lawmakers to draw two majority Black districts or “something quite close to it.” The GOP-dominated legislature’s maps don’t do that.



Alabama Attorney General Steve Marshall sent a letter to the redistricting committee earlier this month arguing that adopting a map “which race predominates” could violate the Equal Protection Clause. | Alex Wong/Getty Images

By ZACH MONTELLARO
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A court ordered Alabama’s Legislature to redraw its congressional map to give Black voters more power.

The Legislature’s response? Not unless we have to.

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“We are the ‘make me state,’” said Democratic state Rep. Chris England, a member of the redistricting committee. “Throughout our history, we are more than willing to be forced to do the right thing by the courts.”

The GOP-dominated Legislature passed a map on Friday that disregarded a lower federal court’s directive — [one reinforced in June by the Supreme Court](#) — that it should include two districts with a Black “voting-age majority or something quite close to it” when it redraws its lines. The legislature, over the unified objections of Democrats, instead came up with a map that falls short of that, with one narrowly Black-majority district and one with a Black voting age population of just under 40 percent, even as Republicans argue they are in adherence.

“I believe this map is an opportunity map and would comply with Section 2 of the Voting Rights Act,” state House Speaker Pro Tempore Chris Pringle, a Republican who co-chaired the Alabama redistricting committee, said of the

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candidate of their choosing,” and when pushed, added “when you add function on top of that, it could work.”

The final map is bound for a fresh round of litigation that must move quickly ahead of the 2024 election.

Republican-dominated legislatures in the South have looked to circumvent racial gerrymandering provisions in the Voting Rights Act for decades, arguing that they have partisan reasons for drawing their lines that ultimately result in less minority representation across the South. Indeed, if Alabama redraws another Black-majority district, Democrats would likely gain a seat, cutting into House Republicans’ razor-thin majority.

Stuart Naifeh — the manager of the redistricting project at the Legal Defense Fund, the civil rights organization that was involved in the initial lawsuit — said the legislature is prioritizing “incumbent protection.”

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“The goal of protecting incumbents is inconsistent with the goal of ensuring that Black voters have an opportunity to elect candidates of choice,” Naifeh said, “and the legislature seems to be thumbing their nose at the district court’s order.”

The weeklong special session where the GOP-dominated legislature arrived [at its new map](#) was [rushed](#) and exposed a rift even among Republicans.

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same day, the Senate passed a map with an even lower Black population in the second district: 38 percent. On Friday morning, both chambers again passed their own versions of the map lines, triggering a stalemate. But Republican lawmakers in both chambers on a conference committee that convened after that deadlock quickly introduced and approved [the third and final map](#) with one majority-Black district and a second district where the Black voting age population fell in between the Senate and House maps, at just under 40 percent. GOP supermajorities in both chambers rubberstamped the lines Friday afternoon.

If Republicans had not passed a map by Friday, the lower court that threw out the districts in the first place would have directed a court-appointed expert to draw the lines instead.

National Republicans have also focused in on the process. In a response to a question from POLITICO earlier this week, House Speaker Kevin McCarthy confirmed that he had spoken to Alabama Republican lawmakers as they were drawing the map.

“I have talked to a few,” he said on Wednesday. “I’d like to know where they’re going to go.”

The looming legal battle to challenge the new lines will take place soon. The plaintiffs have until next Friday to file their objections to that map with the lower federal court, and they have already signaled they would do so. A hearing will likely be held on Aug. 14. The state told the court last year that a map needs to be in place “by early October” to give election officials — and candidates — enough time to prepare for next year’s early March primary.

Some Republicans have suggested drawing two majority Black districts could also wind up in court. A [memo from the National Republican Redistricting Trust](#) — the party’s redistricting arm — to the state redistricting committee argued that the legislature need not draw two majority Black districts.

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Adam Kincaid, the executive director of the NRRT, said in an interview that the Supreme Court's recent decision that upheld the lower court order was one that maintained the "status quo" of decades of precedent in Voting Rights Act enforcement. He argued that the proposed remedies from the lower court "would be a significant shift for VRA enforcement."

"I don't think that's where the [Supreme] Court is," he added.

The memo also alluded to the possibility of a "reverse discrimination" lawsuit if the legislature enacted "a new redistricting plan on the basis of race to create a second majority-minority district."

Democrats derided the new map as a sour grapes attempt to hold on to power, and one that was doomed to fail. Marina Jenkins — the executive director of the National Redistricting Foundation, which is an arm of the Democratic Party's main redistricting organization — said Republicans are playing "a game of chicken with the court."

Yet Republicans are eager for the fight. After the Supreme Court's ruling last month, state Attorney General Steve Marshall [said that while the decision was "disappointing,"](#) the "case is not over" and that the state would ultimately be vindicated.

POLITICO**for second majority Black House district**

BY ASSOCIATED PRESS | JULY 17, 2023 04:39 PM

Marshall also [sent a letter to the redistricting committee](#) earlier this month arguing that, in light of the Supreme Court's recent decisions ending affirmative action in college admissions, adopting a map "which race predominates" could violate the Equal Protection Clause. His memo is an early sign of arguments some conservatives could make in future litigation that could ultimately look to chip away at the Voting Rights Act once again.

And some Democrats fear that this new map is merely a pretense for Republicans to do just that. "I think this is another attempt to use something that's clearly non-compliant and illegal to either run the clock out to force us to use the illegal map [in 2024] ... or to take another stab at allowing the Supreme Court to accept their map and get rid of Section 2 of the Voting Rights Act," said England.

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