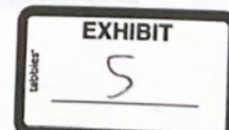


**TRANSCRIPT OF
REAPPORTIONMENT COMMITTEE
MEETING
OCTOBER 26, 2021**



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Transcript by TransPerfect

MALE 4: Yeah, we can see it. Not the small one where we don't know what it's touching and what it's doing, but actually a large one that deals which shows the precincts.

MR. CHAIRMAN: The map is on the board, ladies and gentlemen, I'm hoping the people online can see it. Can they see the map online?

MALE 5: Yes.

MR. CHAIRMAN: These maps are drawn in this room using the staff here and our lawyer that we've hired has done redistricting for 25 years, has worked with us and told us that he thinks these maps comply with section to the Voting Rights Act and the Fourteenth Amendment to the Constitution.

REPRESENTATIVE ENGLAND: Can you explain it now?

MR. CHAIRMAN: I'm not the attorney, but Dorman Walker sat here and went through every one of this our attorney. You know Dorman, he's done this for 25 years.

[OVERLAY]

REPRESENTATIVE ENGLAND: Again, can I say that I was appointed to this committee.

MR. CHAIRMAN: Yeah.

REPRESENTATIVE ENGLAND: You stated that it complies with the Voting Rights Act. You also stated that it complies with the Fourteenth Amendment Equal Protection, so I'm asking you how. I just want to make this -- that's obviously --

[OVERLAY]

MR. CHAIRMAN: Okay, representative. That's fine, let's do this.

REPRESENTATIVE ENGLAND: That's a very component of this.

MR. CHAIRMAN: I understand that and I see where you're going and let's do this. You tell me where it doesn't, how's that?

REPRESENTATIVE ENGLAND: First and foremost, if we didn't do a racial polarization study you don't know how it applies. I'll ask you this question, you and the attorney that you consulted, have you all done a racial polarization study?

MR. CHAIRMAN: Yeah, the guy in Georgia did one. It was sent to him Friday and he came back.

REPRESENTATIVE ENGLAND: So, who's the guy in Georgia? Can we see the results of that study?

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MR. CHAIRMAN: The attorney has hired a consultant out of Georgia and he's looked at it.

REPRESENTATIVE ENGLAND: Can we—

MR. CHAIRMAN: There's nothing that's going to be hidden. We're getting it to you as fast as we have it of course.

REPRESENTATIVE ENGLAND: Okay.

MR. CHAIRMAN: We don't have it. You understand, I had to do 28 public hearings. I had to meet with 105 house members, 35 senators, seven members of congress and eight members of the schoolboard and many of these people we met with multiple, multiple times to try and work this out, all in a very short period of time. We didn't have the luxury they had a couple of years ago, having two years to do this. We had about three months.

REPRESENTATIVE ENGLAND: I could understand your frustration, but as the Chair, you're in charge with the responsibility of answering these questions.

MR. CHAIRMAN: Yeah.

REPRESENTATIVE ENGLAND: So, I sympathize with the smaller shortened timeframe, but I do still get as a response -- as part of my responsibility as being a member of this committee is to ask these questions and to get answers because I'm not just asking for me. Because remember, the entire State of Alabama, the first time they lay my eyes on this map was yesterday. I think it's pretty legitimate for us to have these questions since we could not get access to this information before. One of the ways --

[OVERLAY]

MR. CHAIRMAN: The first time I saw it was yesterday too.

REPRESENTATIVE ENGLAND: That makes me feel worse, but to be quite honest with you. So, you ask me, I'll point out just that one thing. I need you to help me understand if a racial polarization study was done. I need to know who did it. I need to know what the results are, so I can tell you if I believe that one that matches up with the standards that have been set by federal courts in the Supreme Court, because very recently we had issues with the Supreme Court. We just lost the lawsuit behind some of this stuff, so I need to have something so I can draw some comparative analysis between the two. So, on record, you're telling me that a racial polarization study has been done?

MR. CHAIRMAN: Our attorney looked at it and assured us that we are in compliance with Section 2 of the Voting Rights Act.

REPRESENTATIVE ENGLAND: The question I asked you, you're assuring me right now that a racial polarization study has been done?

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MR. CHAIRMAN: According to my attorney, yes.

REPRESENTATIVE ENGLAND: Okay.

MR. CHAIRMAN: According to the committee's attorney.

[00:20:00]

It's the attorney that's done reapportionment for 25 years.

REPRESENTATIVE ENGLAND: Okay. And you can provide that information to us so we can draw an analysis between the maps, the numbers and the study?

MR. CHAIRMAN: I have no problem when you look at all of our reports.

REPRESENTATIVE ENGLAND: All right. You said also that this map was prepared here in-house?

MR. CHAIRMAN: Yeah, it was drawn right here in this room.

REPRESENTATIVE ENGLAND: All right.

MR. CHAIRMAN: I mean, you sat here with us, and I know several times why we drew these maps.

REPRESENTATIVE ENGLAND: No. Actually, I've only seen my district up until yesterday when I got the maps.

MR. CHAIRMAN: No. I sat here when you're on a call.

REPRESENTATIVE ENGLAND: No. On that call, we looked at my district.

MR. CHAIRMAN: Yeah.

REPRESENTATIVE ENGLAND: Period. I haven't seen a map. This is the first time I've actually seen a physical copy of the map since yesterday. Now, that I've answered your question, can you answer mine? What other ways does this map --

MR. CHAIRMAN: Let me report. On district seven, there was not a functional analysis done on it simply because it was drawn blind, the race was turned off on the drawing, and after the district was drawn and we looked at the black voting age population, it was determined there was no reason to do an analysis on it.

REPRESENTATIVE ENGLAND: So, you have not done analysis on that?

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MR. CHAIRMAN: I just found out seven because of the BVAP, no analysis was deemed necessary.

REPRESENTATIVE ENGLAND: So, we don't know if it complies with the Voting Rights Act just based on an attorney's opinion?

MR. CHAIRMAN: Yeah. I mean, it complies.

REPRESENTATIVE ENGLAND: We don't know that.

MR. CHAIRMAN: Well, the attorney that his committee hired says it does.

REPRESENTATIVE ENGLAND: But he also didn't do what's necessary to figure that out. Interestingly enough, the only district –

MR. CHAIRMAN: The BVAP of that district is 54.2%.

REPRESENTATIVE ENGLAND: But again, the study demonstrates how much of that actual percentage is a voting percentage. So, there's a difference between just throwing out a percentage and actually knowing if that's functional or not. And also, interestingly enough, the Seventh Congressional District is the only district that splits counties. Is there a particular reason for that?

MR. CHAIRMAN: That's not true. I just told you, I just run off of the county to split.

REPRESENTATIVE ENGLAND: There's one in District One, you have one in the Escambia County?

MR. CHAIRMAN: No. Lauderdale is split between four and five, Tuscaloosa is split between four and seven, Jefferson is split between six and seven, Chilton is split between three and six, Montgomery is split between two and seven, Escambia is split between one and two.

REPRESENTATIVE ENGLAND: I'm sorry.

MR. CHAIRMAN: Every district has at least one split.

REPRESENTATIVE ENGLAND: I'll rephrase. Seven has the most splits. That correct?

MR. CHAIRMAN: One, two, three. Yes, sir.

REPRESENTATIVE ENGLAND: All right. Is there any particular reason why seven has the most splits?

MR. CHAIRMAN: No. Because four has got two, two has two, three has one, and one has one.

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SENATOR MCCLENDON: I don't have a bill before you because I can't get a bill draft until after it comes out to LSA, and I can't see anything to LSA until it comes out of here.

SENATOR SMITHERMAN: Unless I'm going to be on what -- we vote now. Whether we vote now today. I would like for it to be vetted the same way that you said that it could be vetted in those committees. Why? One of the main reasons we are supposed to have the experts in here. Our reapportionment director will not be on the floor. If it's not a public hearing, she cannot come on the senate floor. This lawyer cannot come on the senate floor itself. This is where the work has to be done to answer those questions in this committee. Not out there. You all know the rules. I don't have to even speak them. The people can't come out there. They are going to be out there. It's going to be somebody at the mic going to be saying the same thing. Well, they did it. And the answer is goes they did it. I would like to know how you came about it. Whatever the process to get to what you said that they say, "Okay to." And this is the place that it should be done right in here, and that's all that I'm asking. The exposure of the process and information be brought out in here so questions and follow up questions can be addressed to that information.

SENATOR MCCLENDON: Yes, Ms. Hall.

REPRESENTATIVE HALL: I needed to go back to make sure I have the correct information as relates to what you said about the racially polarized voting study that was done. Did you say it was done?

SENATOR MCCLENDON: Because of the black age voting population in Congressional District 7, there was not one needed because it was over 54% black voting age population.

REPRESENTATIVE HALL: So you're saying that we don't have a black, we don't have a polarization, racially polarization study?

SENATOR MCCLENDON: None. Because the voting age is 54. What is it? I got it right here.

REPRESENTATIVE HALL: And you use District 7 as the basis for not having such a study done?

SENATOR MCCLENDON: The black voting age population of the district is sufficient enough to where you don't need a study done on it.

REPRESENTATIVE HALL: Are you saying that would not be a part or should not have been a part of this process?

SENATOR MCCLENDON: Once we drew the process, once we drew the plan with no race on the computer --

[00:45:00]

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-- then after the plan was drawn, we turned on the race and we looked at District 7 and saw that it had a black voting age population that was sufficient enough to not require an analysis. And we put any more African-Americans on the race. We're afraid we'd be sued for packing.

REPRESENTATIVE HALL: So that was just District 7. What about the other districts? If we did those on these, I really would like -- I was trying to get that information. I'd like to have that information. I'm requesting that information.

SENATOR MCCLENDON: The demographics of the district. Yeah. It's right here, it's in your folder.

REPRESENTATIVE HALL: So you're saying the data that we have makes of the --?

SENATOR MCCLENDON: Yeah. Here's the data right here. It's in your folder. It shows you the percentage of African-Americans of whites, the 18 plus populations, everything. It tells you to give you all that information.

REPRESENTATIVE HALL: I just want to make sure what you're saying that the data that we're receiving here today on each one of the districts provides us the data that we would have received or that would be received as a part of a racial polarization voting study.

SENATOR MCCLENDON: I'm being told that at 54 plus percent of the African-American vote, it was high enough not to warrant a polarization study. It was a majority-minority district.

REPRESENTATIVE HALL: And that came from our attorney or the committee's attorney?

SENATOR MCCLENDON: Yes. That came from the committee's attorney. Yes, ma'am.

REPRESENTATIVE HALL: And so, at this point, we do not have that.

SENATOR MCCLENDON: Not on District 7. No, ma'am. Yes. Chris. The representative of England, I'm sorry.

REPRESENTATIVE ENGLAND: All right. You're referring to that -- as if the District 7 was the only district that you did not do that on. So did you do that on other districts?

SENATOR MCCLENDON: We have the breakdown of black and white population.

REPRESENTATIVE ENGLAND: No, not that. I'm talking about you mentioning that racial - - that you didn't do the study on seven. Did you do it on any other district?

SENATOR MCCLENDON: Can I ask something? The question you're asking, the answer is our attorney, mine and your attorney set that data off for districts that it looked like there might possibly be a racial issue. And we did that on all of these maps that we've done today. So he received the information on those districts where it looked like it could possibly be questionable, and wherever it was questionable, if necessary, we made adjustments. So the answer to your

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question would be a general statement that in any districts where it looked like it possibly was an issue, we had those districts analyzed. And if necessary to make changes in those districts to try to stay in compliance with the Voting Rights Act, then we made those moves. So you can ask that question about any one district and I will answer that by saying any district that looked like it needed to be done, we did it.

REPRESENTATIVE ENGLAND: It would appear that District 7 would look like that would need to be done if the methodology that you said you used was, we didn't think about race and then we drew the map, and then we said, "Okay, well, this is a result." So it appears to me that if we're doing this in the logical way, that District 7 just -- as it appears on a map, would produce a certain percentage. Now, according to what you've been telling me, that the percentage is not the decision that you made looking at it on the paper and saying that 54% is enough, you actually consulted with an attorney to make sure. So it would appear to me that if you're applying the logic that you just gave me that if we just looked at the district to see if it was in compliance, we would actually do District 7 before we did the others. So I would like to request that study be done on District 7. And what is the relationship between the 54% that you're citing and the actual results or potential results of a racial polarization study? What is the relationship between those two?

[00:50:00]

SENATOR MCCLENDON: I got no clue.

REPRESENTATIVE ENGLAND: And that's the point.

SENATOR MCCLENDON: That's, that's the reason why we have the expert.

REPRESENTATIVE ENGLAND: Again, but hold on. That's the point. If you can't explain to me why the 54% that you're telling us satisfies the threshold that you have not created or satisfied yet, that would probably make it necessary for you to conduct a study to see if that 54% actually represent, which represents what you think it does. So for -- I would like to request as a member of the committee that that study be done on the Congressional District 7. I would also like to request because the way you keep describing the map itself, is that Districts 1 through 6 may have caused the question or may not have caused to question so there is a situation where that same study may have been done on the other districts. I would also like to see that information as well. Can I get that? First, can I get the study done on Congressional District 7 to make sure that the 54% represents what you think you're saying? And then also, can I get this, the results of the studies that they've been done on other district? Because Senator McClendon, you represented that they had been. So I would like to see that data as well. Is that possible?

SENATOR MCCLENDON: Is there a particular percentage you'd be interested in seeing in District 7?

REPRESENTATIVE ENGLAND: That's the whole point. I want the study done so I'll know. I'm not going to -- I can't just blindly tell you what are percentage I would need in an area to make sure that it complies with the Voting Rights Act, one, but two, it is a -- I guess what you

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would consider a safe majority-minority district. That's the whole point of the study. So I would like the study to be done on Congressional District 7 and I would also like for you to give me the results of the other studies on the other districts that you mentioned may or may not have caused to you some consternation.

SENATOR MCLENDON: Okay, Mr. England, here's what I'll do. I'll request a study on District 7 for you, and I'll request the study be done on Senator Singleton's bill that he introduced also. How's that?

REPRESENTATIVE ENGLAND: Yes.

SENATOR MCLENDON: It's possible to do it. I mean, we're going to talk about it. Okay. I'll do on both of them.

REPRESENTATIVE ENGLAND: To also kind of take a step back, this process isn't result-oriented. Meaning, that we're not collected here to go over the data and the maps just to meet the deadline. We are actually supposed to do some qualitative work on the information that you provided us so we don't send maps or information to LRS to be drawn up into something that can't pass. I mean, and I get it. I mean, we work with deadlines all the time, but this committee structure was set up especially for this component because it's actually a joint committee for the house and the senate that goes over all four maps. So we can actually take a deep dive in that information, in the data and actually produce a map that actually satisfies all the things that you've been mentioning since the very beginning about keeping counties whole, about not splitting precincts, about making sure that equal protection is valid and making sure that the Voting Right Act is complied with. That's what this process is for, is to vet the information that we're getting. Because we may go through this process and discover that some of the is corrupted and it's not reliable or, we may actually if we had done a racial polarization study, we may actually find out that that 54% that you're talking about doesn't actually represent the information that you're giving us, and that you have made an assumption that could jeopardize an entire map. So again, not trying to diminish the effort, the herculean effort that you had to undertake to get us to this point, the point here isn't just to get it done so we can get a bill prepared. The point here is to actually vet the information so we know what we're actually doing in this process.

SENATOR MCLENDON: I understand, and I tell you we're going to spend a lot of time on this differential privacy, and that's going to come up sooner or later. Senator Smitherman?

SENATOR SMITHERMAN: I would just -- if you all, I would like to know first on any of the congressional districts, did you all receive a written report regarding the study that he is requesting on ?? We say it that on some of them, it was done. All right. So whatever ones that were done, do we have a written report from that attorney, from whoever it is that we had to do it. We are saying that it was done on A B, C, or D. Do we have anything in writing that was sent to this committee to you all or sent to the community itself that would suggest that that is actually a fact? That's the first question. Do we have anything?

[00:55:13]

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SENATOR MCCLENDON: When we saw that 54% plus in the Seventh District majority-minority, we didn't think it needed a racial polarization analysis and a lot to be analyzed and we didn't request racial voting polarization study on the majority of white districts.

SENATOR SMITHERMAN: Okay. So we don't have that, that's the correct answer. We don't have anything in writing that's been sent to you all regarding that you should --

SENATOR MCCLENDON: I have not seen anything.

SENATOR SMITHERMAN: Okay. All right. So we can't hold out then that that has been done. Okay. So that's the first thing. The second thing is this. We have an attorney that as you say very capable of being able to do what's necessary. I cannot understand the most important, the most important and really the only opportunity we as a committee member while we are going through these maps. I cannot understand for the love of life why he is not even sitting over there or he is not on Zoom. That doesn't make any sense. We are asking questions and we can't, you all cannot give the detail. I didn't say it to generalization, but you cannot give the detailed answer -- we keep telling them whether attorney need, an attorney and that's fine. Because if that's the answer. But then, that attorney need to be over there to answer what you just said that he did. I mean, that's an attorney for the committee and that is the most important meeting that he could ever be at being able to get him on there to give those responses as to the things that you all don't have first of all, documentation and secondly, that he in fact was the person who created, who suggested it and it was adopted to present to us by you all. So I'm asking to get him on here. I don't care if the phone.

SENATOR MCCLENDON: [INDISCERNIBLE 00:57:18]

SENATOR SMITHERMAN: Yeah. I don't care if you get the phone or we can't Zoom, we deserve to have those people in here where we can ask those questions to get answers. Thank you.

SENATOR MCCLENDON: Yes, Ms. Hall?

REPRESENTATIVE HALL: Thank you. You indicated in your report about meeting with all of the members of congress, except for one. Are you able to tell me that once the maps were drawn, did they have an opportunity to view this map? And, what was their impression?

SENATOR MCCLENDON: They all saw. The one that we didn't meet was Mo Brooks because he's no longer running. But they've all had the opportunity to look at them and make suggestions, make requests in what they would like to see in their district, yes.

REPRESENTATIVE HALL: And did they indicate that they felt that what you've presented is fair and --?

SENATOR MCCLENDON: To the best of my knowledge, yes. I was not in the meetings.



I, Anders Nelson, hereby certify that the document "Reapportionment committee 10.26.21" is, to the best of my knowledge and belief, a true and accurate transcription from English to English.

**Anders
Nelson**

Anders Nelson
Project Manager

Digitally signed by Anders
Nelson
Date: 2021.12.14 15:46:45
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December 14, 2021