

STONE V. ALLEN
No. 2:21-cv-01531 (N.D. Ala.)
Dr. Joseph Bagley, PhD, Rebuttal Report

I. Introduction

Plaintiffs have asked me to examine the expert reports submitted by defendants in this case and to offer my opinions thereon. As a historian, I am compelled to respond to Dr. Carrington, Dr. Reilly, and Dr. Bonneau. I begin with Dr. Carrington.

II. Carrington Report – Overall Conclusions

The report most relevant to my own expert report in this case, which was submitted on February 2, 2024, is that of Dr. Carrington, which was submitted on March 29, 2024. In my opinion, Dr. Carrington’s report offers the Court very little relevant to a Senate Factors analysis, particularly one focused on Alabama, and it does nothing to diminish or contradict any opinions that I offered to the Court relevant to the same. It also suffers from some methodological and substantive issues that I will outline below.

Dr. Carrington purports to offer a “fuller narrative” explaining the shift of southern [white] voters from the Democratic Party to the Republican Party and tries to explain that this “matters for considering the role of race in redistricting, mitigating or muting the relevance to this case of the three Senate factors [1, 2, and 6] cited at the beginning of this report.” In short, he argues that this shift is not entirely about race – but then, tellingly, states that he does not “deny that race plays any factor whatsoever in the minds of any voters” in Alabama in 2024. Even “a dominant focus on race is insufficient,” he tells us, in explaining the phenomenon of racially polarized voting. What was really motivating [white] voters, according to Dr. Carrington, was a commitment to free market economics, anti-communism, religious identity, and opposition to abortion and LGBTQ rights. Supposedly, the New Left took over the Democratic Party in the 1960s and 70s, moving the party in the opposite direction on these issues, while the rise of “Modern Conservatism” in the Republican Party allowed it to embrace them.¹

There are myriad problems with this thesis, not least of which is that it does very little to explain partisan politics in Alabama from the 1990s to the present. What it seems to be is simply an analysis of [white] southerners’ votes for president, though, even there, it falls short. First, it grossly overstates the impact of the New Left on the Democratic Party. Take for example, a stalwart Senator, and now-president, Joe Biden, a leader in the party from Delaware who staunchly opposed school desegregation in the 1970s and remained a racial moderate into the new millennium.² Or

¹ Carrington Report, pp. 1-2, 30.

² President Biden of course then-represented Delaware, which was a defendant in the original Brown cases and one of the first two states subject to a statewide school desegregation case (the other being Alabama) that did not end until the 1990s; see *Coalition to Save Our Children v. State Board of Education*, 90 F.3d 752, 3d CCA, (1996), 776-78; see also, Joseph Bagley, *The Politics of White Rights: Race, Justice, and Integrating Alabama’s Schools* (Athens: University of Georgia Press, 2018), pp. 121, 258 fn. 37. Then-Senator Biden also described President Obama in 2007 as “the first mainstream African-

consider Bill Clinton, who, as Governor, was successfully sued multiple times under the Voting Rights Act and, as President, was well to the right of many Republicans on national security issues. He also signed a crime bill that disparately impacted Black communities burdened by the crack epidemic and established the so-called “three strikes” rule and mandatory minimum sentencing – all now understood as responsible for an increase in overrepresentation of Black people in prisons.³

Dr. Carrington also characterizes the white backlash to the passage of the Civil Rights Act in 1964, predicted presciently by President Lyndon Johnson, as an “anomaly,” despite the fact that Alabama has not voted for a Democratic candidate for president since that election, with the sole exception of Jimmy Carter from neighboring Georgia in 1976. Additionally, though Dr. Carrington repeatedly refers to a “slow motion” shift of [white] Alabama voters from the GOP to the Democrats, he does nothing to explain how or why those voters waited until the 1990s and 2000s to switch at the state and local level or why that shift culminated in the GOP takeover of the State Legislature only in the early 2010s. For example, completely absent from the report, along with any Black Alabama voters, candidates, or officials, are pivotal figures such as Richard Shelby, Fob James, Jeff Sessions, Bob Reilly, and Mike Hubbard.

Dr. Carrington also argues against a strawman in that, in both the history and political science fields, it has long been established and accepted that the partisan transformations in the second half of the twentieth century and up to the present involved a core set of issues not entirely limited to race, but which began with a racial backlash to the Civil Rights Movement. An entire school of historiography has complicated, layer-by-layer, the scholarship of the 1990s that focused almost exclusively on race, which was, itself, part of the so-called “southern strategy” school.⁴

American who is articulate and bright and clean and a nice-looking guy”; CNN.com, Biden's description of Obama draws scrutiny,” Feb. 9, 2007.

³ Robert C. Smith, “Civil Rights Policymaking in the Clinton Administration: In Reagan’s Shadow,” in Kenneth Osgood and Derrick E. White, Eds, *Winning While Losing: Civil Rights, the Conservative Movement, and the Presidency from Nixon to Obama* (Gainesville: University Press of Florida, 2014); Lawrence McAndrews, “Talking the Talk: Bill Clinton and School Desegregation,” *International Social Science Review* 79, no. 3/4 (2004): 87–107; on the VRA, see *Jeffers v. Clinton*, 740 F. Supp. 585 (E.D. Ark., 1990), affirmed, 498 U.S. 1019 (1991); *Smith v. Clinton*, 687 F.Supp. 1310 (E.D. Ark., 1988), affirmed, 488 U.S. 988 (1988)

⁴ For the 1990s school, which provided a point of departure, see Dan T. Carter, *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics*, 2nd ed. (Baton Rouge: Louisiana State University Press, 2000); Dan T. Carter, *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution, 1963–1994* (Baton Rouge: Louisiana State University Press, 1999); and John Egerton, *The Americanization of Dixie: the Southernization of America* (New York: Harper’s Magazine Press, 1974). For the newer school, see, inter alia, Joseph E. Lowndes, *From the New Deal to the New Right: Race and the Southern Origins of Modern Conservatism* (New Haven: Yale University Press, 2009); Joseph Crespino, *Strom Thurmond’s America* (New York: Hill and Wang, 2012); Joseph Crespino, *In Search of Another Country: Mississippi and the Conservative Counterrevolution* (Princeton: Princeton University Press, 2009); Kevin M. Kruse, *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton University Press, 2005); Glenn Feldman, *The Great Melding: War, the Dixiecrat Rebellion, and the Southern Model for America’s New Conservatism* (Tuscaloosa: University of Alabama Press, 2014); Kari Frederickson, *The Dixiecrat Revolt and the End of the Solid South, 1932–1968* (Chapel Hill: University of North Carolina Press, 2001); Thomas Sugrue, *Sweet Land of Liberty: The Forgotten Struggle for Civil Rights in the North* (New York: Random House, 2008); Thomas Sugrue, *The Origins of the Urban Crisis: Race and Inequality in Postwar*

Consider this paragraph from the historian Joseph Crespino's 2012 biography of Strom Thurmond, in which he lays out many of those issues, while tethering them all back to race on the national scale:

The southern strategy narrative is not wrong. Conservative Republicans did pursue disaffected southern Democrats who represented a mother lode of votes that they had to tap in order to win influence in the GOP and compete on the national level. Yet by isolating white southerners as carriers of the racist gene in the modern GOP, the southern strategy narrative actually *understates* the role of racial reaction on the right. It is not as though conservative Republican Party builders held their noses or ignored their better angels while recruiting white southerners. Most of them were as convinced as were their recruits about the presence of Communists inside the civil rights movement.

They were also certain that liberal opponents were merely using civil rights to push what they saw as a broader socialist agenda of labor and economic rights that threatened business interests. Their embrace of someone like Strom Thurmond grew naturally out of their larger political worldview, one that consistently ignored or dismissed the moral imperative of the modern civil rights struggle. In addition, these conservative Republicans pursued not just white southerners but also disaffected Democrats in the North and the West – many of whom were in revolt against the New Deal coalition over how liberal social reforms were transforming the racial composition of their neighborhoods, workplaces, and schools.⁵

Dr. Carrington insists he “draw[s] heavily on historical scholarship” but does not seem to be aware of the historical scholarship most relevant to what he is trying to explain.⁶ To bolster his claim that scholars have relied exclusively or too heavily on race, he cites to an article from 1992 in the journal *Geographical Review*, another from 1958, and to the late Glenn Feldman (identified as “Bruce Feldmen” in the notes and as “Glen Feldmen” in the body). While Professor Feldman was an important historian of Alabama, and his work remains deeply valuable, the book to which Dr. Carrington cites is a study of the years 1865 to 1944.

In a more recent book focused on the much more recent past – *Painting Dixie Red: When, Where, and Why the South Became Republican* – Professor Feldman writes, “It is about race – there can be no questioning or minimization of that basic premise. The South’s partisan realignment from Democratic to Republican is about race,” he concludes, adding that, yes, it involves more, especially what he calls a “politics of emotion” at the heart of white voters’ stances on other issues, including a few of the ones that Dr. Carrington is examining.⁷ Which is to say, one can recognize that race was the dominant force in partisan realignment as well as appreciate that other factors were also involved.

Detroit (Princeton: Princeton University Press, 2010); Michelle Nickerson and Darren Dochuk, eds., *Sunbelt Rising: The Politics of Space, Place, and Region* (Philadelphia: University of Pennsylvania Press, 2011).

⁵ Crespino, *Strom Thurmond's America*, Introduction, pp. 5-6, emphasis added.

⁶ Carrington, p. 2.

⁷ Glenn Feldman, *Painting Dixie Red: When, Where, and Why the South Became Republican* (Gainesville: University of Florida Press, 2011), p. 3, emphasis added.

Dr. Carrington cites also to the political scientists Merle and Earl Black, who did observe, 22 years ago, that “modern southern politics involves more than its obvious racial divisions.” While this is evidence that noted scholars have long since appreciated this, Dr. Carrington’s cherry-picking of this quotation out of context also obscures what these scholars had to say about Alabama. As they explain, the Republican Party’s political strategy at the time had an explicit racial component, which was to “sweep the white conservatives and carry majorities of the white moderates.”⁸

Others in Dr. Carrington’s discipline have come to similar conclusions. Patrick Cotter, Professor Emeritus of Political Science at the University of Alabama, observed from the same critical vantage point of the early 2000s that, according to the prevailing view at the time, race was the “most important” of the “social issues” that was driving white Alabama voters to the Republican Party at the time. “According to this view,” he wrote, “Republicans, whether they like it or not, have drawn support from voters who harbor antiblack sentiments or who view the Democratic Party as too influenced by black political groups.” Cotter explained, “For most of the last decade, a clear plurality of white Alabama citizens have identified themselves as Republicans. During this same period, Democratic Party identification among blacks has generally exceeded 80 percent.” One result of this, Cotter indicated, was that Republican candidates made “little effort to gain black votes.” Furthermore, Cotter found that neither party had made “a concerted effort to reduce the racial polarization found in the state’s politics.”⁹

Dr. Carrington cites as well to an article concerning partisan shifts in state legislatures (something he does not address in the report), writing that “in 2021, Aubrey Jewett concluded their study of increased GOP strength in Southern state legislatures between 1946-1995 by writing that, ‘the evidence supporting many other explanations of Republican legislative growth suggests that scholars who emphasize only race to the exclusion of other causal factors are being overly simplistic.’” This quotation is misleading, as a footnote in the study correctly identifies the publication date of the article as 2001, not 2021 as indicated in the body of Dr. Carrington’s report.¹⁰ The scholarship presented by him as recent is, in fact, more than 20 years old.

Moreover, though Jewett did insist that “the effect of race is complex,” the study explained, “As expected, race is critical to explaining state partisan change in the South.” He added that race also “hinder[ed]” Republican gains because Black legislators were able – at that time – “to continue in a coalition with white Democrats.”¹¹ From the critical vantage point of 2024, however, we know that Bob Riley, Mike Hubbard, and others sought to eliminate those white Democrats, in part by trying to manipulate the issues that appeared on the ballot in 2010, controlling the redistricting process to whitewash districts in favor of Republicans in the post-2010 Census redistricting cycle, and relying on racial appeals involving the election of President Obama and

⁸ Merle and Earl Black, *The Rise of Southern Republicans* (New York: Belknap Press of Harvard, 2002), p. 317.

⁹ Patrick Cotter and Tom Gordon, “Alabama: The GOP Rises in the Heart of Dixie,” in Alexander Lamis, Ed., *Southern Politics in the 1990s* (Baton Rouge: Louisiana State University Press, 1999), pp. 244-45.

¹⁰ Carrington, p. 6.

¹¹ Aubrey W. Jewett, “Partisan Change in Southern Legislatures, 1946-95,” *Legislative Studies Quarterly*, Vol. 26, No. 3 (Aug. 2001): pp. 457-486, p. 479

increased immigration from nonwhite people into Alabama, which together assisted in the GOP takeover of the Alabama legislature in 2010 and to maintain that control.¹²

There are also methodological problems with Dr. Carrington's report. For instance, and similar to the aforementioned flaw, he frequently cites to secondary sources that are half a century old or more, and he more than once cites to sources that were published well before the phenomena he purports to be explaining.¹³ He also indicates that he draws "heavily" on "primary documents," but the only examples I can find in the report are presidential inaugural speeches and party platforms, which are not especially helpful in explaining Alabama's political realignment at the state level. Certainly, these are sources that historians would engage, but when attempting to explain state-level political change, you would expect to see this alongside contemporaneous statements by state leaders or news coverage or some other relevant source.

More importantly, while the core set of issues that Dr. Carrington identifies here as "muting" race might help us understand the broader, long political realignment that took place between the New Deal and the present in the South as a whole, it matters which factors we consider and when and for whom and where. For example, strident anti-communism might help explain how voters behaved in presidential elections across the South and the nation, but not in the last 30 years, since the fall of the Soviet Union, which have of course been pivotal years in terms of the realignment of voters in Alabama. It also ignores that anti-communism in Alabama was closely tied to anti-Civil Rights views with many politicians accusing Martin Luther King Jr. and other activists of being communists.¹⁴ Likewise, religious identity does not explain why Black people in Alabama – a great many of whom are Christians in theologically conservative denominations – have remained committed to the Democratic Party, while white people have not.¹⁵

Dr. Carrington argues that, while race "played a role" in Alabama politics "especially in the era of legalized slavery and of Jim Crow," explaining "the status of partisan politics in 2024 solely or predominately in racial terms leaves out too much of the backstory and too much other,

¹² See my initial report, pp. 11, 12, 31, 32.

¹³ For example, see pp. 18-19, where Dr. Carrington is trying to explain developments between 1964, when a number of Alabama's Congressional seats were won by Republicans, and 1968. He writes, "Thus, the GOP's lasting growth occurred in the metropolitan and later suburban areas during this period, not rural. Rural areas, with the exception of 1964, remained the bedrock group voting for Democrats or for splinter Democratic candidates like George Wallace. This observation matters in assessing the growth of the GOP among white voters in Southern states like Alabama. Rural areas were considered the most committed to maintaining the old ways and most resistant to reform, especially on matters of race." Here, at fn. 80, Dr. Carrington cites to a journal article from 1938 and to a book from 1964.

¹⁴ See, for example, George "Wallace's strident rhetoric about Communist domination of the [civil rights] movement and its ultimate aim of intermarriage and miscegenation." Wayne Flynt, *Alabama in the Twentieth Century* (Tuscaloosa: University of Alabama Press, 2000), p. 90 and also p. 357. See also the now-infamous poster of "[Martin Luther King at Communist Training School](#)." Finally, see an address at the Annual Leadership Conference of the Citizens' Councils of America, Montgomery, Alabama, Jan. 15, 1965, quoting Robert Petterson, "For years we have pointed out the part played in the Civil Rights Movement by the various Communists and Communist Front groups." *Selma Times-Journal*, Feb. 16, 1965.

¹⁵ Michelle Boorstein, "The Stunning Difference between White and Black Evangelicals in Alabama," *Washington Post*, Dec. 13, 2017.

reasonable explanations [*sic*] for current party alignment and voting patterns.”¹⁶ If we date the end of the Jim Crow era, charitably, as 1964 when the Civil Rights Act was passed, this means that, according to Dr. Carrington, race was not a relevant factor in political realignment in Alabama in the 1970s, when Black candidates got elected to the Alabama state legislature for the first time since Reconstruction; in the 1980s, when numbered place laws still ‘protected’ white politicians until the *Dillard* litigation integrated hundreds of local government bodies in Alabama; in the 1990s when Reed-Buskey was passed, Earl Hilliard was elected as the first Black Congressman since reconstruction, and the *Wesch* litigation was filed; in the 2000s, when Republicans sought to “whitewash” state legislative districts and when white lawmakers referred to “aborigines” and “illiterates” being bussed to the polls; or in the 2010s when the legislature was found to have engaged in racial gerrymandering. I discuss all of this in my initial report in this case.

We can also look to current and recent Alabama lawmakers, including parties to this lawsuit, to understand the ongoing importance of race in Alabama politics, polarized as it is. As I discuss in my report, former Congressman Mo Brooks has referred repeatedly to a “war on whites” waged by Democrats.¹⁷ Representative and Reapportionment Committee Chairman Chris Pringle has run a campaign ad in which he insists that if you are “white like [him],” people blame all of society’s problems on you.¹⁸ And the state has been found, as recently as last year to have engaged in racial discrimination.¹⁹ Discounting or “muting” race as a decisive factor in Alabama’s party alignment is simply not credible given the present reality and the historical background. Beyond that broad conclusion, I move below to a section-by-section analysis of Dr. Carrington’s report. After that, I will address some issues with other of the Defendants’ expert reports.

III. Carrington Report – Section-by-Section

Dr. Carrington begins by presenting a theory of American political parties rooted in James Madison’s *Federalist 10* – parties are malleable coalitions held together by core sets of policy issues, which are, themselves, ever shifting. From this point, he argues that a singular focus on race blinds us to other contributing factors, though as I noted above, the dominant literature in history and political science has acknowledged this for about 20 years. And insofar as my own report focuses on race, this is because scholars still widely recognize the primacy of race even while complicating a *singularity* of race. Dr. Carrington gives the impression that the prevailing scholarship credits only race, but this has not been the case for some time. He makes no claims as to my report.

Carrington cites to the political scientists Shafer and Johnston’s 2006 book, *The End of Southern Exceptionalism: Class, Race, and Partisan Change in the Postwar South*, in which the

¹⁶ Carrington, p. 6.

¹⁷ Bagley Initial Report, p. 31.

¹⁸ Brent Wilson, “Chris Pringle: White Straight Southern Christian Conservatives Under Attack,” *Bama Politics*, Feb. 18, 2020.

¹⁹ Press Release, “Departments of Justice and Health and Human Services Announce Interim Resolution Agreement in Environmental Justice Investigation of Alabama Department of Public Health,” May 4, 2023, U.S. D.O.J. Office of Public Affairs; Hadley Hitson, “DOJ finds evidence of discrimination in Lowndes County environmental justice investigation,” *Montgomery Advertiser*, May 4, 2023.

authors argue that V.O. Key was wrong [in the 1950s] to argue that race was the dominant factor in shifting partisan affiliation and that a class reversal was instead key – poorer voters flipped from voting Republican to voting Democrat and vice-versa.²⁰ This fails to account for the fact that poor (and rural) white Alabamians vote overwhelmingly Republican.²¹ It is also brought into question by a volume edited by Crespino and published in 2010 – *The Myth of Southern Exceptionalism*. The authors therein argue that there was no southern exceptionalism to begin with and that “white racial innocence” in the north and in the west is historically unfounded. Rather racial discrimination in employment, housing, education, and other areas is as endemic to America in general as it is to the South in particular.²²

Echoing Shafer and Johnston, Carrington refers often to “working class voters,” which seems to refer only to *white* working-class voters in Alabama. This is particularly true when he begins discussing history in earnest. After blowing through Reconstruction without acknowledging that the State of Alabama emerged from that late stages of that period having adopted the enduring 1901 constitution with the expressed purpose of establishing white supremacy, he asserts that the Democratic Party became a party of poorer white voters and Black voters during and after the New Deal, despite the fact that, in the time under consideration, Black citizens of Alabama could not even register to vote, much less elect candidates of choice.²³ At the same time, the Democratic Party in Alabama, under the banner, literally, of “white supremacy for the right,” was still controlled by hyper-wealthy landholders in the Black Belt (the Bourbons) and wealthy industrialists in Birmingham and other cities (the Big Mules). I discuss these dynamics in my report.

Carrington then overstates the impact of the rise of the New Left. This had some truth at the national level, but no one could accurately argue that Jimmy Carter or Bill Clinton were representative of the New Left of which Carrington is writing. More importantly, it is nowhere near true regarding the Democratic Party in Alabama. He argues that “working class” voters rejected the McGovern coalition’s focus on issues like gender, gun regulation, and the environment, but this ignores the fact that “working class” Black voters in Alabama were finally electing candidates of choice, in the Democratic Party, at the local and state level thanks to enforcement of the Voting Rights Act. Likewise, both working class white voters and wealthier white voters in Alabama were enthralled by the racial politics of John Patterson and George Wallace and stuck by the latter, a Democrat till the end, into the 1980s. While Wallace tempered his positions on segregation and race when it became politically expedient, he and the state legislature continued to engage in racial discrimination, including in redistricting.²⁴

²⁰ Carrington nonetheless cites approvingly to Key’s work elsewhere. He also cites to “Schafer” [sic] in the text and in the notes.

²¹ *New York Times*, “Alabama Exit Polls: How Different Groups Voted,” 2020 Elections.

²² Matthew Lassiter and Joseph Crespino, Eds, *The Myth of Southern Exceptionalism* (Oxford: Oxford University Press, 2010).

²³ Carrington, p. 7.

²⁴ See Civil Rights Division Section 5 Objections Letters by State Online, “Alabama,” <https://www.justice.gov/crt/voting-determination-letters-alabama>. See especially, Wm. Bradford Reynolds to Honorable Charlea A. Craddick, May 6, 1982, re: state legislative redistricting. See in my original report in this case at pp. 19-21.

Carrington then turns to the rise of modern conservatism. He presents William F. Buckley, who used his *National Review* to condemn communism and to extol the virtues of Christianity, “free market” economics, and states’ rights. While states’ rights would not be an issue of positive import to Black voters in Alabama, we should fully appreciate Buckley’s role in realignment, as explained by the biographer that Carrington cites in his report, Carl T. Bogus. Bogus writes, “It was the presidential campaigns of Barry Goldwater in 1964 and, most especially, Richard Nixon in 1972, that exploited resentment over civil rights and caused the South to shift from the Democratic to the Republican Party, but it was *National Review*’s raw position on race in the late 1950s that made that possible by placing conservatives in opposition to civil rights. And *National Review*’s position flowed not from any preexisting conservative philosophy,” Bogus concludes, “but from Buckley’s personal background.”²⁵ Buckley, for example, argued that southern whites were being “responsible,” meaning they were doing the right thing, when “refus[ing] to enfranchise the marginal Negro.”²⁶

Buckley also gave a megaphone to James J. Kilpatrick, who wrote articles for *National Review* in opposition to civil rights measures, especially the Civil Rights Act of 1964 and Voting Rights Act of 1965, which Kilpatrick deemed unconstitutional, while arguing that Black people were an inferior race incapable of contributing to civilization. Bogus explains that Kilpatrick’s views “generally reflected” those of *National Review* and of Buckley. The publication thrived, according to Bogus, “by wrapping racism with ostensibly highbrow arguments about constitutional law and political theory, thereby appealing not only to self-confessed racists but to those who disliked the civil rights movement but believed themselves to be untainted by racist impulses.”²⁷ Buckley himself penned an editorial in which he argued that the “white community” in the South was “entitled” to maintain segregation and disenfranchisement because it was “the advanced race.”²⁸

Carrington’s focus on Buckley is telling, then, in that he attempts to do with Buckley’s record what he is doing with this report as a whole – present the tertiary issues involved in partisan realignment while “muting” the key issue for the purpose of this litigation. Carrington turns then to Barry Goldwater, who, not coincidentally, voted against the Civil Rights Act before carrying states like Alabama, and who embraced the use of “law and order” as a racial code phrase. The culmination of the rise of modern conservatism, then, is Ronald Reagan, who used coded appeals like the “welfare queen” and who rolled back civil rights enforcement and expenditures at the federal level. One must also acknowledge that part of the context for the time period in question, especially for Alabama, was the emergence of Black voting power in the Democratic Party, the formation of coalitions, and the emergence of Black caucuses. More important, though, than the sanitized nature of this narrative, especially given that Carrington repeatedly refers to the “slow motion” nature of the partisan shift at issue, is the complete lack of any figures involved in Alabama politics.

²⁵ Carl T. Bogus, Buckley: *William F. Buckley and the Rise of Modern American Conservatism* (New York: Bloomsbury, 2011).

²⁶ Id.

²⁷ Id.

²⁸ Id. See also, William P. Hustwit, *James J. Kilpatrick: Salesman for Segregation* (Chapel Hill: University of North Carolina Press, 2013).

Carrington turns next to “civil rights and voting patterns in the South.” He insists that “One cannot reduce the shift in political loyalties in the South either to one election or to one issue set like race,” arguing that “the fuller story spans close to a century of American history.”²⁹ A telling quotation from the Republican political strategist, Lee Atwater, in 1981, sets forth how other “issue sets” were making their way into GOP campaigning. Atwater explained:

You start out in 1954 by saying, “Nigger, nigger, nigger.” By 1968 you can’t say “nigger” – that hurts you, backfires. So you say stuff like, uh, “forced busing, states’ rights,” and all that stuff, and you’re getting so abstract. Now, you’re talking about cutting taxes, and all these things you’re talking about are totally economic things and a byproduct of them is, blacks get hurt worse than whites.... “We want to cut this,” is much more abstract than even the busing thing, uh, and a hell of a lot more abstract than “Nigger, nigger.”³⁰

Carrington then turns to Alabama finally, telling us that Al Smith nearly lost the 1928 Democratic primary for president in Alabama, not because of “race-based issues, since Smith was more open than most Democrats of the time to African-American civil rights,” but because Smith was Roman Catholic, and “This point caused consternation in the very Protestant Southern portion of the Democratic Party.”³¹ Of course, the newly invigorated Ku Klux Klan in Alabama was both anti-Catholic and anti-Black, in addition to being enormously influential in electoral politics. The leader, or “exalted cyclops,” of the Jefferson County klan told the Birmingham *Post-Herald*, “When our Alabama delegates get to [the nominating convention] in Houston, they are going to break up all that Al Smith dope and elect a Protestant president.” He continued, “If by hook or crook, Smith is nominated and elected, there will be a protest, for the klan is not going to be dominated by a Roman Catholic, who will get his orders from the Pope.”³²

Carrington next examines areas where the Republican Party did well in the South. He looks to the 1952 presidential election, in which the City of Mountain Brook went for Eisenhower over Adlai Stevenson at a rate of 4 – 1. Eisenhower also performed somewhat well in Jefferson, Mobile, and Montgomery Counties. Carrington argues that this marks the beginning of metropolitan Republicanism in Alabama. He describes these as “urban areas.”³³ Mountain Brook was founded for the expressed purpose of being an all-white city, which it largely remains. The city was able, notably, to avoid being embroiled in early school desegregation litigation because it formed its own school system, for that purpose and, crucially, before Jefferson County was subject to its own court order, and there were no black children in it. Too, the aforementioned counties were all home to cities wherein the threat of possible desegregation and Black voter registration was considerably higher than in the Black Belt at that time. White flight to suburban communities like Mountain Brook was increasing.³⁴

²⁹ Carrington, p. 13.

³⁰ Michelle Brattain, “Forgetting the South and the Southern Strategy,” *Miranda*, Dec. 1, 2011, p. 8.

³¹ Carrington, p. 13.

³² *Birmingham Post-Herald*, May 4, 1928, pp. 1-2.

³³ Carrington, p. 13.

³⁴ Kyra Miles, “Echoes of the Past as Overwhelmingly White Mountain Brook Debates Diversity,” *Birmingham Watch*, Aug. 7, 2021; Bagley, *The Politics of White Rights*, pp. 96, 154, 175-78, 206.

Carrington pivots back to the election of 1948, correctly noting that Alabama voters who went for the Dixiecrat Strom Thurmond “returned to the fold” of the Democrats. He fundamentally misunderstands the significance of that election, however, dismissing the Dixiecrat phenomenon as an anomaly, as he does the 1964 elections. The scholarly consensus in history has never been that either the 1948 or 1964 elections delivered, wholesale and instantly, white southern votes to the GOP. Nor does it make sense to dismiss these elections as irrelevant. Scholars like Emory’s Crespino and the University of Alabama’s Kari Frederickson understand that the Dixiecrat movement was indicative of the very “slow motion” changes in partisan realignment.³⁵

Thurmond himself moved to the GOP not long after (a fact relegated to a footnote by Dr. Carrington), and Goldwater carried the core set of issues that Thurmond had championed into the Republican fold and into the suburbs of the Sunbelt. Nixon and, later, Reagan, would capitalize on these phenomena. The Dixiecrats returned to the Democratic Party because their point had been made – theirs was not to be the party of civil rights. Until it became that, explicitly, with the passage of the Civil and Voting Rights Acts. The authorities to which Dr. Carrington cites in these passages are from the 1960s, 1970s, and 1990s. There is abundant work that has been published on these issues since that time.³⁶

Carrington comes back to the 1964 election and argues that the Alabama congressional delegation flipping from 8 Democrats to 5 – 3 Republican was a temporary “protest” vote, the protest being Democratic national support for the Civil Rights Act.³⁷ It was hardly temporary, however. While Democrats won back a 5 – 3 majority in 1966, which fell to 4 – 3 after the state lost a seat, in 1972, and as Black candidates of choice were first being elected to the state legislature. It climbed to 5 – 2 in 1982 but fell back to 4 – 3 in 1992. It flipped back to the GOP, 5 – 2, in 1996, not coincidentally when Earl Hilliard became the first Black representative in the U.S. House since Reconstruction, thanks to enforcement of the Voting Rights Act.³⁸

Carrington makes the point that Nixon lost Alabama, though crucially this was in the context of Wallace running as a third-party candidate (and Nixon laundering money into the gubernatorial campaign of Wallace’s state-level opponent, Albert Brewer). Carrington explains that Wallace did better in rural areas than in “metropolitan and later suburban areas” where the GOP was building strength. Setting aside that suburban areas are part of metropolitan areas, it is critical to note here that Wallace won reelection as governor, with support from rural, urban, and suburban areas, well into the 1980s. His refusal to follow others in an exodus to the GOP helps explain, as I discuss in my report, white Alabamians’ belated switch to the GOP, beginning in the 1990s.³⁹

³⁵ See, e.g., Kari Frederickson, *The Dixiecrat Revolt and the End of the Solid South, 1932-1968* (Chapel Hill: University of North Carolina Press, 2002).

³⁶ See footnotes 3,4, 7, 23, 29, 36, and 61, *supra*.

³⁷ Carrington, p. 14.

³⁸ James Blacksher, et al., “Voting Rights in Alabama, 1982-2006,” 17 *Southern California Review of Law and Social Justice* 2, Spring 2008: pp. 249-281, pp. 273-81.

³⁹ Bagley, Initial Report, pp. 10-11.

Carrington next argues that rural areas stayed loyal to the Democratic Party – again talking about rural areas with white voter majorities and not areas with majorities of Black voters – while the “urban” areas became Republican because [white] “bedrock” voters were “more committed to maintaining the old ways and more resistant to reform especially on matters of race.”⁴⁰ It is not clear what “old ways” are, apart from a commitment to white supremacy. Carrington seems to suggest that white people in Alabama’s cities were more racially progressive. Such a claim would have to ignore, among many other things, racially motivated bombings in “Bombingham,” the lawsuit filed against the Civil Rights Act by Birmingham restaurateur Ollie McClung, Citizens Council organization in all of the state’s major cities, Jim Clark and others’ violent resistance to the Selma voting rights campaign and subsequent marches, white flight to suburbs, and violence and unrest in schools that were desegregated, including Phillips in Birmingham, Vigor and Murphy in Mobile, Jefferson Davis in Montgomery, and Baker in Huntsville.⁴¹ The authorities that Dr. Carrington cites to in this section are from 1977, 1938, and 1964.

Carrington also argues that Alabama’s metropolitan areas during these decades saw an “influx of persons immigrating [*sic*] from other parts of the country, including the Midwest, bringing with them more GOP votes and less segregationist attitudes. Thus, Key observed [in the 1950s] that, even in the deep South, it was true that at times ‘urbanism apparently outweighed racial restraints.’”⁴² Historical consensus now acknowledges that racism and segregation are American problems, not uniquely southern ones. Not only does this problematize Carrington’s argument here, but in addition, Huntsville is probably the only city in the state that has seen the kind of influx of non-southern population that would affect a wholesale change in character or attitudes. And, as my report notes, in the last decade, a federal district court concluded that the Huntsville city school system has continued to discriminate against its Black students.⁴³

Carrington next contends that “after the era of Civil Rights,” there was a “further normalization of Southern voting patterns.”⁴⁴ He argues that southern rural voters began to vote Republican, bringing the South in line with the rest of the country, where cities represented the traditional Democratic strongholds. This ignores the enfranchisement of Black voters in both the Black Belt and in cities like Birmingham, Montgomery, Huntsville, and Mobile, where white people fled to the suburbs to avoid integration. The one of those metropolitan areas where white flight was relatively quick and thorough, Birmingham, is dramatically divided city-suburban between Black Democratic voters and white Republican voters. In two of the others, Mobile and Montgomery, Black voters have only within the last 20 years been able to elect a Black mayor (Sam Jones in Mobile in 2005 and Steven Reed in Montgomery in 2012). Huntsville, where the Black population has always been lower relative to the other three, has not yet elected a Black mayor and remains subject to school desegregation litigation (as does Jefferson County).⁴⁵

Additionally, the “southern distinctiveness” that Dr. Carrington says preceded this change in no way accounts for Black disenfranchisement in the South. In order to make any sense of this,

⁴⁰ Carrington, p. 14.

⁴¹ Carrington, p. 14; Joseph Bagley, *The Politics of White Rights*, passim.

⁴² Carrington, p. 15.

⁴³ Bagley Initial Report, pp. 23-24.

⁴⁴ Carrington, pp. 15-16.

⁴⁵ Bagley Initial Report, pp. 24-8.

we have to believe that white southerners were only voting in a “dominantly race-conscious manner” prior to and immediately after the passage of the Civil and Voting Rights Acts, and that race really ceased to matter after that.

As the dean of Alabama historians, Professor Wayne Flynt, explained, when Mike Hubbard was running for reelection in 2014:

What Mike (Hubbard) has done is spend probably 250 or a half-million dollars in a very good pre-campaign blitz of Lee County in which he's basically running against Barack Obama. ... The most fundamental thing about Alabama is race and they know that. And in a day when you can no longer talk like George Wallace did because 70-80 percent of African Americans are registered to vote and it hurts the state and it hurts you with people like the Business Council of Alabama and corporate types. What you can do is you use Obama as a metaphor and everybody understands what that's about. It's not about Obama and it's not about race in Washington and it's not about race in America. But it's about race in Alabama. And that's what you're voting for if you vote against Mike Hubbard.⁴⁶

Dr. Carrington then seems to vaguely engage the scholarship of racially coded appeals. He dismisses entirely the subject inquiry of Senate Factor 6, which he purports to be examining, writing, “Some have argued that Republicans made sustained racial appeals but in more subdued or cloaked terms. ... However, this argument becomes hard to prove, as it involved issues not directly related to race or rhetoric not employing overt racial language.” He adds that southern segregationists were in a “weak position” in the late 1960s and 1970s because the civil rights movement “won out.”⁴⁷ He notes that Nixon won without the votes cast for Wallace in 1968, ignoring the “southern strategy” widely recognized to have been employed by the former in order to win southern white votes, as well as the “northern strategy” employed by southern white members of Congress who brought pressure on the rest of the country to face its own race issues. Additionally, no serious scholar in the history discipline would make the argument that the civil rights movement “won out” with the passage of the Civil and Voting Rights Acts. As I discuss in my report, those moments were, in many ways, only the beginning of the struggle, particularly when it came to Black voters electing candidates of choice.⁴⁸

In the next section, Dr. Carrington discusses “economics and the role of government.” He describes a long disenchantment, for [white] southern voters, with the Democratic Party dating back to the New Deal. While this analysis is useful in better understanding southern white voters abandoning the Democratic Party in presidential elections in the 1960s, it does very little to help us understand partisan voting dynamics in Alabama, specifically. Carrington does mention the ascendancy of Newt Gingrich in the 1990s, when Alabama’s white voters began to vote increasingly for Republican candidates at the Congressional, state, and local level, and as leading figures like Senator Shelby switched parties. Yet, as I discuss in my report, much of Gingrich’s appeal was of the nature targeted in Senate Factor 6. Neither racial appeals nor the word *Alabama*

⁴⁶ Paul Gattis, “6 opinions from Wayne Flynt on Alabama politics, the Democratic Party, Mike Hubbard, Parker Griffith and Robert Bentley,” *Al.com*, May 15, 2014.

⁴⁷ Carrington, p. 16-17.

⁴⁸ Bagley Initial Report, pp. 9-11; on the “northern strategy,” see Crespino, *In Search of Another Country* and *Strom Thurmond’s America*.

appear in this section of Dr. Carrington's report. Similarly, the authorities that Dr. Carrington cites to here, in terms of economic issues, as explaining the "defining line" published their work in 1993, before Alabama's white voters abandoned the Democratic Party. Black politics in Alabama are absent from the analysis, as elsewhere. As I explain in my report, Black politics is critical to understanding the partisan shift.⁴⁹

The next section involves anti-communism. As I explained earlier, this also tells us nothing about why Alabama's white voters, in what Dr. Carrington repeatedly characterizes as a "slow motion" process, moved towards the Republican Party in the 1990s and 2000s, after the collapse of the Soviet Union. Beyond that fact, Dr. Carrington notes, rightly, that Lyndon Johnson pilloried Goldwater for his strident anti-communism, though he does so without mentioning that Goldwater opposed the Civil Rights Act and suggested the use of nuclear weapons against communist countries. More confusingly, he mentions in the next paragraph that Kennedy and Johnson were the presidents who "largely escalated" the U.S. commitment to a war of containment in Vietnam. This suggests that, in Carrington's view, southern white voters wanted to be strongly anti-communist but not in Vietnam, unless the response involved the use of nuclear weapons instead of ground troops and a traditional bombing campaign. Put another way, if Alabama's white voters wanted, more than anything, a party of strident, militant containment [short of nuclear war], they would have stayed with the Democrats after 1964, rather than voting for Goldwater or Nixon. This analysis, in other words, is not especially explanatory for the purposes of this Senate Factors inquiry.

We move then to "social issues," or "political reaction to cultural and moral matters." On the social issue of race, Dr. Carrington writes that this "of course came to the forefront in the 1960s in a way that severely tested the Democratic New Deal coalition. However," he concludes, "we have discussed how these intra-party battles did not produce an immediate move to the Republican Party of any durability."⁵⁰ In fact, it permanently fractured the New Deal coalition in presidential elections, and insofar as it did not "produce an *immediate* move" at the congressional, state, and local level in Alabama, this does not mean that it did contribute fundamentally to an *eventual* move. There is some truth to Dr. Carrington's "slow motion" argument. But it does not follow that what mattered in the 1960s and 1970s did not continue to matter or to rise to the level, again, of a fundamental matter later.

Next, we have "religious identity." Dr. Carrington writes, "The South has a reputation for high levels of religious adherence, especially to some iteration of Christianity. It is part of the so-called 'Bible Belt' and for good reason."⁵¹ He explains that Baptists and Methodists comprise the bulk of the mostly Christian adherents in Alabama. This analysis fails to account for the Black Christians who are members of the Black Baptist, AME, or AME Zion churches. These and other Black Christian churches are among the most theologically (if not liturgically) conservative in Christianity, but they are invisible in Dr. Carrington's analysis because it is primarily concerned with the state's white voters. He also ignores the state's Roman Catholic adherents and voters, Black or white, save for a sentence at the end of this section – "Those who identify with some form of institutional Christianity, but especially theologically conservative evangelical or Roman

⁴⁹ Bagley Initial Report, pp. 10-11.

⁵⁰ Carrington, pp. 21-2.

⁵¹ Carrington, pp. 22-24.

Catholic iterations, vote overwhelmingly Republican.” This ignores Black evangelicals and Catholics, but more on that below.⁵²

Next is abortion, “Another issue to develop after the Civil Rights and Voting Rights Acts,” according to Dr. Carrington.⁵³ This is a *non sequitur* fallacy, suggesting that, because southern [white] opposition to abortion was ginned up after that legislation, there is no connection between the two. In fact, the white evangelical leaders that Carrington discusses in his report knew full well that decrying American “moral decline” in the 1970s and 1980s would appeal to many of the voters who had begun to move away from the Democratic Party in the 1960s. Furthermore, according to Pew Research Center “religious landscape study,” 48 percent of Black Alabamians believe that abortion should be “illegal in all/most cases.”⁵⁴

Lastly, Dr. Carrington discusses LGBTQ rights. He notes that President Clinton signed the Defense of Marriage Act in the 1990s, another indicator that the New Left had not overtaken the Democratic Party at that time. More important here is the same failure as in the section dealing with religious identity – Carrington is not talking about Black Christians or Black voters in Alabama; he is talking about white voters and white Christians. The *Washington Post* unpacked these issues in a 2017 article examining former Senator Doug Jones’s victory over Roy Moore. Michelle Boorstein wrote, “In recent years the word ‘evangelical’ has become nearly synonymous with white, conservative Republicans. But in Alabama, one of the most evangelical states in the country, as well as across swaths of the American South – race and religion mix in a different way.” She indicated that 96 percent of Black voters chose Jones, “and the vast majority of those people self-identify, according to exit polling, as evangelical or born-again.”⁵⁵

Black evangelicals in Alabama, Boorstein explained, “are less motivated by the issues that heavily drive white evangelicals – specifically abortion and the rise of LGBT rights.” Instead, she said, quoting a pastor from a Mobile church, Black evangelicals in Alabama were motivated by “issues such as mass incarceration, a struggling state educational system and a ‘mentality that continues to consider us as second-class citizens.’” The *Post*’s Eugene Scott added that “black voters knew was that Moore had adopted Trump’s ‘Make America Great Again’ slogan — and for residents of a state that has deep-rooted racial tensions running through its veins, some moments of America’s past are not among the state’s finest moments.” Boorstein concluded, “Race generally trumps religion in Alabama overall as a dividing line among voters – and that is certainly true among African American voters.”⁵⁶ We should consider here, as well, that efforts to remove racist language from the state’s white supremacist 1901 constitution failed repeatedly until very recently.⁵⁷

⁵² Carrington, p. 23.

⁵³ Pp. 26-7.

⁵⁴ “Views about abortion among blacks by state,” Pew Research Center, 2024.

⁵⁵ Michelle Boorstein, “The Stunning Difference between White and Black Evangelicals in Alabama,” *Washington Post*, Dec. 13, 2017. See also, *New York Times*, “Alabama Exit Polls: How Different Groups Voted,” 2024 Elections.

⁵⁶ Boorstein, “The Stunning Difference between White and Black Evangelicals in Alabama.” See also,

⁵⁷ Tamiro Mzezwa, “Alabama Begins Removing Racist Language From Its Constitution,” *New York Times*, Sept. 19, 2021.

In his conclusion, Dr. Carrington again describes the 1964 presidential election as “an anomaly,” despite in the next sentence indicating that the “incremental” shift of [white] voters to the GOP began at the presidential level at that very moment. He also, rightly, indicates that in nearly all other state and local-level elections, until the 1990s, [white] voters in Alabama continued to vote Democrat. His report does not adequately explain how or why that shift occurred because he is trying to “mute” race and because he does not engage Alabama politics in any meaningful way. Additionally, he does not engage the Senate Factors that he purports to be engaging. He dismissed the premise of Senate Factor 6 and ignores Factors 1 and 2.

As I explain in my report, the rise in Alabama politics of Black voters, thanks to enforcement of the Voting Rights Act, initially brought about a tenuous coalition in the Democratic Party. This began to break down as Black political power grew, especially in the 1990s. By the 2000s, as many white Alabamians came to view the state Democratic Party as too heavily controlled by Black political interests, leadership in the state Republican Party saw a way to use this fact to help create a white Republican super-majority, a goal that was realized in 2010. Certainly, there are other contributing factors, varying in degree of influence over time, but to dismiss the importance of race or how other issues are tied to race fails the credibility test.

Dr. Flynt commented on the 2017 elections and Attorney General Marshall’s suing the city of Birmingham for covering a Confederate monument in the wake of racist violence in Charlottesville, Virginia. White Alabamians, Flynt said, are “conservative”:

And so they vote Republican, just as once upon a time they voted Democratic, and the Democrats were both racist and conservative. I think Alabama is still defined primarily by race, that's the most important issue. The most obvious example of that is blacks vote almost all together one way, whites vote almost all together another way. Blacks worship altogether in one setting, whites altogether in another setting. When blacks hit a tipping point of 40 or 50 percent in schools, all the whites tend to go to another school. When the neighborhood gets to be more than 50 percent black, all the whites move. Race defines Alabama completely⁵⁸

IV. Other Reports – Reilly and Bonneau

In his March 29 report, Dr. Wilfried Reilly engages my observation that Black Alabamians are grossly overrepresented in the state’s prison system. Dr. Reilly counters that Alabama is no different in this overrepresentation than other states and might actually be a little less bad. He adds that northern states that like to mock “the Alabamas of the world” are actually worse. This line of argument is unhelpful “what-about-ism.” There is also a history of racial discrimination in the criminal legal system in other states across the country, and recent scholarship has indeed characterized mass incarceration, nationally, as a “new Jim Crow.” Still, other states are not the subject of numerous findings of appalling and unconstitutional conditions in their prisons, including systemic violence, rape, and drastic overcrowding, as in Alabama. Alabama is unique in

⁵⁸ Jeremy Gray, “Historian Wayne Flynt on Senate race, Confederate monuments, Alabama’s ‘political prostitution,’” *AL.com*, Aug. 20, 2017.

that its Black citizens are subjected to those conditions disproportionately and that such conditions, for Black inmates, are a historical continuity.⁵⁹

The rest of Dr. Reilly's report reads, to a historian, like the widely discredited Moynihan Report of 1965, with Reilly attributing gaps between Black and white Alabamians in areas including voter registration and turnout, performance on standardized tests, and "criminal behavior" to apathy, refusal to study, and single-mother households, respectively. The Moynihan Report's influence quickly waned, particularly after the publication, three years later, of the Kerner Commission Report, which attributed the urban violence of those intervening years to a history of racial discrimination.⁶⁰

In his March 29 report, Dr. Christopher Bonneau examines certain races for Alabama Supreme Court and state legislature and concludes that a candidate's race in these contests does not matter. The crucial flaw in this analysis, from a historical perspective, is that it makes no attempt to explain or contextualize the "realignment" of state politics, which is to say the Republican takeover of 2010, which my report presents as fundamentally motivated by race. Dr. Bonneau acknowledges that, with this shift [of white voters and candidates to the GOP, to say nothing of district lines], Alabama became a "one-party state." But that does not factor significantly into his analysis. He argues that, while no Black candidates have won statewide office since the 'realignment,' neither have any white Democrats, and so the problem is that Black candidates continue to run as Democrats, not the fact that they are Black.⁶¹

Take, for example, the State Supreme Court. Dr. Bonneau notes that Black candidates were "not only" elected to the court, but they were reelected. This needs context. First, no Black citizen has held any statewide office in Alabama in the twenty-first century. Second, the individuals that Dr. Bonneau mentions – Oscar Adams, Ralph Cook, and John England – are the only Black people to *ever* hold statewide office in Alabama, despite Black candidates running for Governor, Lieutenant Governor, U.S. Senate, Secretary of State, and state Auditor. Third, all three judges were first appointed to the court, giving them a decided advantage in securing subsequent terms via reelection. Justice Adams was appointed in 1980 and won reelection in 1982 and 1988. Justice Cook was appointed to replace Justice Adams in 1993 and won reelection in 1994. Justice John England was appointed to the court in 1999, but both he and Justice Cook lost their reelection bids in 2000. There are, at present, no Black judges on Alabama's Supreme Court or any of its Courts of Appeals.⁶²

Sue Bell Cobb was elected, as a white Democrat, as Chief Justice in 2006. Dr. Bonneau notes that there must be "something unique about her," since she was also able to get elected to a state appellate court seat. Let us consider that 2006 election, more broadly. In addition to Justice Cobb, four other Democrats won statewide office, all of them white – again, during a 24-year

⁵⁹ Bagley, Initial Report, pp. 22-3. Reilly Report, pp. 20-21.

⁶⁰ David Carter, *The Music Has Gone Out of the Movement: Civil Rights and the Johnson Administration, 1965–1968*, (Chapel Hill: University of North Carolina Press, 2009).

⁶¹ Bonneau Report, pp. 3, 9-11.

⁶² Blacksher, "Voting Rights in Alabama, 1982-2006," pp. 277-78; Bonneau Report, p. 3.

period between 2000 and the present when no Black candidate was elected to statewide office.⁶³ In other words, the “something about her,” regarding Justice Cobb is that she is white. Black candidates and candidates of choice were elected to the legislature in 2006, of course, but as this Court in *Milligan* observed:

Defendants do not dispute that Black Alabamians enjoy virtually zero success in statewide elections, but they urge us that Black candidates have enjoyed “a great deal of electoral success” in “elections statewide,” by which they mean “Alabama’s districted races for State offices,” including the Legislature and the State Board of Education. But Defendants do not engage the *Milligan* plaintiffs’ point that nearly all of that success is attributable to the creation of majority-Black districts to comply with federal law. This silence makes sense: Defendants stipulated that “[t]he overwhelming majority of African-American representatives in the Alabama Legislature come from majority-minority districts.” 582 F. Supp. 3d 924 (N.D. Ala., 2022), 1019.

Dr. Bonneau argues that Black candidates in Alabama have not been able to spend as much money in campaigns as white candidates. This dovetails with the socioeconomic data I include in my report. Black Alabamians do not have the same economic resources as white Alabamians due to a history of discrimination.⁶⁴ Consider, also, that Sue Bell Cobb’s campaign against Drayton Naybors was the most expensive judicial election in the United States in 2006 and the second most expensive in Alabama history. Justice Cobb later penned an editorial decrying the partisan nature of Alabama judicial elections and the amount of money poured into those campaigns.⁶⁵

Dr. Bonneau shifts to Alabama state legislative elections. He observes that “all Democrats have a difficult time winning elections in Alabama.” This is true of statewide elections and others where white bloc voting prevents Black voters from electing candidates of choice. It is not true where majority-Black districts have been drawn in order to satisfy the strictures of the Voting Rights Act. Dr. Bonneau also mentions the election of Black Republican Kenneth Paschal in Shelby County in 2021. Dr. Bonneau leaves out some context here. The 2021 election was a special election with incredibly low turnout and was won by General Paschal by a very slim margin. He won reelection in 2022, though as an incumbent he had an inherent advantage, and he was, in any case, unopposed. His election hardly seems indicative of broader trends in Alabama politics, nor of those in Montgomery or Huntsville, the areas at issue in this case. It further recalls the time when Representative Pringle recruited a Black Republican man in Mobile during the *Wesch* litigation.⁶⁶

⁶³ Jim Folsom Jr. was elected Lt. Governor; Ron Sparks was elected Agricultural Commissioner; and Jen Cook and Susan Parker were elected to the Public Service Commission.

⁶⁴ Bagley Initial Report, pp. 21-2; Bonneau Report, pp. 7-8.

⁶⁵ Sue Bell Cobb, “I Was Alabama’s Top Judge. I’m Ashamed by What I Had to Do to Get There,” March 2015, *Politico.com*.

⁶⁶ Howard Koplowitz, “Kenneth Paschal wins Alabama House seat; becomes Legislature’s only Black Republican, *Al.com*, July 14, 2021; Brandon Mosely, “Kenneth Paschal wins House District 73 special election” *Alabama Political Reporter*, July 14, 2021; Bonneau Report, pp. 9-10; Gustafson v. Johns, 434 F. Supp. 2d 1246 (S.D. Ala. 2006), summary of previous litigation at 1248-49: “Percy Johnson ... testified that he was asked to be a plaintiff because he was ‘one of the leading African-American Republicans in Mobile.’ Johnson was recruited by Representative Chris Pringle.”

Finally, Dr. Bonneau's report fails to explain why Black candidates fared abysmally in the 2024 Republican primary for the newly redrawn Congressional District 2. In that election, the top three vote-getters were white: Dick Brewbaker won 39.6 percent of the vote; eventual winner Caroleene Dobson, 26.5; and Greg Albritton, 25.3. The next-highest vote-getter was Hampton Harris, a white 2023 graduate of Auburn University with no political experience. Below Mr. Harris were four Black candidates, all of whom garnered less than 2 percent of the vote. Far from unqualified candidates, one of those four has served on the state Republican Party Executive Committee and another on the Mobile County Republican Party Executive Committee.⁶⁷

⁶⁷ Alabama 2nd Congressional District Primary Election Results," New York Times, April 16, 2024; Ralph Chapoco, et al., "A voter's guide to the Alabama 2nd Congressional District primaries," *Alabama Reflector*, March 1, 2024.

I declare under penalty of perjury that the foregoing is true and correct.

Joseph M.
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