

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ALABAMA STATE CONFERENCE OF	)	
THE NAACP, <i>et al.</i> ,	)	
	)	
<i>Plaintiffs,</i>	)	No. 2:21-cv-1531-AMM
	)	
v.	)	
	)	
WES ALLEN, <i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	

**PLAINTIFFS' OPPOSITION TO DEFENDANT'S
MOTION FOR JUDGMENT AS A MATTER OF LAW**

Plaintiffs oppose the Secretary's motion for judgment as a matter of law and respectfully request that the Court reject it on both grounds sought.

First, the Court should deny the motion seeking judgment as a matter of law based on the Secretary's argument that "Section 2 of the Voting Rights Act does not create a private right of action," Doc. 247 at 1, for all of these reasons stated in Plaintiffs' opposition to the Defendants' motions to dismiss, Doc. 138, and as a correctly held by the Court, Doc. 143. It should also deny the motion for the further reason that even if Section 2 of the VRA did not create a private right of action, Plaintiffs also brought their claims pursuant to 42 U.S.C. § 1983, which provides jurisdiction to enforce claims under Section 2 of the VRA. *See* Fourth Am. Compl. (Doc. 126) §§ 7, 10, 176. The Secretary fails to raise this as a basis for dismissal at

all, let alone overcome the presumption “that § 1983 can play its textually prescribed role as a vehicle for enforcing [] rights.” *Health & Hosp. Corp. of Marion Cnty. v. Talevski*, 599 U.S. 166, 187 (2023); *see also* Doc. 138 at 23-27.

Second, for all of the reasons explained in Plaintiffs’ Proposed Findings of Fact and Conclusions of Law, *see* Doc. 250 ¶¶ 103–266, 569–682, and Oppositions to Defendants’ Motions for Summary Judgment and Motion in Limine, Docs. 172, 200, the Secretary is not entitled to judgment as a matter of law for the Huntsville-based district based on the first *Gingles* precondition. Plaintiffs offered more-than ample proof at trial to meet their *Gingles* 1 burden. Regardless, a “district court’s determination regarding one of the *Gingles* prongs is . . . [reviewed] for clear error” as “a finding of fact,” *Johnson v. Hamrick*, 296 F.3d 1065, 1074 (11th Cir. 2002), and thus presents an “issue of material fact” that “require[d] the court to weigh evidence and evaluate the credibility of witnesses.” Order Denying Summary Judgment (Doc. 191) at 4.

Therefore, Plaintiffs respectfully request that the Court deny the instant motion and find for the Plaintiffs based on the evidence presented at trial and fulsome post-trial briefing.

DATED this 19th day of
December, 2024

/s/ Alison Mollman
Alison Mollman (ASB-8397-A33C)
Laurel Hattix (ASB-4592-E20I)
AMERICAN CIVIL LIBERTIES UNION OF
ALABAMA
P.O. Box 6179
Montgomery, AL 36106-0179
(334) 265-2754
amollman@aclualabama.org
lhattix@aclualabama.org

/s/ Deuel Ross
Deuel Ross*
NAACP LEGAL DEFENSE &
EDUCATIONAL FUND, INC.
700 14th Street NW Ste. 600
Washington, DC 20005
(202) 682-1300
dross@naacpldf.org

Leah Aden*
Stuart Naifeh*
Kathryn Sadasivan (ASB-517-E48T)
Brittany Carter*
Ashley Burrell*
Colin Burke*
NAACP LEGAL DEFENSE &
EDUCATIONAL FUND, INC.
40 Rector Street, 5th Floor
New York, NY 10006
(212) 965-2200
laden@naacpldf.org
snaifeh@naacpldf.org
ksadasivan@naacpldf.org
bcarter@naacpldf.org
aburrell@naacpldf.org
cburke@naacpldf.org

Respectfully submitted,

/s/ Davin M. Rosborough
Davin M. Rosborough*
Dayton Campbell-Harris*+
Theresa J. Lee*
Sophia Lin Lakin*
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
125 Broad St.
New York, NY 10004
(212) 549-2500
drosborough@aclu.org
dcampbell-harris@aclu.org
tlee@aclu.org
slakin@aclu.org

Jacob van Leer*
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
915 15th St. NW
Washington, DC 20005
jvanleer@aclu.org

/s/ Sidney Jackson
Sidney Jackson (ASB-1462-K40W)
Nicki Lawsen (ASB-2602-C00K)
WIGGINS, CHILDS, PANTAZIS,
FISHER & GOLDFARB
301 19th Street
North Birmingham, AL 35203
(205) 314-0500
sjackson@wigginschilds.com
nlawsen@wigginschilds.com

/s/ Jack Genberg
Bradley E. Heard*
Jack Genberg*
Jess Unger*

David Dunn*
HOGAN LOVELLS US LLP
390 Madison Avenue
New York, NY 10017
(212) 918-3000
david.dunn@hoganlovells.com

Blayne R. Thompson*
HOGAN LOVELLS US LLP
609 Main St., Suite 4200
Houston, TX 77002
(713) 632-1400
blayne.thompson@hoganlovells.com

Michael Turrill*
Harmony R. Gbe*
James W. Ettinger*
HOGAN LOVELLS US LLP
1999 Avenue of the Stars Suite 1400
Los Angeles, CA 90067
(310) 785-4600
michael.turrill@hoganlovells.com
harmony.gbe@hoganlovells.com
jay.ettinger@hoganlovells.com

SOUTHERN POVERTY LAW CENTER
150 E. Ponce de Leon Avenue, Suite
340 Decatur, GA 30030
(404) 521-6700
bradley.heard@splcenter.org
jack.genberg@splcenter.org
jess.unger@splcenter.org

Avner Shapiro*
SOUTHERN POVERTY LAW CENTER
1101 17th Street NW
Suite 510
Washington, DC 20036
240-890-1735
avner.shapiro@splcenter.org

Jessica L. Ellsworth*
Shelita M. Stewart*
Amanda N. Allen*
HOGAN LOVELLS US LLP
555 Thirteenth Street, NW
Washington, DC 20004
(202) 637-5600
jessica.ellsworth@hoganlovells.com
shelita.stewart@hoganlovells.com
amanda.n.allen@hoganlovells.com

Attorneys for Plaintiffs

*Admitted *pro hac vice*

+ Not admitted in New York

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel of record in this case.

/s/ Davin M. Rosborough
Davin M. Rosborough
American Civil Liberties Union
Foundation
125 Broad St.
New York, NY 10004
(212) 549-2500
drosborough@aclu.org