

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 1

Common Cause, et al.)
)
v.) 4:22-cv-109
)
Cord Byrd)

)

TRANSCRIPT OF VIDEO-RECORDED
HEARING OF THE FLORIDA STATE LEGISLATIVE REDISTRICTING
SUBCOMMITTEE
NOVEMBER 3, 2021

DIGITAL EVIDENCE GROUP
1730 M Street, NW, Suite 812
Washington, D.C. 20036
(202) 232-0646

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 2

1 REP. BYRD: The State Legislative Redistricting
2 Subcommittee will come to order. DJ, please call the
3 role.

4 CLERK: Chair Byrd?

5 REP. BYRD: Here.

6 CLERK: Vice Chair Robinson?

7 REP. ROBINSON: Here.

8 CLERK: Ranking Member Daley?

9 REP. DALEY: Here.

10 CLERK: Representative Arrington?

11 REP. ARRINGTON: Here.

12 CLERK: Barnaby has been excused. Belle?

13 REP. BELLE: Here.

14 CLERK: Brannan?

15 REP. BRANNAN: Here.

16 CLERK: Chambliss?

17 REP. CHAMBLISS: Here.

18 CLERK: Garrison?

19 REP. GARISSON: Here.

20 CLERK: Hart?

21 REP. HART: Here.

22 CLERK: Hawkins?

23 REP. HAWKINS: Here.

24 CLERK: Manny?

25 SEN. DIAZ: Here.

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 3

1 CLERK: McLain?
2 REP. MCLAIN: Here.
3 CLERK: Melo?
4 REP. MELO: Here.
5 CLERK: Mooney? Mooney?
6 REP. MOONEY: Here.
7 CLERK: Persons-Mulicka?
8 REP. PERSONS-MULICKA: Here.
9 CLERK: Salzman?
10 REP. SALZMAN: Here.
11 CLERK: Snyder?
12 REP. SNYDER: Here.
13 CLERK: Tant?
14 REP. TANT: Here.
15 CLERK: Valdez?
16 REP. VALDEZ: Present.
17 CLERK: Woodson?
18 REP. WOODSON: Here.
19 CLERK: Core members present, Mr. Chair.
20 REP. BYRD: Thank you, DJ. And, uh, a few
21 reminders before we get -- we begin as I look out at
22 an empty, uh, committee room, at least, uh, from the
23 public's perspective. I would ask that everyone please
24 silence all electronic devices and if you wish to make
25 a public comment, please fill out a form and turn it

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 4

1 into the sergeant's staff, and if somebody walks in,
2 we'll -- we'll remind them of that.

3 Also, uh, for members and presenters, please
4 ensure that you turn your microphone on when you are
5 speaking and off when you are finished.

6 So, good afternoon, members. Welcome back to our
7 interim committee meetings. Uh, so far in this
8 process, we've covered an introduction to
9 redistricting concepts, reviewed our website and
10 current public input opportunities, discussed our map
11 drawing application's advanced functionality and how
12 those tools can assist us in aligning our maps with
13 our constitutional standards, as well as demonstrated
14 some tangible examples of our constitutional standards
15 within our currently enacted house map.

16 I explained during our first committee meeting
17 how important a comprehensive educational effort is to
18 understanding the full scope of redistricting. I hope,
19 uh, you're coming to appreciate that this is not an
20 easy task, nor one with clear-cut answers. One of the
21 last pieces of educational information we need to
22 cover as a committee is the legal aspect of
23 redistricting, which includes applicable federal and
24 state law as well as case law related to this process,
25 especially Florida Supreme Court precedent that was

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 5

1 established following the 2012 redistricting cycle.
2 This will directly impact how we view and apply our
3 Tier-One and Tier-Two standards.

4 For this redistricting cycle, the house has
5 retained outside council to advise the chamber on
6 state and federal law, as well as relevant court
7 precedent. For today's presentation, our committee
8 will be hearing from Pete Dunbar with Dean-Mead Law
9 Firm. Pete began his public service in 1967 serving as
10 a staff director in the Florida house and later served
11 as a representative from the Pinellas-Pascoe area.

12 Pete's tenure as a state representative
13 encompassed the 1982 redistricting cycle and he has
14 been additionally involved in subsequently
15 redistricting cycles, serving as outside council

16 Members, I want to differentiate that today's
17 council presentation is for our education on relevant
18 redistricting law. It is not for discussing
19 hypothetical scenarios or specific policy decisions
20 that may come before our committee because, as I've
21 mentioned before, there is no single correct map.

22 When we begin viewing district boundary lines,
23 decisions -- decisions must be weighed among one
24 another with the goal of drawing a legally compliant
25 map.

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 6

1 As Mr. Dunbar goes through his presentation, I
2 encourage you to take notes of questions you may have.
3 Once the presentation is concluded, we will take
4 questions from members on the contents of the
5 presentation and will then move on to public contact -
6 - uh, public comment.

7 And with that, Mr. Dunbar, welcome to the house
8 legislate -- legislative redistricting subcommittee.
9 You're recognized to present.

10 MR. DUNBAR: Mr. Chairman, uh, thank you very
11 much. Uh, members of the committee, uh, my goal -- as
12 the chairman stated -- today is to provide an overview
13 of the, uh, basic legal standards and their hierarchy,
14 uh, that govern, uh, that task that you will be
15 facing. Uh, I want to do it first by looking at the
16 federal standards. Uh, you will find them - some to be
17 previously used and some to be very relevant still
18 today. Um, that is the standard that was used first
19 four times that legislative plans went to the Florida
20 Supreme Court, um, and we'll take a look at those, uh,
21 then, we'll take a look at the Florida redistricting
22 standards that are now found in sections 21 and 22 of
23 article three of the constitution. And they were
24 applied for the first time in 2012 as the chairman,
25 um, indicated.

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 7

1 Uh, these standards have -- were -- the new
2 standards were considered and analyzed in significant
3 detail by the Florida Supreme Court. Uh, the chair
4 referenced that particular decision. If you're
5 interested, it's probably worth taking a look at. It's
6 titled In Res Senate Resolution of Legislative
7 Apportionment. It will be cited a number of times in
8 the slide. Uh, rather lengthy but very much, uh, full
9 of guidance and insight, uh, for how things are
10 expected to be conducted.

11 But that being said, let's start by taking a look
12 at some of the federal level, uh, legal and -- law and
13 legal standards that, um, have been around for a while
14 and I want to begin first with the Voting Rights Act
15 that was enacted, um, in 1965. Now, the goal here was
16 to try and, um, um, protect, uh, the mechanism -- or
17 served as a mechanism for enforcing the, uh, 15th
18 amendment rights of -- uh, voting rights of amendments
19 of -- of minority members under the constitution, and
20 that was the objective.

21 Um, the Voting Rights Act had two relevant
22 sections that carry over to, um, state election
23 activities that clearly, uh, also deal with
24 apportionment activities. The first one is found in,
25 um, section 2 of the Voting Rights Act and it is this

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 8

1 section that prohibits a state from imposing voting
2 procedures or enactments that deny or abridge minority
3 right -- uh, right -- voting rights based on race,
4 color or language minority.

5 There is a very significant seminal case on this,
6 uh, that interpreted this section 2 provision. And
7 that context was Thornburg -- Thornburg v. Gingles.
8 Uh, I will tell you that it's commonly referred to as
9 the Gingles case and that's the way I will refer to it
10 from this point on. And under Gingles, basically
11 what you find is the state is obligated to create
12 minority opportunity districts when the minority
13 population is large enough and is compact enough to
14 justify such a district. When the minority population,
15 uh, needs to be deemed to be politically coercive --
16 cohesive. So, there can't be a polarization process,
17 uh, within the minority population. And it also looks
18 at whether or not the minority population grouping is
19 being taken advantage of by a larger, um, voting
20 population that denies the minority population the
21 representation of their choice.

22 In the context of the Gingles case, these
23 elements present, um, something to look at in the
24 totality of the circumstances in order to make sure
25 that section 2 of the federal Voting Rights Act is

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 9

1 complied with. I might point out here too one of the
2 other things from the case is that discriminatory
3 intent is not required, uh, to be a violation of
4 section 2. It is the totality of the circumstances
5 that I just enumerated that would create a basis for a
6 challenge to such a district. There's a second
7 section that comes from the Voting Rights Act. Now,
8 there's a little bit of history to this one. Um, it is
9 relevant to us for other reasons, but let me go
10 through it nonetheless. And its purpose was to
11 prohibit retrogression of the positions that minority
12 populations had attained, uh, during the electoral
13 process. Basically, section 5 was enacted to prevent
14 backsliding, uh, from the prior gains that had been
15 attained by minority populations.

16 In order to, uh, implement this tool, there was a
17 provision in the law or in section 5 that required the
18 pre-clearance of changes to election laws and election
19 procedures by the federal government before the
20 changes could be implemented in certain states and
21 geographical areas of certain other states. And those
22 areas were determined through a formula based on
23 existing conditions in the 1960s and the 1970s. Now,
24 in Florida, um, the formula's extended to federal pre-
25 clearance requirements, uh, to the specific

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 10

1 jurisdictions that included Collier, Hardy,
2 Hillsborough, and Monroe county.

3 And in that context, when we had reapportionment
4 plans or apportionment plans, uh, that were running
5 through the process, pre-clearance was one of the
6 objectives that needed to be overcome, um, going
7 through it.

8 Now, I also want you to note the Shelby County v.
9 Holder case that appears at the bottom of the page.
10 And this case was decided by the United States Supreme
11 Court in 2013.

12 Basically, it determined that the formulas for
13 preclearance based upon the event and activities in
14 the 1960s and then 1970s were no longer applicable and
15 eliminated the preclearance based on those conditions.
16 That did afford the opportunity for Congress to come
17 in and put new formulas in place. Congress never did
18 that.

19 Long story short, section 5 no longer requires
20 preclearance by anyone anywhere. Also being said, that
21 doesn't mean we walk away from or don't need to pay
22 attention to, uh, some of the criteria that have been
23 set, uh, by, uh, the application of article 5.

24 Before we leave the federal area, let me talk,
25 uh, uh, uh, briefly on a couple of items related to

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 11

1 gerrymandering. First, with regard to racial

2 gerrymandering -- gerrymandering.

3 Uh, the benchmark case -- there are a number of
4 them, but this is one of the key ones -- is Miller v.
5 Johnson -- deals with racial gerrymandering -- racial
6 gerrymandering, um, and it basically provides, first,
7 that you can not -- it is improper to have the intent,
8 uh, to create a minority, uh, district as a, uh,
9 predominant factor when you are designing that
10 district as a matter of general application.

11 Race, however, may be considered and be taken
12 into consideration as a predominant characteristic
13 when you are competing to, uh, apply the standard to
14 the compelling state interests that were first
15 expressed in the federal Voting Rights Act and we now
16 find in the new additions to Florida's constitution
17 that took effect in, uh, 2012. Um, this becomes a
18 relevant part of your work when we look to the new
19 Florida standards in a minute that you will find, uh,
20 in the Tier-Two standards, um, in the Florida
21 constitution.

22 Uh, one more gerrymandering case, um, that will -
23 - um, of -- of interest and note. [Lina ??]. Is it
24 Rucho? Rucho v. Common Cause. We were discussing the
25 correct pronunciation earlier. But this was the

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 12

1 final determination that was done in 2019 with regard
2 to political gerrymandering. Now there was, through a
3 series of decades, cases that attempted to apply the
4 14th amendment equal protection clause, uh, to
5 prohibit partisan gerrymandering, but all of the prior
6 cases before, uh, the Common Cause case were left, uh,
7 without a final determination.

8 In this particular case -- again, very recent.
9 2010 -- uh, 19. It basically took the federal
10 judiciary out of this question, um, under the 14th
11 amendment by determining that political or partisan
12 gerrymandering was beyond the reach of the federal
13 courts and it is a political and not a legal question.

14 Again, when we take a look at the, um, Florida
15 standards, um, in the next series of slides, this
16 issue, uh, arises again, but it will appear in a
17 different context, uh, than the claims that were made
18 in the federal courts under the equal protection
19 clause or attempting to bring it under the 14th
20 amendment equal protection clause.

21 So, let me first introduce you to the base
22 standards that appeared, um, in the, uh, 1968, uh,
23 version of Florida's, uh, constitution. Um, they are
24 found in article III, section 16. And basically, um,
25 before 1968, there was no, uh, process to seek for or

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 13

1 for a grieved party to seek an immediate or direct
2 review of apportionment plans that followed with a
3 proliferation of litigation.

4 Between the years 1955 and 1966, there were no
5 fewer than seven apportionment plans that were offered
6 by, uh, the legislature, but ultimately all of them
7 were rejected by the federal courts.

8 As a result of this fruitless and unproductive
9 litigation, the provisions of article III, section 16
10 were adopted by the voters, um, and now mandate, or
11 did mandate under that context, that legislature --
12 the legislature -- that the legislature prepare for
13 the plans with the time certain proscribed shown here
14 that the optional standards that include setting the
15 numerical membership for each of the bodies here in
16 the legislature. By the way, that didn't previously
17 exist as part of one of the standards in the 1985
18 constitution.

19 It did require that the district be contiguous.
20 So, you can't just touch them with a point. There has
21 to be a geographical continuity to that. And once
22 adopted to address this proliferation that was
23 unproductive prior to the adoption of the constitution
24 -- were now provided an opportunity to go immediately
25 to the Florida Supreme Court, where the goal is to

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 14

1 provide a direct and immediate decision to the
2 validity of the decisions that you have made here in
3 the capital on this subject.

4 I will say that these were the standards that all
5 of the apportionment plans that proceeded the 2012
6 plans were, uh, evaluated against by the Florida
7 Supreme Court, but in 2012, the voters added two new
8 sections to the constitution. That would be sections
9 20 and 21 and their key components the chairman
10 mentioned a little bit earlier -- they are the Tier-
11 One and Tier-Two components that are shown here on the
12 slide.

13 In making an evaluation or a consideration of
14 these elements, um, if there is a conflict between the
15 tiers, then Tier-One standards are considered a
16 priority over the two -- two -- Tier-Two standards.

17 For the standards within the tier, there is no
18 priority. They are basically considered, uh, coequal
19 in their contents. I'm sure you're very much aware of
20 these Tier-One and Tier-Two standards. Let me just,
21 um, highlight them one more time before we go on the
22 next slides.

23 In the Tier-One standards, um, the plan may not
24 favor or disfavor a political party or an incumbent
25 member of the legislature. Districts', uh, lines

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 15

1 cannot be drawn to, uh, abridge the opportunity of
2 racial and language minorities or diminish the ability
3 for them to elect representatives of their choice. The
4 districts must consist of contiguous territory. Tier
5 one priority standards.

6 In Tier-Two, the standards require that the
7 districts be nearly as equal as practicable. Um, that
8 districts be compact geographically and where
9 feasible, the boundaries for the districts utilize or
10 must utilize city, county or geographical boundaries.

11 And I was, um -- when I was observing your last
12 meeting, um, as Kelly provided specific examples for
13 all of you, um, on how those boundaries can be
14 identified and utilized. Um, it is not unusual to find
15 a bit of tension between these tiers.

16 That's part of what you will wrestle with, but in
17 evaluating them or dealing with the tension that might
18 result, at least now you will, I hope, appreciate the
19 priority on how you might, uh, evaluate that.

20 Now, um, this is my first time -- you'll see the
21 citation of the actual case from 2012. You might make
22 a note of it if you'd like to read it. It is very
23 fascinating and quite good. Uh, I'm going to try to
24 provide some of the key highlights from the case for
25 your benefit.

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 16

1 Um, so, the first opportunity here would be to,
2 uh, address the, uh, Tier-One standards with regard to
3 the improper intent to favor or disfavor, uh,
4 political parties. First, with regard to the intent to
5 favor or disfavor, there is no acceptable level of
6 improper intent. If it's there, it's unacceptable.
7 There is not any level for it -- that -- to be
8 attained.

9 But the court decision also notes that the
10 provision speaks specifically to intent and not to
11 effect. Said differently, the standard does not
12 require a quote un-quote "fair plan," but it requires
13 a plan without improper intent.

14 Um, the court, on this topic specifically,
15 rejected the suggestion that there should be an
16 alteration to a plan after it's drawn and the effects
17 are known and an effect -- um, acknowledged attempts
18 to rebalance, uh, the plan in this fashion, uh, based
19 on state wide voting patterns was not a standard to be
20 found in Tier-One or to be found in Tier-Two.

21 Next, let's take a look, um, at the, um,
22 provision that provides that there is -- it is
23 improper to favor or disfavor an incumbent when
24 engaged in creating districts. And the court also has
25 provided us some, uh, standards on what would -- that

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 17

1 would bring into play. First, districts cannot be
2 configured with consideration towards the residence of
3 any of you.

4 Um, the incumbent's residence, um, is not a
5 consideration that is permissible. Uh, districts
6 cannot be created with the idea that were not putting
7 incumbents in the same district against each other.
8 That's also, uh, an improper consideration. And
9 finally, it's an improper consideration to create a
10 district with the intent to preserve the core voting
11 block of the incumbent's prior district.

12 With regard to, um, the districts, um, in the
13 Tier-Two standard, basically what we're doing here is,
14 um -- oh, wait a minute. I think I got myself out of
15 order. Give me just a quick second. Well, I want to do
16 it this way. Um, let me do my best to deal with it by
17 looking at the slides. One of the things the Tier-One
18 standard now deals with is basically what we found in
19 the federal Voting Rights Act that I went through in
20 some detail when we were looking at the federal
21 standards.

22 So, what -- um, may no longer be a pre-clearance
23 under section 5 because that's been eliminated. It now
24 finds itself embodied in Florida's constitution in
25 article 3, section 21.

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 18

1 Said differently, I notice -- I made note of a
2 series of counties that were affected under section 5
3 of the Voting Rights Act, but under the new standards
4 that we find in Tier-One, it's no longer just those
5 five counties.

6 It is the entire state of Florida that, um --
7 that the context of this minority opportunity or the
8 ability to, um, avoid, uh, prejudicial efforts in the
9 creating of those districts. So, the Tier-One standard
10 that we now find, um, is basically a reiteration of
11 what was found in the, um, Voting Rights Act that we
12 previously discussed.

13 That gets us to the district -- um, excuse me.
14 The -- the Tier-Two constitutional standards. Um, and
15 there is a requirement that the district populations
16 be as nearly equal as practicable.

17 That's a carry-over that we have seen in both
18 congressional and legislative redistricting, but one
19 of the thing that is a bit unique is that there is a
20 bit more flexibility and tolerance with regard to
21 legislative, uh, district sizes and their variants
22 than you would find in the same, uh, context with a
23 congressional district.

24 So, there is more flexibility allowing you to
25 deal with some of the other, uh, standards that deal

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 19

1 with compactness and the boundary, uh, standards that
2 are being created. Not that it's a lot, but it is
3 there and it is slightly different.

4 Uh, the districts are, again, required to be
5 compact and geography is the relevant factor here. Um,
6 basically, it's a visual, uh, concept and there are
7 recognizable mathematical, uh, tests that Ms. Kelly,
8 uh, has previously demonstrated to you. And they
9 include the Holsby-Potter, uh, Reock and the area
10 convex whole test, some of which were used in 2012
11 when the house presented its plan to the Supreme
12 Court, uh, at that time.

13 Now the political boundaries are pretty obvious.
14 They are the recognizable county and city boundary
15 lines -- the county and city boundary lines. Also are
16 those things that are easily identified and, um,
17 recognizable, such as major roadways, uh, railways,
18 uh, rivers and other natural water bodies.

19 Let me conclude this way. The 12 -- the 2012
20 opinion that we've focused on in some of these
21 standards -- and I hope you wrote down the citation if
22 you would like to look at it in more detail - provide
23 both guidance and analysis of the standards that
24 govern and will govern the redistricting -- work --
25 work we'll be engaged in over the next few months.

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 20

1 And I want to leave with one final thought.
2 Reading from that opinion before we take a little bit
3 of time for questions, Mr. Chairman, if that's
4 appropriate. So, if I might, from the Florida Supreme
5 Court in 2012:

6 "A review of the house plan and the record
7 reveals that the house engaged in consistent and
8 reasoned approach, balancing the two tier standards by
9 endeavoring to make districts compact, as nearly equal
10 in population as possible, and utilizing political and
11 geographical boundaries where feasible by endeavoring
12 to keep county and cities together where possible. In
13 addition, the house approached the minority voting,
14 uh, protection provisions by properly undertaking a
15 functional analysis of the voting strengths of
16 minority districts."

17 Um, the house was successfully, um, endorsed by
18 the court in 2012 and I think following the standards
19 that we've been through this afternoon, the same will
20 be -- the same results will be, uh, delivered to you
21 in 2022. Mr. Chairman, if there are questions, I'd be
22 happy to answer them if I can.

23 REP. BYRD: Thank you, Mr. Dunbar, for your
24 presentation. Members, there are two specific items
25 that I would like to address on the record before we

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 21

1 take questions from committee members, the first being
2 incumbencies.

3 I want to state very clearly that we are not and
4 will not be using any incumbent or candidate addresses
5 to produce these maps. The house took the same
6 position last decade, and the Florida Supreme Court
7 viewed that as a favorable step towards protecting
8 against inadvertently favoring or disfavoring any --
9 an incumbent, uh, one of Tier-One standards.

10 I think this is also a good point in time to very
11 candidly say as new district lines are workshopped and
12 this process proceeds, there is a chance any member
13 may be paired with a fellow incumbent in a newly
14 created district in order to create legally compliant
15 boundary lines.

16 I know that that may be an intimidating thought
17 for all members, however, that is part of the process.
18 And as you bring comments to committee, please be
19 mindful that I will not entertain any discussion about
20 placing boundary lines in order to favor a current
21 house member or potential challengers.

22 Second item I'd like to address is a point Mr.
23 Dunbar touched on regarding the partisan makeup of the
24 maps, uh, that will come before our committee. While
25 external third-party groups seemingly prioritize the

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 22

1 Republican-Democrat split over the legal compliance of
2 our boundary lines, that is not what we as legislators
3 are charged to do.

4 Outside of using functional analysis data to
5 ensure our racial and language minority groups can
6 elect a candidate of their choice, a Tier-One
7 standard, I want to be clear that staff, nor this
8 subcommittee will be reviewing the overall partisan
9 split of a map at any stage in this process to help
10 ensure we are not intentionally favoring or
11 disfavoring a political party or incumbent.

12 Yesterday, Chair Leek was clear that the full
13 redistricting committee will also not be looking at
14 the partisan split. Additionally, I would encourage
15 you to not engage in any unplanned or planned
16 conversations regarding such topics, as it may lend --
17 lend itself toward a violation of the Tier-One
18 standards as interpreted by the Florida Supreme Court.

19 Now I will open up for questions from committee
20 members. Please address your questions through the
21 chair. Members, are there any questions? All right.

22 Seeing now questions from the committee, uh, we
23 will now turn to public comment. Is there anyone from
24 the public wishing to address the committee on today's
25 presentation? All right. Seeing none -- oh, oh,

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 23

1 Representative Woodson, you have a question for Mr.
2 Dunbar. You're recognized through the chair.

3 REP. WOODSON: Thank you, Mr. Chair and thank you
4 very much for this comprehensive educational effort to
5 get us acquainted with the process. My question has to
6 do with, um -- I have been asked a lot of questions in
7 my district as well and I would like to know, um, do
8 we have a time frame as to when the legislative will
9 be going to the policy behind the maps that we'll be
10 receiving? Because I being asked that question in my
11 district as well.

12 REP. BYRD: Sure. So, I'll answer that since that
13 is a policy question. So, once the maps are presented
14 in committee and, uh, I would imagine that's coming
15 sooner rather than later. But as soon as we know, the
16 members will know. Uh, it'll be at that time that we
17 start workshopping the maps and then get into policy
18 discussions.

19 REP. WOODSON: I will save the other questions
20 for whenever you start the process.

21 REP. BYRD: Okay. Great.

22 REP. WOODSON: Thank you, Mr. Chair.

23 REP. BYRD: Yep. Uh, Representative, um, uh,
24 Chambliss, yes.

25 REP. CHAMBLISS: Thank you, Mr. Chair. Um, again,

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 24

1 thank you for this great presentation.

2 Um, I was just wondering, has there been an
3 instance in - where someone had -- the intent of
4 someone has been called into question, and if there
5 has been an instance of that, how was it determined
6 whether or not, um, there was any intent there?

7 REP. BYRD: So --

8 REP. CHAMBLISS: A live example of that intent.

9 REP. BYRID: -- when you say instance -- Mr.
10 Dunbar, are you familiar with a legal case, uh, which
11 in the courts have addressed, um, intent or interest
12 in a -- in -- in the redistricting matter?

13 MR. DUNBAR: Um, Mr. Chairman, uh, Representative
14 Chambliss, I would - two thoughts on that. One, that's
15 part of what we were discussing -- or the United
16 States Supreme Court was discussing in the Thornburg
17 case, which we now, uh, in somewhat, uh, different
18 contexts, pick up and find in, uh, the provisions of
19 article III, section 21.

20 If you will take a look at the, um, opinion that
21 was appearing, you will find that the court went
22 through a number of districts on a number of bases.
23 And the citations that I was prioritizing on how that
24 is evaluated is a direct result of how those districts
25 were challenged.

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 25

1 Now, that dealt with both Tier-One and Tier-Two,
2 but certainly in clear -- included the issues of Tier-
3 One that you're looking to. So, I guess that's a long
4 answer, but the real short answer is, yes. And that's
5 what you find that the supreme court of Florida
6 examined in 2012, in my opinion.

7 REP. BYRD: Follow up? Nope? Ranking Member
8 Daley, you're recognized.

9 REP. DALEY: Thanks, Mr. Chair, and Mr. Dunbar,
10 thank you very much for the presentation. My question,
11 I don't believe, is for you, um, but it's actually
12 stepping back to the answer, uh, to Rep. Woodson's
13 question.

14 Mr. Chairman, so, if we are to workshop maps
15 before we have ultimately decided what policy
16 decisions we're going to take, whether it's to --
17 whether when it comes to prison population or other
18 factors that we've raised and others have raised, if
19 we're -- how -- how are we looking at maps before
20 we've decided how we're going to handle those policy
21 issues, I guess, is the question.

22 Because my concern is our we putting the -- the
23 cart before the horse, which I -- I recognize is a
24 strange analogy coming from me.

25 REP. BYRD: So, thank you for the question. So,

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 26

1 at -- at the end of the day, the -- the constitutional
2 requirements are the policy decisions that we will
3 apply to making legally compliant maps. Follow up?

4 REP. DALEY: Thank you, Mr. Chair. So, and -- and
5 I certainly recognize that and the constitution is the
6 -- is the binding document, but when it comes to what
7 we are, um, permitted to, uh, change policy wise,
8 given that we are the legislature, when it is not, um,
9 you know, in -- in the actual constitution but it's
10 statutory or it's a -- it's a policy decision for us
11 to make -- that's our decision to make, right?

12 So -- so, there are certain things that are not
13 unconstitutional that we could be doing and could be
14 considering as we're -- as we're moving forward in --
15 in doing this process. Is that correct?

16 REP. BYRD: I mean, members are always free to
17 file legislation and have them go through the
18 committee process as they -- you know, if they think
19 that the law needs to be changed. You know, the task
20 of this committee is to apply the constitution and the
21 laws that currently exist in preparing these maps.

22 CLERK: Want to follow up, Mr. --

23 REP. BYRD: Follow up.

24 REP. DALEY: Yes, Mr. Chair. And -- so, and --
25 and I appreciate that. And I guess, my -- my thing is,

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 27

1 going back to it, it's -- it's not constitutionally or
2 legally prohibited -- uh, and I'll use the prison
3 population example again - for us to consider that
4 when making the maps. So, at what point are we as a
5 body going to decide on those type of -- of issues?
6 Prior to us seeing a map or after or ever, for that
7 matter?

8 REP. BYRD: And -- and I appreciate the question
9 and this has been brought up in the big committee and
10 also, um, um in this committee and -- and I'm -- I'm
11 certain in the congressional committee several times
12 regarding the use of the census data as it relates to
13 prisons. But I want to make it clear that the US
14 census data does not just apply to prisons. It applies
15 -- it accounts for other group quarters.

16 And so, um, under, um, article X, section 8 of
17 our constitution, it says "each decennial census of
18 the state taken by the United States shall be an
19 official census of the state." And then, throughout
20 Florida's statutes, it repeats that the US decennial
21 census data is the official census of the state for
22 the purposes of congressional redistricting. That is
23 the standard, both constitutionally and statutorily
24 that we are going to apply to, um, for example, um,
25 prison populations. Follow up?

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 28

1 CLERK: Follow up?

2 REP. BYRD: Follow up. Yep.

3 REP. DALEY: Sorry for the back and forth, Mr.
4 Chair.

5 REP. BYRD: Yep.

6 REP. DALEY: I guess, um, so, what I didn't hear
7 in there is that we can't take up the issue of, uh,
8 prison gerrymandering as a consideration as I believe
9 11 other states have -- have done, uh, as they've gone
10 through the redistricting process. So, there's nothing
11 legally prohibiting that and other factors? That -- is
12 that my understanding?

13 MR. BYRD: So, I would just correct the premise
14 of the question. That there's -- there's prison
15 gerrymandering. We're not prison gerrymandering, we
16 are following the state constitution and state law as
17 it applies to prison populations.

18 Um, and, you know, I think that that's an issue
19 you may want to take up with the, uh, you know, the US
20 Census Bureau. It's how they -- how they place those
21 individuals in a certain, um -- or where they -- where
22 they are counted in the census. We are following state
23 law just as we did in the 2012 census - or 2012
24 redistricting. Follow up?

25 REP. DALEY: Thanks, Mr. Chair. Just last point

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 29

1 here. Um, and -- and it is my understanding that the
2 census bureau actually provides the data, um, that
3 would enable us to, for example, pair up, uh, Florida
4 state in -- inmates as they may be to their last known
5 addresses or anything like that.

6 So, the data actually does exist. Other states
7 have been able to do it, even with the -- the national
8 census bureau's, uh, information.

9 REP. BYRD: Uh, I appreciate the -- the
10 discussion. I think it's an important one. Um, you --
11 the other states may use the data that way.

12 Our state has chosen through our constitution law
13 not to use the data that way and to break it out into,
14 um -- we -- we don't use geocoding, and in fact, some
15 states do use geocoding for their prison populations
16 and that may end up -- that may result in us violating
17 state law in knowing where a certain person is and
18 where they are -- where they're going to vote.

19 Follow up? Okay. Anyone else from the committee?
20 Yep. Representative Tant, you're recognized.

21 REP. TANT: Thank you, Mr. Chair. I just have a
22 question about -- I -- in regards to the districts
23 being as -- as nearly equal in population as possible
24 or practicable, what will our population deviation for
25 districts be, and will it be uniform across all

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 30

1 districts? Do we have an -- have we made a decision on
2 that?

3 REP. BYRD: So, um -- so, that -- I think there's
4 a -- there's a -- I'll let -- I'll let, uh, the staff
5 director, um, Kelly address that because there may be
6 a policy component to that, so I'll let her answer it.

7 MS. KELLY: Thank you, Mr. Chair. And -- and
8 there -- there is a legal component as well, Mr.
9 Dunbar, if you'd like to -- to fill in. Um, last
10 decade, the house had plus or minus -- roughly plus or
11 minus two percent in the population deviation.

12 However, you know, obviously our maps have -- our
13 state has grown by over two and half million people
14 throughout this decade. So, as we go and create the
15 districts, we will have to see where that line lies.

16 Um, there's nothing in whether it's state law or
17 federal precedent that says it has to be at a certain
18 percentage, but as we evaluate, you know, is a county
19 kept whole here or perhaps a city's split here, it may
20 effect where those population, uh, limits fall. Uh,
21 so, as of right now, there's no set in stone number.
22 Um, and Mr. Dunbar, if you'd like to speak to the
23 legal side of that.

24 MR. DUNBAR: Yes. Representative Tant, the -- I
25 think I mentioned in my presentation that there is a

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 31

1 degree of more flexibility in variance in population
2 groupings for legislative seats than congressional
3 seats.

4 And if you go all the way back to Baker v. Carr
5 when one person, one vote was established, that was
6 the standard set. There had been a number of cases in
7 the next five decades where people had challenged too
8 big, too small.

9 I candidly -- in my opinion, Florida has always
10 been much closer in the variance than most other
11 states, but we have seen in other states the variance
12 go, I believe, as high as 10 percent between high and
13 low.

14 The other thing I mentioned in my presentation --
15 and this will be a challenge for you based on the
16 legal standards I presented -- is that you will find
17 that there will be some tension among the standards in
18 the different tiers.

19 So, you're asked to be compact. You're asked to
20 follow city, county boundary lines. And you asked to
21 be -- you are asked to be as equal in population as
22 practicable.

23 And there -- there are the kinds of issues that
24 you will wrestle with there based on the standards
25 provided by the Supreme Court that will end up with

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 32

1 the variance that you then have to evaluate is it too
2 much and not as equal as practicable, but at the same
3 time, I protected the county boundary line. Those
4 kinds of things. So -- but there is a bit more
5 flexibility for the legislative district. I'm sorry.

6 REP. BYRD: Follow up?

7 REP. TANT: Yes. Will it be a uniform percent
8 deviation for all districts or is it going to vary
9 from district to district?

10 REP. BYRD: I'll let the staff director take
11 that.

12 MS. KELLY: Thank you, Chair. Thank you,
13 Representative. Um, it's usually identified as a range
14 and there's -- there's two items as well. Um, an
15 individual district can have a range, um, deviation.

16 Some may be slightly over, um -- would it -- the
17 ideal population that we referenced, you know, a
18 couple meetings ago or perhaps it's slightly below.
19 Um, so, it may be district by district, and then the
20 overall map -- so, the entire state -- will also have
21 a population deviation

22 REP. BYRD: Any other question from the
23 committee? Anyone else? All right. Seeing none, um --
24 we don't have any public comment cards, but I do see a
25 few members of the public, including Representative

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 33

1 Rizo. If there's anybody -- welcome. Anybody from the
2 public wishing to, uh, uh, comment on the presentation
3 -- all right.

4 Seeing none -- um, members, with council's
5 presentation today, if you have any follow up
6 questions, please direct them through committee staff.
7 We'll work to get your questions answered.

8 As to our next meeting, we will keep the
9 committee updated as our next authorized date as we
10 find out more details about special session and any
11 impacts it may have on the upcoming schedule.

12 I'd like to once again, uh, thank Mr. Dunbar for
13 his presentation and for his service to our state. Uh,
14 thank you, members. This concludes the -- our
15 committee agenda for today and Representative Valdez
16 moves we rise. Thank you. Meeting is adjourned.

17

18

19

20

21

22

23

24

25

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 34

1 I, Chris Naaden, a transcriber, hereby declare
2 under penalty of perjury that to the best of my
3 ability the above 33 pages contain a full, true and
4 correct transcription of the tape-recording that I
5 received regarding the event listed on the caption on
6 page 1.

7

8 I further declare that I have no interest in the
9 event of the action.

10



11 March 13, 2023

12 Chris Naaden

13

14

15

16

17

18

19

20

21

22

23

24

25

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 1

A	amendments 7:18	27:16	block 17:11	15:21,24 24:10
ability 15:2 18:8 34:3	analogy 25:24	asked 23:6,10 31:19,19,20,21	bodies 13:15 19:18	24:17
able 29:7	analysis 19:23 20:15 22:4	aspect 4:22	body 27:5	cases 12:3,6 31:6
abridge 8:2 15:1	analyzed 7:2	assist 4:12	bottom 10:9	Cause 1:2 11:24 12:6
acceptable 16:5	answer 20:22 23:12 25:4,4,12 30:6	attained 9:12,15 16:8	boundaries 15:9 15:10,13 19:13 20:11	census 27:12,14 27:17,19,21,21 28:20,22,23 29:2,8
accounts 27:15	answered 33:7	attempted 12:3	boundary 5:22 19:1,14,15 21:15,20 22:2 31:20 32:3	certain 9:20,21 13:13 26:12 27:11 28:21 29:17 30:17
acknowledged 16:17	answers 4:20	attempting 12:19	Brannan 2:14,15	certainly 25:2 26:5
acquainted 23:5	anybody 33:1,1	attempts 16:17	break 29:13	chair 2:4,6 3:19 7:3 22:12,21 23:2,3,22,25 25:9 26:4,24 28:4,25 29:21 30:7 32:12
Act 7:14,21,25 8:25 9:7 11:15 17:19 18:3,11	appeared 12:22	attention 10:22	briefly 10:25	chairman 6:10,12 6:24 14:9 20:3 20:21 24:13 25:14
action 34:9	appearing 24:21	authorized 33:9	bring 12:19 17:1 21:18	challenge 9:6 31:15
activities 7:23,24 10:13	appears 10:9	avoid 18:8	brought 27:9	challenged 24:25 31:7
actual 15:21 26:9	applicable 4:23 10:14	aware 14:19	bureau 28:20 29:2	challengers 21:21
added 14:7	application 10:23 11:10	B	bureau's 29:8	chamber 5:5
addition 20:13	application's 4:11	back 4:6 25:12 27:1 28:3 31:4	Byrd 1:6 2:1,4,5 3:20 20:23 23:12,21,23 24:7 25:7,25 26:16,23 27:8 28:2,5,13 29:9 30:3 32:6,10,22	Chambliss 2:16 2:17 23:24,25 24:8,14
additionally 5:14 22:14	applied 6:24	Baker 31:4	BYRID 24:9	chance 21:12
additions 11:16	applies 27:14 28:17	balancing 20:8	C	change 26:7
address 13:22 16:2 20:25 21:22 22:20,24 30:5	apply 5:2 11:13 12:3 26:3,20 27:14,24	base 12:21	call 2:2	changed 26:19
addressed 24:11	apportionment 7:7,24 10:4 13:2,5 14:5	based 8:3 9:22 10:13,15 16:18 31:15,24	called 24:4	changes 9:18,20
addresses 21:4 29:5	appreciate 4:19 15:18 26:25 27:8 29:9	bases 24:22	candidate 21:4 22:6	characteristic 11:12
adjourned 33:16	approach 20:8	basic 6:13	candidly 21:11 31:9	charged 22:3
adopted 13:10,22	approached 20:13	basically 8:10 9:13 10:12 11:6 12:9,24 14:18 17:13,18 18:10 19:6	capital 14:3	choice 8:21 15:3 22:6
adoption 13:23	appropriate 20:4	begin 5:9	caption 34:5	chosen 29:12
advanced 4:11	area 5:11 10:24 19:9	believe 25:11 28:8 31:12	cards 32:24	Chris 34:1,12
advantage 8:19	areas 9:21,22	Belle 2:12,13	Carr 31:4	circumstances 8:24 9:4
advise 5:5	arises 12:16	benchmark 11:3	carry 7:22	
afford 10:16	Arrington 2:10 2:11	benefit 15:25	carry-over 18:17	
afternoon 4:6 20:19	article 6:23 10:23 12:24 13:9 17:25 24:19	beyond 12:12	cart 25:23	
agenda 33:15		big 27:9 31:8	case 4:24 8:5,9,22 9:2 10:9,10 11:3,22 12:6,8	
ago 32:18		binding 26:6		
al 1:2		bit 9:8 14:10 15:15 18:19,20 20:2 32:4		
aligning 4:12				
allowing 18:24				
alteration 16:16				
amendment 7:18 12:4,11,20				

citation 15:21 19:21	11:24 12:6	12:23 13:18,23	cover 4:22	26:2
citations 24:23	commonly 8:8	14:8 17:24 26:5	covered 4:8	declare 34:1,8
cited 7:7	compact 8:13	26:9,20 27:17	create 8:11 9:5	deemed 8:15
cities 20:12	15:8 19:5 20:9	28:16 29:12	11:8 17:9 21:14	degree 31:1
city 15:10 19:14	31:19	constitutional	30:14	delivered 20:20
19:15 31:20	compactness	4:13,14 18:14	created 17:6 19:2	demonstrated
city's 30:19	19:1	26:1	21:14	4:13 19:8
claims 12:17	compelling 11:14	constitutionally	creating 16:24	denies 8:20
clause 12:4,19,20	competing 11:13	27:1,23	18:9	deny 8:2
clear 22:7,12	compliance 22:1	contact 6:5	criteria 10:22	designing 11:9
25:2 27:13	compliant 5:24	contain 34:3	current 4:10	detail 7:3 17:20
clear-cut 4:20	21:14 26:3	contents 6:4	21:20	19:22
clearance 9:25	complied 9:1	14:19	currently 4:15	details 33:10
clearly 7:23 21:3	component 30:6	context 8:7,22	26:21	determination
CLERK 2:4,6,8	30:8	10:3 12:17	cycle 5:1,4,13	12:1,7
2:10,12,14,16	components 14:9	13:11 18:7,22	cycles 5:15	determined 9:22
2:18,20,22,24	14:11	contexts 24:18		10:12 24:5
3:1,3,5,7,9,11	comprehensive	contiguous 13:19	D	determining
3:13,15,17,19	4:17 23:4	15:4	D.C 1:24	12:11
26:22 28:1	concept 19:6	continuity 13:21	Daley 2:8,9 25:8	deviation 29:24
closer 31:10	concepts 4:9	conversations	25:9 26:4,24	30:11 32:8,15
coequal 14:18	concern 25:22	22:16	28:3,6,25	32:21
coercive 8:15	conclude 19:19	convex 19:10	data 22:4 27:12	devices 3:24
cohesive 8:16	concluded 6:3	Cord 1:6	27:14,21 29:2,6	DIAZ 2:25
Collier 10:1	concludes 33:14	core 3:19 17:10	29:11,13	different 12:17
color 8:4	conditions 9:23	correct 5:21	date 33:9	19:3 24:17
come 2:2 5:20	10:15	11:25 26:15	day 26:1	31:18
10:16 21:24	conducted 7:10	28:13 34:4	deal 7:23 17:16	differentiate 5:16
comes 9:7 25:17	configured 17:2	council 5:5,15,17	18:25,25	differently 16:11
26:6	conflict 14:14	council's 33:4	dealing 15:17	18:1
coming 4:19	Congress 10:16	counted 28:22	deals 11:5 17:18	DIGITAL 1:23
23:14 25:24	10:17	counties 18:2,5	dealt 25:1	diminish 15:2
comment 3:25	congressional	county 10:2,8	Dean-Mead 5:8	direct 13:1 14:1
6:6 22:23 32:24	18:18,23 27:11	15:10 19:14,15	decade 21:6	24:24 33:6
33:2	27:22 31:2	20:12 30:18	30:10,14	directly 5:2
comments 21:18	consider 27:3	31:20 32:3	decades 12:3	director 5:10
committee 3:22	consideration	couple 10:25	31:7	30:5 32:10
4:7,16,22 5:7	11:12 14:13	32:18	decennial 27:17	discriminatory
5:20 6:11 21:1	17:2,5,8,9 28:8	court 4:25 5:6	27:20	9:2
21:18,24 22:13	considered 7:2	6:20 7:3 10:11	decide 27:5	discussed 4:10
22:19,22,24	11:11 14:15,18	13:25 14:7 16:9	decided 10:10	18:12
23:14 26:18,20	considering	16:14,24 19:12	25:15,20	discussing 5:18
27:9,10,11	26:14	20:5,18 21:6	decision 7:4 14:1	11:24 24:15,16
29:19 32:23	consist 15:4	22:18 24:16,21	16:9 26:10,11	discussion 21:19
33:6,9,15	consistent 20:7	25:5 31:25	30:1	29:10
Common 1:2	constitution 6:23	courts 12:13,18	decisions 5:19,23	discussions 23:18
	7:19 11:16,21	13:7 24:11	5:23 14:2 25:16	disfavor 14:24

16:3,5,23 disfavoring 21:8 22:11 district 5:22 8:14 9:6 11:8,10 13:19 17:7,10 17:11 18:13,15 18:21,23 21:11 21:14 23:7,11 32:5,9,9,15,19 32:19 districts 8:12 15:4,7,8,9 16:24 17:1,5,12 18:9 19:4 20:9 20:16 24:22,24 29:22,25 30:1 30:15 32:8 Districts' 14:25 DJ 2:2 3:20 document 26:6 doing 17:13 26:13,15 drawing 4:11 5:24 drawn 15:1 16:16 Dunbar 5:8 6:1,7 6:10 20:23 21:23 23:2 24:10,13 25:9 30:9,22,24 33:12	election 7:22 9:18 9:18 electoral 9:12 electronic 3:24 elements 8:23 14:14 eliminated 10:15 17:23 embodied 17:24 empty 3:22 enable 29:3 enacted 4:15 7:15 9:13 enactments 8:2 encompassed 5:13 encourage 6:2 22:14 endeavoring 20:9 20:11 endorsed 20:17 enforcing 7:17 engage 22:15 engaged 16:24 19:25 20:7 ensure 4:4 22:5 22:10 entertain 21:19 entire 18:6 32:20 enumerated 9:5 equal 12:4,18,20 15:7 18:16 20:9 29:23 31:21 32:2 especially 4:25 established 5:1 31:5 et 1:2 evaluate 15:19 30:18 32:1 evaluated 14:6 24:24 evaluating 15:17 evaluation 14:13 event 10:13 34:5 34:9 EVIDENCE 1:23	examined 25:6 example 24:8 27:3,24 29:3 examples 4:14 15:12 excuse 18:13 excused 2:12 exist 13:17 26:21 29:6 existing 9:23 expected 7:10 explained 4:16 expressed 11:15 extended 9:24 external 21:25	find 6:16 8:11 11:16,19 15:14 18:4,10,22 24:18,21 25:5 31:16 33:10 finds 17:24 finished 4:5 Firm 5:9 first 4:16 6:15,18 6:24 7:14,24 11:1,6,14 12:21 15:20 16:1,4 17:1 21:1 five 18:5 31:7 flexibility 18:20 18:24 31:1 32:5 Florida 1:11 4:25 5:10 6:19,21 7:3 9:24 11:19 11:20 12:14 13:25 14:6 18:6 20:4 21:6 22:18 25:5 29:3 31:9 Florida's 11:16 12:23 17:24 27:20 focused 19:20 follow 25:7 26:3 26:22,23 27:25 28:1,2,24 29:19 31:20 32:6 33:5 followed 13:2 following 5:1 20:18 28:16,22 form 3:25 formula 9:22 formula's 9:24 formulas 10:12 10:17 forth 28:3 forward 26:14 found 6:22 7:24 12:24 16:20,20 17:18 18:11 four 6:19 frame 23:8 free 26:16	fruitless 13:8 full 4:18 7:8 22:12 34:3 functional 20:15 22:4 functionality 4:11 further 34:8
G				
				gains 9:14 GARISSON 2:19 Garrison 2:18 general 11:10 geocoding 29:14 29:15 geographical 9:21 13:21 15:10 20:11 geographically 15:8 geography 19:5 gerrymandering 11:1,2,2,5,6,22 12:2,5,12 28:8 28:15,15 Gingles 8:7,9,10 8:22 Give 17:15 given 26:8 go 9:9 13:24 14:21 26:17 30:14 31:4,12 goal 5:24 6:11 7:15 13:25 goes 6:1 going 10:6 15:23 23:9 25:16,20 27:1,5,24 29:18 32:8 good 4:6 15:23 21:10 govern 6:14 19:24,24 government 9:19 great 23:21 24:1 grieved 13:1
E				
earlier 11:25 14:10 easily 19:16 easy 4:20 education 5:17 educational 4:17 4:21 23:4 effect 11:17 16:11 16:17 30:20 effects 16:16 effort 4:17 23:4 efforts 18:8 elect 15:3 22:6		facing 6:15 fact 29:14 factor 11:9 19:5 factors 25:18 28:11 fair 16:12 fall 30:20 familiar 24:10 far 4:7 fascinating 15:23 fashion 16:18 favor 14:24 16:3 16:5,23 21:20 favorable 21:7 favoring 21:8 22:10 feasible 15:9 20:11 federal 4:23 5:6 6:16 7:12 8:25 9:19,24 10:24 11:15 12:9,12 12:18 13:7 17:19,20 30:17 fellow 21:13 fewer 13:5 file 26:17 fill 3:25 30:9 final 12:1,7 20:1 finally 17:9		

group 1:23 27:15 grouping 8:18 groupings 31:2 groups 21:25 22:5 grown 30:13 guess 25:3,21 26:25 28:6 guidance 7:9 19:23	imagine 23:14 immediate 13:1 14:1 immediately 13:24 impact 5:2 impacts 33:11 implement 9:16 implemented 9:20 important 4:17 29:10 imposing 8:1 improper 11:7 16:3,6,13,23 17:8,9 inadvertently 21:8 include 13:14 19:9 included 10:1 25:2 includes 4:23 including 32:25 incumbencies 21:2 incumbent 14:24 16:23 21:4,9,13 22:11 incumbent's 17:4 17:11 incumbents 17:7 indicated 6:25 individual 32:15 individuals 28:21 information 4:21 29:8 inmates 29:4 input 4:10 insight 7:9 instance 24:3,5,9 intent 9:3 11:7 16:3,4,6,10,13 17:10 24:3,6,8 24:11 intentionally 22:10	interest 11:23 24:11 34:8 interested 7:5 interests 11:14 interim 4:7 interpreted 8:6 22:18 intimidating 21:16 introduce 12:21 introduction 4:8 involved 5:14 issue 12:16 28:7 28:18 issues 25:2,21 27:5 31:23 it'll 23:16 item 21:22 items 10:25 20:24 32:14	large 8:13 larger 8:19 law 4:24,24 5:6,8 5:18 7:12 9:17 26:19 28:16,23 29:12,17 30:16 laws 9:18 26:21 leave 10:24 20:1 Leek 22:12 left 12:6 legal 4:22 6:13 7:12,13 12:13 22:1 24:10 30:8 30:23 31:16 legally 5:24 21:14 26:3 27:2 28:11 legislate 6:8 legislation 26:17 legislative 1:11 2:1 6:8,19 7:6 18:18,21 23:8 31:2 32:5 legislators 22:2 legislature 13:6 13:11,12,12,16 14:25 26:8 lend 22:16,17 lengthy 7:8 let's 7:11 16:21 level 7:12 16:5,7 lies 30:15 limits 30:20 Lina 11:23 line 30:15 32:3 lines 5:22 14:25 19:15,15 21:11 21:15,20 22:2 31:20 listed 34:5 litigation 13:3,9 little 9:8 14:10 20:2 live 24:8 long 10:19 25:3 longer 10:14,19 17:22 18:4 look 3:21 6:20,21	7:5,11 8:23 11:18 12:14 16:21 19:22 24:20 looking 6:15 17:17,20 22:13 25:3,19 looks 8:17 lot 19:2 23:6 low 31:13
H		J	M	
half 30:13 handle 25:20 happy 20:22 Hardy 10:1 Hart 2:20,21 Hawkins 2:22,23 hear 28:6 hearing 1:11 5:8 help 22:9 hierarchy 6:13 high 31:12,12 highlight 14:21 highlights 15:24 Hillsborough 10:2 history 9:8 Holder 10:9 Holsby-Potter 19:9 hope 4:18 15:18 19:21 horse 25:23 house 4:15 5:4,10 6:7 19:11 20:6 20:7,13,17 21:5 21:21 30:10 hypothetical 5:19		Johnson 11:5 judiciary 12:10 jurisdictions 10:1 justify 8:14	M 1:24 ma 27:6 major 19:17 makeup 21:23 making 14:13 26:3 27:4 mandate 13:10 13:11 Manny 2:24 map 4:10,15 5:21 5:25 22:9 32:20 maps 4:12 21:5 21:24 23:9,13 23:17 25:14,19 26:3,21 27:4 30:12 March 34:11 mathematical 19:7 matter 11:10 24:12 27:7 McLain 3:1,2 mean 10:21 26:16 mechanism 7:16 7:17 meeting 4:16 15:12 33:8,16 meetings 4:7 32:18 Melo 3:3,4 member 2:8 14:25 21:12,21 25:7 members 3:19	
I		K		
idea 17:6 ideal 32:17 identified 15:14 19:16 32:13 III 12:24 13:9 24:19		keep 20:12 33:8 Kelly 15:12 19:7 30:5,7 32:12 kept 30:19 key 11:4 14:9 15:24 kinds 31:23 32:4 know 21:16 23:7 23:15,16 26:9 26:18,19 28:18 28:19 30:12,18 32:17 knowing 29:17 known 16:17 29:4		
		L		
		language 8:4 15:2 22:5		

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 5

4:3,6 5:16 6:4 6:11 7:19 20:24 21:1,17 22:20 22:21 23:16 26:16 32:25 33:4,14 membership 13:15 mentioned 5:21 14:10 30:25 31:14 microphone 4:4 Miller 11:4 million 30:13 mindful 21:19 minorities 15:2 minority 7:19 8:2 8:4,12,12,14,17 8:18,20 9:11,15 11:8 18:7 20:13 20:16 22:5 minus 30:10,11 minute 11:19 17:14 Monroe 10:2 months 19:25 Mooney 3:5,5,6 move 6:5 moves 33:16 moving 26:14	15:22 18:1 notes 6:2 16:9 notice 18:1 NOVEMBER 1:13 number 7:7 11:3 24:22,22 30:21 31:6 numerical 13:15 NW 1:24	P p 27:6 page 10:9 34:6 pages 34:3 pair 29:3 paired 21:13 part 11:18 13:17 15:16 21:17 24:15 particular 7:4 12:8 parties 16:4 partisan 12:5,11 21:23 22:8,14 party 13:1 14:24 22:11 patterns 16:19 pay 10:21 penalty 34:2 people 30:13 31:7 percent 30:11 31:12 32:7 percentage 30:18 perjury 34:2 permissible 17:5 permitted 26:7 person 29:17 31:5 Persons-Mulicka 3:7,8 perspective 3:23 Pete 5:8,9 Pete's 5:12 pick 24:18 pieces 4:21 Pinellas-Pascoe 5:11 place 10:17 28:20 placing 21:20 plan 14:23 16:12 16:13,16,18 19:11 20:6 planned 22:15 plans 6:19 10:4,4 13:2,5,13 14:5 14:6	play 17:1 please 2:2 3:23 3:25 4:3 21:18 22:20 33:6 plus 30:10,10 point 8:10 9:1 13:20 21:10,22 27:4 28:25 polarization 8:16 policy 5:19 23:9 23:13,17 25:15 25:20 26:2,7,10 30:6 political 12:2,11 12:13 14:24 16:4 19:13 20:10 22:11 politically 8:15 population 8:13 8:14,17,18,20 8:20 20:10 25:17 27:3 29:23,24 30:11 30:20 31:1,21 32:17,21 populations 9:12 9:15 18:15 27:25 28:17 29:15 position 21:6 positions 9:11 possible 20:10,12 29:23 potential 21:21 practicable 15:7 18:16 29:24 31:22 32:2 pre- 9:24 pre-clearance 9:18 10:5 17:22 precedent 4:25 5:7 30:17 preclearance 10:13,15,20 predominant 11:9,12 prejudicial 18:8	premise 28:13 prepare 13:12 preparing 26:21 present 3:16,19 6:9 8:23 presentation 5:7 5:17 6:1,3,5 20:24 22:25 24:1 25:10 30:25 31:14 33:2,5,13 presented 19:11 23:13 31:16 presenters 4:3 preserve 17:10 pretty 19:13 prevent 9:13 previously 6:17 13:16 18:12 19:8 prior 9:14 12:5 13:23 17:11 27:6 prioritize 21:25 prioritizing 24:23 priority 14:16,18 15:5,19 prison 25:17 27:2 27:25 28:8,14 28:15,17 29:15 prisons 27:13,14 probably 7:5 procedures 8:2 9:19 proceeded 14:5 proceeds 21:12 process 4:8,24 8:16 9:13 10:5 12:25 21:12,17 22:9 23:5,20 26:15,18 28:10 produce 21:5 prohibit 9:11 12:5 prohibited 27:2 prohibiting 28:11 prohibits 8:1
N Naaden 34:1,12 national 29:7 natural 19:18 nearly 15:7 18:16 20:9 29:23 need 4:21 10:21 needed 10:6 needs 8:15 26:19 never 10:17 new 7:1 10:17 11:16,18 14:7 18:3 21:11 newly 21:13 Nope 25:7 note 10:8 11:23	O objective 7:20 objectives 10:6 obligated 8:11 observing 15:11 obvious 19:13 obviously 30:12 offered 13:5 official 27:19,21 oh 17:14 22:25 22:25 Okay 23:21 29:19 once 6:3 13:21 23:13 33:12 ones 11:4 open 22:19 opinion 19:20 20:2 24:20 25:6 31:9 opportunities 4:10 opportunity 8:12 10:16 13:24 15:1 16:1 18:7 optional 13:14 order 2:2 8:24 9:16 17:15 21:14,20 outside 5:5,15 22:4 overall 22:8 32:20 overcome 10:6 overview 6:12			

proliferation 13:3,22	quote 16:12	rejected 13:7 16:15	Res 7:6	24:19 27:16
pronunciation 11:25	R	related 4:24 10:25	residence 17:2,4	sections 6:22 7:22 14:8,8
properly 20:14	race 8:3 11:11	relates 27:12	Resolution 7:6	see 15:20 30:15 32:24
proscribed 13:13	racial 11:1,5,5 15:2 22:5	relevant 5:6,17 6:17 7:21 9:9 11:18 19:5	result 13:8 15:18 24:24 29:16	seeing 22:22,25 27:6 32:23 33:4
protect 7:16	railways 19:17	remind 4:2	results 20:20	seek 12:25 13:1
protected 32:3	raised 25:18,18	reminders 3:21	retained 5:5	seemingly 21:25
protecting 21:7	range 32:13,15	Reock 19:9	retrogression 9:11	seen 18:17 31:11
protection 12:4 12:18,20 20:14	Ranking 2:8 25:7	Rep 2:1,5,7,9,11 2:13,15,17,19 2:21,23 3:2,4,6 3:8,10,12,14,16 3:18,20 20:23 23:3,12,19,21 23:22,23,25 24:7,8,9 25:7,9 25:12,25 26:4 26:16,23,24 27:8 28:2,3,5,6 28:25 29:9,21 30:3 32:6,7,10 32:22	reveals 20:7	seminal 8:5
provide 6:12 14:1 15:24 19:22	reach 12:12		review 13:2 20:6	SEN 2:25
provided 13:24 15:12 16:25 31:25	read 15:22		reviewed 4:9	Senate 7:6
provides 11:6 16:22 29:2	Reading 20:2		reviewing 22:8	sergeant's 4:1
provision 8:6 9:17 16:10,22	real 25:4		right 8:3,3 22:21 22:25 26:11 30:21 32:23 33:3	series 12:3,15 18:2
provisions 13:9 20:14 24:18	reapportionment 10:3		rights 7:14,18,18 7:21,25 8:3,25 9:7 11:15 17:19 18:3,11	served 5:10 7:17
public 3:25 4:10 5:9 6:5,6 22:23 22:24 32:24,25 33:2	reasoned 20:8	repeats 27:20	rise 33:16	service 5:9 33:13
public's 3:23	reasons 9:9	representation 8:21	rivers 19:18	serving 5:9,15
purpose 9:10	rebalance 16:18	representative 2:10 5:11,12 23:1,23 24:13 29:20 30:24 32:13,25 33:15	Rizo 33:1	session 33:10
purposes 27:22	received 34:5		roadways 19:17	set 10:23 30:21 31:6
put 10:17	receiving 23:10		Robinson 2:6,7	setting 13:14
putting 17:6 25:22	recognizable 19:7 19:14,17		role 2:3	seven 13:5
	recognize 25:23 26:5		room 3:22	Shelby 10:8
Q	recognized 6:9 23:2 25:8 29:20	representatives 15:3	roughly 30:10	short 10:19 25:4
quarters 27:15	record 20:6,25	Republican-De... 22:1	Rucho 11:24,24	shown 13:13 14:11
question 12:10 12:13 23:1,5,10 23:13 24:4 25:10,13,21,25 27:8 28:14 29:22 32:22	redistricting 1:11 2:1 4:9,18,23 5:1,4,13,15,18 6:8,21 18:18 19:24 22:13 24:12 27:22 28:10,24		running 10:4	side 30:23
questions 6:2,4 20:3,21 21:1 22:19,20,21,22 23:6,19 33:6,7	refer 8:9		Salzman 3:9,10	significant 7:2 8:5
quick 17:15	referenced 7:4 32:17	require 13:19 15:6 16:12	save 23:19	silence 3:24
quite 15:23	referred 8:8	required 9:3,17 19:4	says 27:17 30:17	single 5:21
	regard 11:1 12:1 16:2,4 17:12 18:20	requirement 18:15	scenarios 5:19	sizes 18:21
	regarded 21:23	requirements 9:25 26:2	schedule 33:11	slide 7:8 14:12
	regarding 22:16 27:12 34:5	requires 10:19 16:12	scope 4:18	slides 12:15 14:22 17:17
	regards 29:22		seats 31:2,3	slightly 19:3 32:16,18
	reiteration 18:10		second 9:6 17:15 21:22	small 31:8
			section 7:25 8:1,6 8:25 9:4,7,13 9:17 10:19 12:24 13:9 17:23,25 18:2	Snyder 3:11,12
				somebody 4:1
				somewhat 24:17
				soon 23:15
				sooner 23:15
				sorry 28:3 32:5
				speak 30:22

speaking 4:5	31:11	tell 8:8	time 6:24 13:13	11:17,19,22
speaks 16:10	statutes 27:20	tension 15:15,17	14:21 15:20	12:4,6,6,9,16
special 33:10	statutorily 27:23	31:17	19:12 20:3	12:17,22,22,23
specific 5:19 9:25	statutory 26:10	tenure 5:12	21:10 23:8,16	12:25 13:6 14:6
15:12 20:24	step 21:7	territory 15:4	32:3	14:18,25 15:1
specifically 16:10	stepping 25:12	test 19:10	times 6:19 7:7	15:19,23 16:2,2
16:14	stone 30:21	tests 19:7	27:11	16:3,18,18,25
split 22:1,9,14	story 10:19	thank 3:20 6:10	titled 7:6	17:5,8 18:8,21
30:19	strange 25:24	20:23 23:3,3,22	today 6:12,18	18:22,25 19:1,4
staff 4:1 5:10	Street 1:24	23:25 24:1	33:5,15	19:6,7,8,9,12
22:7 30:4 32:10	strengths 20:15	25:10,25 26:4	today's 5:7,16	19:17,18 20:14
33:6	subcommittee	29:21 30:7	22:24	20:20 21:9,24
stage 22:9	1:12 2:2 6:8	32:12,12 33:12	tolerance 18:20	22:22 23:14,16
standard 6:18	22:8	33:14,16	tool 9:16	23:23,23 24:10
11:13 16:11,19	subject 14:3	Thanks 25:9	tools 4:12	24:13,17,17,18
17:13,18 18:9	subsequently	28:25	topic 16:14	25:12 26:7 27:2
22:7 27:23 31:6	5:14	thing 18:19 26:25	topics 22:16	28:7,9,19 29:3
standards 4:13	successfully	31:14	totality 8:24 9:4	29:8,9 30:4,20
4:14 5:3 6:13	20:17	things 7:9 9:2	touch 13:20	30:20 33:2,2,12
6:16,22 7:1,2	suggestion 16:15	17:17 19:16	touched 21:23	33:13
7:13 11:19,20	Suite 1:24	26:12 32:4	transcriber 34:1	ultimately 13:6
12:15,22 13:14	supreme 4:25	think 17:14 20:18	TRANSCRIPT	25:15
13:17 14:4,15	6:20 7:3 10:10	21:10 26:18	1:10	um 6:18,20,25
14:16,17,20,23	13:25 14:7	28:18 29:10	transcription	7:13,15,16,16
15:5,6 16:2,25	19:11 20:4 21:6	30:3,25	34:4	7:21,22,25 8:19
17:21 18:3,14	22:18 24:16	third-party 21:25	true 34:3	8:23 9:8,24
18:25 19:1,21	25:5 31:25	Thornburg 8:7,7	try 7:16 15:23	10:6 11:6,17,20
19:23 20:8,18	sure 8:24 14:19	24:16	turn 3:25 4:4	11:22,23 12:10
21:9 22:18	23:12	thought 20:1	22:23	12:14,15,22,23
31:16,17,24	<hr/> T <hr/>	21:16	two 7:21 14:7,16	12:24 13:10
start 7:11 23:17	take 6:2,3,20,21	thoughts 24:14	14:16 20:8,24	14:14,21,23
23:20	12:14 16:21	three 6:23	24:14 30:11,13	15:7,11,12,13
state 1:11 2:1	20:2 21:1 24:20	tier 14:17 15:4	32:14	15:14,20 16:1
4:24 5:6,12	25:16 28:7,19	20:8	type 27:5	16:14,17,21,21
7:22 8:1,11	32:10	Tier- 14:10 25:2	<hr/> U <hr/>	17:4,4,12,12,14
11:14 16:19	taken 8:19 11:11	Tier-One 5:3	uh 3:20,22,22 4:3	17:16,22 18:6,8
18:6 21:3 27:18	27:18	14:15,20,23	4:7,19 6:6,10	18:10,11,13,14
27:19,21 28:16	talk 10:24	16:2,20 17:17	6:11,11,13,14	19:5,16 20:17
28:16,22 29:4	tangible 4:14	18:4,9 21:9	6:14,15,16,20	20:17 23:6,7,23
29:12,17 30:13	Tant 3:13,14	22:6,17 25:1	7:1,3,8,8,9,12	23:25 24:2,6,11
30:16 32:20	29:20,21 30:24	Tier-Two 5:3	7:16,17,18,23	24:13,20 25:11
33:13	32:7	11:20 14:11,16	8:3,6,8,15,17	26:7,8 27:10,10
stated 6:12	tape-recording	14:20 15:6	9:3,12,14,16,25	27:16,16,24,24
states 9:20,21	34:4	16:20 17:13	10:4,22,23,23	28:6,18,21 29:1
10:10 24:16	task 4:20 6:14	18:14 25:1	10:25,25,25	29:2,10,14 30:3
27:18 28:9 29:6	26:19	tiers 14:15 15:15	11:3,8,8,8,13	30:5,9,16,22
29:11,15 31:11		31:18		32:13,14,15,16

11/3/2021

Common Cause v. Byrd

Audio Transcription

Page 8

32:19,23 33:4 un-quote 16:12 unacceptable 16:6 unconstitutional 26:13 understanding 4:18 28:12 29:1 undertaking 20:14 uniform 29:25 32:7 unique 18:19 United 10:10 24:15 27:18 unplanned 22:15 unproductive 13:8,23 unusual 15:14 upcoming 33:11 updated 33:9 use 27:2,12 29:11 29:13,14,15 usually 32:13 utilize 15:9,10 utilized 15:14 utilizing 20:10	22:17 visual 19:6 vote 29:18 31:5 voters 13:10 14:7 voting 7:14,18,21 7:25 8:1,3,19 8:25 9:7 11:15 16:19 17:10,19 18:3,11 20:13 20:15	Woodson's 25:12 work 11:18 19:24 19:25 33:7 workshop 25:14 workshopped 21:11 workshopping 23:17 worth 7:5 wrestle 15:16 31:24 wrote 19:21	27:25 8:6,25 9:4 20 14:9 20036 1:24 2010 12:9 2012 5:1 6:24 11:17 14:5,7 15:21 19:10,19 20:5,18 25:6 28:23,23 2013 10:11 2019 12:1 202 1:25 2021 1:13 2022 20:21 2023 34:11 21 6:22 14:9 17:25 24:19 22 6:22 232-0646 1:25	
V	W	X	Y	3
v 1:4 8:7 10:8 11:4,24 31:4 Valdez 3:15,16 33:15 validity 14:2 variance 31:1,10 31:11 32:1 variants 18:21 vary 32:8 version 12:23 Vice 2:6 VIDEO-RECO... 1:10 view 5:2 viewed 21:7 viewing 5:22 violating 29:16 violation 9:3	wait 17:14 walk 10:21 walks 4:1 want 5:16 6:15 7:14 10:8 17:15 20:1 21:3 22:7 26:22 27:13 28:19 Washington 1:24 water 19:18 way 8:9 13:16 17:16 19:19 29:11,13 31:4 we'll 4:2,2 6:20 6:21 19:25 23:9 33:7 we're 17:13 25:16 25:19,20 26:14 26:14 28:15 we've 4:8 19:20 20:19 25:18,20 website 4:9 weighed 5:23 welcome 4:6 6:7 33:1 went 6:19 17:19 24:21 wide 16:19 wise 26:7 wish 3:24 wishing 22:24 33:2 wondering 24:2 Woodson 3:17,18 23:1,3,19,22	X 27:16 Y years 13:4 Yep 23:23 28:2,5 29:20 Yesterday 22:12 Z 0 1 1 34:6 10 31:12 11 28:9 12 19:19 13 34:11 14th 12:4,10,19 15th 7:17 16 12:24 13:9 1730 1:24 19 12:9 1955 13:4 1960s 9:23 10:14 1965 7:15 1966 13:4 1967 5:9 1968 12:22,25 1970s 9:23 10:14 1982 5:13 1985 13:17 2	3 1:13 17:25 33 34:3 4 4:22-cv-109 1:4 5 5 9:13,17 10:19 10:23 17:23 18:2 6 7 8 8 27:16 812 1:24	