

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 1

Common Cause, et al.)
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v.) 4:22-cv-109
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Cord Byrd)
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TRANSCRIPTION OF AUDIO FILE
SENATE SESSION PART 2
March 4, 2022

DIGITAL EVIDENCE GROUP
1730 M Street, NW, Suite 812
Washington, D.C. 20036
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3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 2

1 SECRETARY BROWN: A quorum is present,
2 Mr. President.

3 PRESIDENT SIMPSON: The Senate will be in
4 order. Senators, just so everyone knows, I know it's
5 about 65 degrees in here. Leader Passidomo requires us
6 to keep it a little cooler than normal. But I have
7 asked the sergeant to raise it up to at least, say 68-9
8 degrees, so y'all are welcome.

9 Senators, we are going to take up
10 returning messages from the House, the actions available
11 to us, available to the Senate, are included in Rule
12 7.8. We will read each message and hear the
13 recommendation of the Senate Sponsor. Read the first
14 message.

15 THE CLERK: The Honorable Wilton Simpson,
16 President, I am directed to inform the Senate that the
17 House of Representatives has passed committee substitute
18 for Senate Bill 102 with one amendment, 269533, and
19 requests the concurrence of the Senate. Jeff Takacs,
20 Clerk.

21 Committee substitute for Senate Bill 102,
22 a bill to be entitled an act Establishing the
23 Congressional Districts of the State, amendment bar code
24 269533, by Representative Leak. Remove everything after
25 the enacting clause and insert amendment.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 3

1 PRESIDENT SIMPSON: Senator Rodrigues,
2 you are recognized for an explanation.

3 SENATOR RODRIGUES: Thank you, Mr.
4 President. House Amendment 1, bar code 269533, replaces
5 the substance of redistricting plan S035C8060, which is
6 what we passed off this floor back in January with Plans
7 H000, C8019, and H000C8015. When you came in this
8 morning, those maps should have been laid on your desk
9 for your review.

10 Plan H000C8019 is the primary plan. It
11 apportions the state into 28 single-member congressional
12 districts. It contains a configuration of Congressional
13 District 5 that keeps it wholly within Duval County.
14 This plan will serve as the map for elections beginning
15 in 2022 and thereafter, unless Congressional District 5
16 were to be invalidated by the Court.

17 Plan H000C8015, which is the secondary
18 plan, apportions the state into 28 single-member
19 congressional districts. This map contains the
20 configuration of CD 5 that more closely resembles what
21 we passed out of this chamber back in January. If
22 Congressional District 5 in the primary map is
23 invalidated, Plan H000C8015 will take immediate effect
24 and serve as Florida's congressional districts for
25 elections beginning in 2022 and thereafter.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 4

1 House Amendment 1 additionally provides
2 that any action challenging this act shall be commenced
3 within 30 days of becoming law, and that is the change
4 the House has made to the bill, Mr. President.

5 PRESIDENT SIMPSON: Are there questions?
6 Senator Pizzo, you're recognized for a question.

7 SENATOR PIZZO: Thank you, Mr. President.
8 And apologize in advance for my candor. There's a Tweet
9 from the Governor that says he's going to veto if this
10 comes to the desk. Is this what he's talking about
11 today?

12 PRESIDENT SIMPSON: Senator Rodrigues,
13 you're recognized.

14 SENATOR RODRIGUES: Thank you, Mr.
15 President. This is the map that the House just passed
16 off the floor, so that would appear to be the case.

17 PRESIDENT SIMPSON: Senator Pizzo, you're
18 recognized.

19 SENATOR PIZZO: Thank you, Mr. President.
20 And Senator Rodrigues, you and your staff have worked
21 very hard on -- on these issues, and I would expect a
22 commensurate effort across the hall. What is your,
23 obviously, not emotional, but intellectually and as it
24 relates to the keeping in the spirit and application of
25 what your task was, how do you take a statement that

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 5

1 says in advance of us passing anything and being sent to
2 his desk that he says he's going to veto it? Can you
3 think of any infirmity in these maps that give you
4 concern that they would be -- that they should be
5 vetoed?

6 PRESIDENT SIMPSON: Senator Rodrigues.
7 you're recognized.

8 SENATOR RODRIGUES: Thank you, Mr.
9 President, and thank you for the question. We believe
10 these maps to be constitutionally valid, and therefore,
11 we believe these maps fulfill the responsibility we have
12 as a legislative body to apportion our congressional
13 districts.

14 PRESIDENT SIMPSON: Are there any
15 additional questions? Senator Torres, you're recognized
16 for a question.

17 SENATOR TORRES: Thank you, Mr.
18 President. Senator Rodrigues, the question I have, the
19 original Senate product kept CD 7 as an original metro
20 area district, keeping Orlando suburbs of Seminole
21 County together with parts of Orange County. Why didn't
22 the Senate decide to push back on the new configuration,
23 which put Seminole together with the coastal areas in
24 Daytona Beach and Volusia County?

25 PRESIDENT SIMPSON: Senator Rodrigues,

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 6

1 you're recognized.

2 SENATOR RODRIGUES: Thank you, Mr.

3 President. If you'll recall, when we passed our map off
4 the floor back in January, we were very clear that we
5 preserved the districts of opportunity for our minority
6 voters. And the benchmark plan, which is the plan that
7 was ordered by the court, back in either 2014 or '15,
8 that our congressional representatives are currently
9 being elected under, there were -- I'll start with the
10 African American districts -- one majority minority
11 seat, two affected minority seats, and one opportunity
12 minority seat.

13 And for the Hispanic districts, there
14 were three majority minority seats and one opportunity
15 minority seat. That's the benchmark. The map that we
16 passed maintained one majority minority seat, two
17 effective minority seats, and one opportunity minority
18 seat that we passed off this floor in January.

19 This map that we've received from the
20 House also maintains that configuration; one majority
21 minority, two affected minority, and one opportunity
22 minority for African Americans. On the Hispanic
23 opportunity seats, the map that we passed contained four
24 majority minority seats. This map that we've received
25 from the House also contains four minority majority

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 7

1 seats.

2 If you go back and look, just yesterday,
3 the Florida Supreme Court accepted our state Senate and
4 state House maps. If you read the decision that they
5 offered in articulating why they were accepting our maps
6 as constitutional, one of the grounds they looked at was
7 they said the benchmark map offered up these seats as
8 opportunity seats for minority voters. And because our
9 Senate map did not retrograde and preserved all of those
10 opportunities, the court found that that map that we
11 passed was constitutionally valid. This congressional
12 map does the same thing.

13 I believe, if you go back and look at the
14 original map that was going through the House Committee
15 and subcommittee process, their seat in the Central
16 Florida area did not look like it does now. I think
17 they have moved closer to our position, and by moving
18 closer to our position, they have left us in a position
19 where we now preserve minority access seats and can say
20 that this is indeed a constitutional map.

21 PRESIDENT SIMPSON: Senator Torres,
22 you're recognized.

23 SENATOR TORRES: So let me get this
24 straight. We're saying that the House map is in
25 alignment with the Senate that we put together or is

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 8

1 more constitutional?

2 PRESIDENT SIMPSON: Senator Rodrigues,
3 you're recognized. Thank you, Mr. President. And I
4 don't want to mislead you. I'm not going to say it's
5 more constitutional. I'm going to say that the map that
6 they've passed and sent over to us we believe is
7 constitutional. And the reason we believe it is
8 constitutional, one of those reasons, is in the Central
9 Florida area, they have moved closer to the position
10 that was in the Senate map. They haven't matched our
11 lines up exactly. But based upon what they have done
12 and a functional analysis that's been performed on those
13 seats after they have proposed them, it is clear that we
14 are preserving the opportunity for minority voters,
15 which makes it constitutional. That's in the aggregate.

16 PRESIDENT SIMPSON: Senator Torres,
17 you're recognized.

18 SENATOR TORRES: But you would say that
19 the Senate map was more constitutional than the House
20 map?

21 PRESIDENT SIMPSON: Senator Rodrigues,
22 you're recognized.

23 SENATOR RODRIGUES: Thank you, Mr.
24 President. I would say constitutional is a lot like
25 being pregnant. You either are or you are not. I

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 9

1 believe that our map was constitutional. I believe this
2 map is constitutional. If I had to give a preference, I
3 would prefer our map. But I do believe that their map
4 is constitutional, and they have moved to get close to
5 us in the areas where it was required to do so.

6 PRESIDENT SIMPSON: Thank you. Are there
7 any additional questions? Senator Ausley, you're
8 recognized.

9 SENATOR AUSLEY: Thank you, Mr.
10 President. So the map that we are talking about now is
11 the map that splits black communities across three
12 different congressional districts. The current CD 5
13 unifies these communities into one district. The map
14 that we passed unanimously, almost unanimously, did as
15 well. So why are we capitulating to the House on this?

16 PRESIDENT SIMPSON: Senator Rodrigues,
17 you're recognized.

18 SENATOR RODRIGUES: Thank you, Mr.
19 President. And thank you for the question.
20 Particularly, we're looking at what is currently
21 Congressional District 5, which stretches from Duval
22 County to Gadsden County. In the map that we passed, we
23 preserved that. And the reason we preserved that is the
24 configuration of that district was drawn by the Court,
25 the Florida Supreme Court, and it was ordered by the

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 10

1 Court in the last round of litigation. We maintained
2 that district in the map that we produced.

3 If you go back and look, the governor
4 petitioned the Florida Supreme Court to give advisory --
5 an advisory opinion on the constitutionality of that
6 district. There have been federal court decisions tied
7 to Section 2 Voting Rights Act's decisions since the
8 Court ordered the configuration of that district. The
9 request was to see if those decisions changed the
10 Court's position that that map was constitutional. The
11 Florida Supreme Court declined to weigh in and offer an
12 advisory opinion.

13 So what the House did was they said,
14 okay, the governor has indicated -- and remember, we're
15 in a legislative process -- which means the House, the
16 Senate have to agree on a bill, and then we send that
17 bill to the governor for the governor's signature or
18 veto. Since it was clear the governor had indicated
19 that a district that stretched from Duval to Gadsden was
20 one that he viewed as unconstitutional because it did
21 not conform to those two court decisions dealing with
22 the Section 2 Voting Rights Act, the House configured a
23 Minority Opportunity District, preserving the
24 opportunity for minorities to elect a candidate of their
25 choice solely within Duval so that it would be compact

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 11

1 and address the concern that was raised, as well as the
2 concern that emanated from those two court decisions.

3 We believe it is best to put forth the
4 bill, as the House has prepared it, with a map that
5 addresses the concern that was officially stated by the
6 governor of why that map would potentially be vetoed,
7 and to have a secondary map should the court find that
8 that is unconstitutional and it is their preference that
9 we retain the current configuration of Congressional
10 District 5.

11 So we're doing this because we want to
12 put forth a constitutional map into the hands of the
13 court -- of the Governor for approval and into the Court
14 to be approved, should we be challenged, rather than
15 send up a map that would be vetoed for sure and then
16 necessitate, potentially, a special session where we
17 would have to come back and try to draw around the
18 subject of the veto letter, whatever that may be.

19 PRESIDENT SIMPSON: Senator Ausley,
20 you're recognized.

21 SENATOR AUSLEY: Thank you, Mr.
22 President. But it's my understanding that the governor
23 has already said he's going to veto anything we send
24 him. So why don't we put forward a map that we know
25 passes constitutional muster?

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 12

1 PRESIDENT SIMPSON: Senator Rodrigues,
2 you're recognized.

3 SENATOR RODRIGUES: Thank you, Mr.
4 President. We do believe both of these maps pass
5 constitutional muster. One of these maps is a map that
6 gives the Court the opportunity to weigh in on whether
7 they believe the decisions that have been made since
8 they ordered Congressional District 5 to be drawn in the
9 manner that they ordered it impacts their position on
10 that. And one is a map that should they decide that
11 their position has not changed and that is
12 unconstitutional because their position has not changed,
13 that we then have a secondary map which does address
14 their concerns and leaves that district in the manner
15 that they ordered it during the last redistricting
16 cycle.

17 PRESIDENT SIMPSON: Senator Ausley,
18 you're recognized.

19 SENATOR AUSLEY: Thank you, Mr.
20 President. Has the Senate performed its own functional
21 analysis of this current CD 5 configuration?

22 PRESIDENT SIMPSON: -- remind everyone
23 that Senator Stargel is still the Budget Chair. Senator
24 Rodrigues, you're recognized.

25 SENATOR RODRIGUES: Thank you, Mr.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 13

1 President. Yes. Our staff has performed a functional
2 analysis, the functional analysis that was prescribed by
3 the Court in the Apportionment 1 decision from a decade
4 ago. And our functional analysis reveals that this does
5 perform as a Minority Opportunity District. I'm sorry,
6 an affected minority district.

7 PRESIDENT SIMPSON: Senator Ausley,
8 you're recognized.

9 SENATOR AUSLEY: Thank you, Mr.
10 President. The CD 5 configuration that we're looking at
11 right now, we have done a functional analysis of that
12 configuration that the House just sent us?

13 PRESIDENT SIMPSON: Senator Rodrigues,
14 you're recognized.

15 SENATOR RODRIGUES: Thank you, Mr.
16 President. Yes, we have.

17 PRESIDENT SIMPSON: Senator Rod -- okay.
18 Are there any additional questions? Senator Pizzo,
19 you're recognized.

20 SENATOR PIZZO: Thank you, Mr. President.
21 Senator Ausley, I was asking the question, but I just
22 want to be just a little greater particularity. Can you
23 provide members here with the House's functional
24 analysis on racial performance? And I may have missed
25 it, but just on racial performance, the House's

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 14

1 analysis?

2 PRESIDENT SIMPSON: Senator Rodrigues,
3 you're recognized.

4 SENATOR RODRIGUES: Thank you, Mr.
5 President. I do not have the data from the House on
6 their racial analysis. However, I do have the data that
7 the Senate staff utilized in performing our functional
8 analysis, which I can provide you.

9 PRESIDENT SIMPSON: Senator Pizzo, you're
10 recognized.

11 SENATOR PIZZO: Thank you, Mr. President.
12 Senator Rodrigues, that was a yes on your work because I
13 read it and based my vote on that. But we have not been
14 provided -- we were sent over maps, but no analysis as
15 it relates to race performance on their iterations that
16 have come back to us.

17 PRESIDENT SIMPSON: Senator Rodrigues,
18 you're recognized.

19 SENATOR RODRIGUES: We do have the
20 functional analysis that we have performed on those
21 districts that we can provide you.

22 PRESIDENT SIMPSON: Senator Pizzo, you're
23 recognized.

24 SENATOR PIZZO: Thank you, Mr. President.
25 Is it your understanding that the House relied on our

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 15

1 analysis, the Senate's analysis, to draft these maps
2 that we're now looking at?

3 PRESIDENT SIMPSON: Senator Rodrigues,
4 you're recognized.

5 SENATOR RODRIGUES: Thank you, Mr.
6 President. No, I don't believe they used our analysis.
7 They used their own analysis, which we do not have. But
8 they gave us their product, which we then ran our
9 analysis on, that we used when we composed our maps, to
10 see if they met the standards that were required to pass
11 constitutional muster. And the analysis our staff has
12 provided leads us to believe that it does.

13 PRESIDENT SIMPSON: Senator Pizzo, you're
14 recognized.

15 SENATOR PIZZO: And I'll skip debate to
16 tell you that I'm now a no, because, again, I do have
17 faith. It's not that I'm discounting what work they
18 tried to do and their efforts that they made. But you
19 have to arrive at a product that's based on analysis
20 that I'd like to read and something so critically
21 important.

22 I read yours. I agree with yours. I
23 voted for yours. But we're now being sent back things
24 to vote on that is not backed up by any analysis that
25 we're even able to review before we do so, from the

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 16

1 House, not yours.

2 PRESIDENT SIMPSON: Thank you. Are there
3 any additional questions? Is there debate? Any debate?
4 Senator Bracy, you're recognized in debate.

5 SENATOR BRACY: Sorry, no. I had a
6 question.

7 PRESIDENT SIMPSON: You're recognized for
8 a question.

9 SENATOR BRACY: Thank you, Mr. President.
10 Do you have information on how these districts would
11 perform as far as likely to elect a Republican, likely
12 to elect a Democrat? There was information that said --
13 that was reported that our Senate maps, I think it was
14 16 to 12. How do these House maps perform; do you have
15 any information on that?

16 PRESIDENT SIMPSON: Senator Rodrigues,
17 you're recognized.

18 SENATOR RODRIGUES: Thank you, Mr.
19 President. We do not have that information. We have
20 that information for the minority districts because that
21 is part of the functional analysis that was ordered by
22 the Supreme Court in the Apportionment 1 case, back
23 during the first cycle of redistricting. So for those
24 four districts that are one is majority minority, two
25 are affected minority, one is opportunity minority. For

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 17

1 the African American Opportunity districts, we have that
2 analysis. And for the four seats that are four majority
3 minority, for the Hispanic seats, we have that analysis.
4 But those are the only seats that we have any analysis
5 that would indicate partisan performance.

6 PRESIDENT SIMPSON: Senator Bracy, you're
7 recognized.

8 SENATOR BRACY: Thank you, Mr. President.
9 I know that the governor complained that the North
10 Florida seat wasn't compact. And so, there is an option
11 that makes that area more compact. So if it is vetoed,
12 what would be the difference between his map and what we
13 see here today? Because if we're complying with the
14 compactness that he talked about, what else is there to
15 comply with?

16 PRESIDENT SIMPSON: Senator Rodrigues,
17 you're recognized.

18 SENATOR RODRIGUES: Thank you, Mr.
19 President, and thank you for the question. I can't
20 speak to the governor and his concern, but what I can
21 speak to is what he asked the Supreme Court to weigh in
22 on, because we filed briefs supporting the request for
23 an advisory opinion. And his concern there was that
24 that district was not compact, stretching from Duval to
25 Gadsden County, and therefore, not being compact was in

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 18

1 violation of the now traditional redistricting standards
2 as articulated in the Section 2 Voting Rights Act
3 decisions that had recently come out.

4 It is the position of the House, and we
5 agree with them, that the primary map we're offering up
6 addresses that concern by taking what was that district
7 and keeping that minority opportunity district wholly
8 contained in Duval County.

9 So we believe, if you look at the request
10 for the advisory opinion to the Supreme Court, that this
11 map addresses the concern that was articulated in that
12 request.

13 PRESIDENT SIMPSON: Senator Bracey,
14 you're recognized.

15 SENATOR BRACEY: Thank you, Mr.
16 President. The difference I see is in we keep the
17 minority access seats in both of these House versions,
18 and the governor's map does not.

19 Of course, you can't speak to the
20 governor's intentions, but is that -- could that be a
21 reason for his veto?

22 PRESIDENT SIMPSON: Senator Rodrigues,
23 you're recognized.

24 SENATOR RODRIGUES: Thank you, Mr.
25 President. I would prefer not to speculate on what may

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 19

1 or may not occur or why it may or may not occur. I
2 would prefer that we accept these maps, which we believe
3 are constitutional, send them to the governor and see
4 what his action will be. The governor will either sign
5 them or he will not sign them and let them become law
6 that way or he will veto them. He will do one of the
7 three things.

8 Traditionally, when there is a veto,
9 there is a veto letter that accompanies the veto that
10 provides guidance on why the governor chose to veto that
11 particular bill. I would prefer to see what's
12 articulated for the reason that this map is violated or
13 vetoed, should he choose to go down that road.

14 PRESIDENT SIMPSON: Question? Senator
15 Jones, you're recognized for a question.

16 SENATOR JONES: Thank you so much, Mr.
17 President. I just have one quick question. Looking at
18 8015 and looking at 8019, Senator Rodrigues, why not
19 send 8015 back to the House to make this option one and
20 make 8019 option two, considering that 8015 follows the
21 law in it being contiguous? Because if you look at
22 8019, it is not contiguous, which would be based off of
23 the law.

24 PRESIDENT SIMPSON: Senator Rodrigues
25 you're recognized.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 20

1 SENATOR RODRIGUES: Thank you, Mr.

2 President. I will quibble with you on whether both maps
3 are contiguous or are not contiguous. I think both of
4 them are contiguous. The 8015 is less compact than
5 8019. And I believe the reason that the House chose to
6 send 8019 as the primary map was the concern that had
7 been articulated by the governor in the request that he
8 sent to the Florida Supreme Court for an advisory
9 opinion was his belief that current configuration of CD
10 District 5, which stretches from Duval to Gadsden
11 County, was not compact, which is what he expressed his
12 concern over. And the belief was, if we send
13 legislature a map up that addresses that concern, that
14 there was a greater likelihood that the bill would be
15 signed and the map would be implemented. So that is why
16 that was chosen by the House as the primary map.

17 PRESIDENT SIMPSON: Senator Jones you're
18 recognized.

19 SENATOR JONES: Thank you so much, Mr.
20 President. And Chair Rodrigues, but there's nothing
21 wrong with map number two, so what would stop us from
22 sending that back over to them?

23 PRESIDENT SIMPSON: Senator Rodrigues,
24 you're recognized.

25 SENATOR RODRIGUES: Thank you, Mr.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 21

1 President. I would say there's nothing wrong with
2 either map one or two. I believe they're both
3 constitutional. And so, I say that we move forward with
4 the map that addresses the concern that's been
5 articulated, and that potentially gives us the greater
6 opportunity to have it signed.

7 From my perspective, and I think we've
8 articulated this back in January, I know we did during
9 committees, and I think we did this during debate in
10 January when we presented the maps. As a legislature,
11 we have two responsibilities that we have to do. The
12 first responsibility is one we have every year. We
13 could convene in, and if the only thing we do is pass a
14 balanced budget, we have fulfilled our constitutional
15 responsibilities. Everything we do beyond that is
16 gravy. It's good that we're making great policy and
17 improving the state, but we can't leave without having
18 passed a balanced budget.

19 The second responsibility we have,
20 according to the Constitution, is that every decade, we
21 have to reapportion. We have to reapportion our
22 congressional delegation based upon the data from the
23 census and we have to redistrict our State Senate and
24 State House delegations according to the census data. I
25 believe we need to pass maps that are constitutional,

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 22

1 which has been our singular focus during this process,
2 is to pass maps that would survive Court scrutiny and
3 Court review and that we should fulfill that
4 responsibility. If we don't fulfill the responsibility,
5 then what we may be facing is a situation that occurred
6 during the last redistricting cycle where the courts are
7 either drawing a map for us or taking a map from a
8 plaintiff given to them by an outside entity who's not
9 accountable to the voters.

10 I think it's important, as elected
11 officials that are accountable to the voters, that took
12 an oath to uphold the Constitution when we were sworn
13 in, that we pass the map that we believe is
14 constitutional and gives us the greatest opportunity to
15 fulfill that duty that's placed upon us.

16 PRESIDENT SIMPSON: Are there -- Leader
17 Gibson, question? You are recognized for a question.

18 SENATOR GIBSON: Thank you, Mr.
19 President. In 8019, CD 5 has a BVAP of 35 percent and
20 8015 has a 43 percent BVAP. Are both of those non
21 diminishment?

22 PRESIDENT SIMPSON: Senator Rodrigues,
23 you're recognized --

24 SENATOR GIBSON: Or both of those
25 figures, I guess?

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 23

1 SENATOR RODRIGUES: Thank you Mr.
2 President, and thank you for the question because that's
3 a very important point. It is our responsibility to
4 ensure that we preserve the opportunity. I would draw
5 your attention back to the last round of redistricting
6 and what occurred. If you'll recall, in the last round
7 of redistricting that seat had a north-south
8 configuration that went from Jacksonville down to
9 Orlando and was actually a minority majority district.
10 And the Court tossed that district and said we don't
11 believe that north-south configuration is
12 constitutional. We believe that is a gerrymander. We
13 believe that it has been drawn majority minority in
14 order to pack minority voters into that district. So
15 we're going to find that district configuration
16 unconstitutional and instead they drew the east-west
17 configuration.

18 The second thing that's important is not
19 only did that run east-west but that changed from a
20 minority majority district into an affected minority
21 district because the percentage of minority voters
22 decreased from a majority to less than a majority. And
23 the Court found that just because the percentage goes
24 down doesn't necessitate diminishment.

25 The key question is, will it still

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 24

1 perform and will the minorities be able to elect the
2 candidate of their choice and participate? And they put
3 forth a functional analysis that they believe we should
4 go through in order to make that determination. The
5 functional analysis that they required -- a I'll just
6 walk through this for the benefit of everybody -- is
7 does the benchmark district perform Democrat or
8 Republican in statewide contests since 2012? And then,
9 there are subsections to that. What is the partisan
10 breakdown of registered voters? How many wins during
11 that period? What is the average margin of victory?
12 What is the average vote share? Are minority voters
13 registered cohesively? What percentage of the
14 registered voters by race and party? And then, what is
15 the minority registration among the political parties?
16 And then, the key question is, does the minority control
17 the primary?

18 So even though the percentage has gone
19 down, the functional analysis shows that that is still a
20 Democrat performing seat and that the minority controls
21 the Democrat primary in that seat. That is why we
22 believe it to be constitutional.

23 PRESIDENT SIMPSON: Senator Gibson,
24 you're recognized.

25 SENATOR GIBSON: Thank you, Mr.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 25

1 President. And so, I just want to go back to the
2 comment you made about using, I think you said, you used
3 the data from the House and used the Senate process for
4 a functional analysis. Do I have that right.

5 PRESIDENT SIMPSON: Senator Rodrigues,
6 you're recognized.

7 SENATOR RODRIGUES: Thank you, Mr.
8 President. We took the House map, took the districts
9 that were the minority districts, and then applied a
10 functional analysis to those seats, which was the
11 process we used on our maps when we brought that
12 forward. For each of the Minority Opportunity seats, we
13 had performed the functional analysis that I just went
14 through that the Court articulated.

15 So the House drew those districts. We
16 got their map. We took the districts that we know to be
17 Minority Opportunity Districts, and then we ran that
18 functional analysis to see if we agree that those seats
19 will perform as Minority Opportunity seats.

20 PRESIDENT SIMPSON: Senator Gibson,
21 you're recognized.

22 SENATOR GIBSON: Thank you, Mr.
23 President. So the process -- the process was the same
24 as if those were the maps that we produced; is that
25 correct?

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 26

1 PRESIDENT SIMPSON: Senator Rodrigues,
2 you're recognized.

3 SENATOR RODRIGUES: Thank you, Mr.
4 President. The process after the maps were drawn is the
5 same. I can't speak to the process before the maps were
6 drawn because I don't know what the House did in
7 preparing those districts. We're not privy to that.
8 Whereas, I do know what we did every step of the way
9 when we drew our districts. So I'm very comfortable
10 talking about our process.

11 I'm not going to go and say I know what
12 their process was because I wasn't in the room with
13 them. I don't know what their process was. But after
14 their lines were set, in order to determine if those
15 districts are constitutional, we applied the same
16 functional analysis on their map that we did to ours.

17 PRESIDENT SIMPSON: Leader Gibson, you're
18 recognized.

19 SENATOR GIBSON: Thank you, Mr.
20 President. And the map is the map, is that right? The
21 map is the map. If you have the district drawn and you
22 do the functional analysis on it, that's what we're
23 after, correct?

24 PRESIDENT SIMPSON: Senator Rodrigues,
25 you're recognized.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 27

1 SENATOR RODRIGUES: Thank you, Mr.
2 President. Yes, Leader, I would agree with that. And
3 that's the approach we've taken here.

4 PRESIDENT SIMPSON: Are there any
5 additional questions? Okay. We will go to debate. Is
6 there any debate? Senator Jones, you're recognized in
7 debate.

8 SENATOR JONES: Thank you so much, Mr.
9 President. And thank you so much to Chair Rodrigues for
10 the work that you previously did on this bill that we,
11 in this chamber, that we voted for because Senator
12 Rodrigues, Jay, Jason, and their entire team, they made
13 sure that we were following the law. And the fact that
14 we are here right now over a fight because the governor
15 does not like the maps, in an unprecedented approach,
16 coming and wanting to insert himself in map drawing,
17 when we, in this body, wanted to follow the rules and do
18 the right thing.

19 And Mr. President, you made it clear in
20 the beginning of session that we were going to do things
21 right. We were going to do things based off the
22 Constitution. And the fact that we are here right now
23 because the governor wants to Tweet this morning that
24 the map is dead on arrival, which I believe is
25 inappropriate. It's inappropriate when we come up here

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 28

1 with our families, we don't to come up here to be
2 threatened by the governor when we all, unanimously,
3 bipartisan sent those maps and said, this is what our
4 maps look like. I believe that we did what was right.
5 We as a body came together and said, those individuals
6 who drew those maps, who's sitting right over there,
7 took their time to draw these maps to be legal and
8 constitutional. And I think if the governor wants to
9 veto the map, let him veto it. But we came together to
10 do the right thing, and so be it.

11 PRESIDENT SIMPSON: Is there any
12 additional debate? Senator Ausley, you're recognized.

13 SENATOR AUSLEY: Thank you, Mr.
14 President. So I hadn't really been involved -- I mean,
15 I've been involved in watching and voting on this
16 redistricting, but I tend to agree with Senator Jones on
17 this. You know, we're thrusting ourselves into this
18 disagreement, I guess, and I'm very concerned about this
19 map. I believe that it violates the Florida
20 Constitution. The Voting Rights Act. I mean, we we've
21 talked about the compactness of this, of this
22 configuration of Congressional District 5. But
23 compactness is not the only factor to be considered in
24 the Fair District's constitutional requirements, one of
25 the tier 1 criteria is that no apportionment plan or

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 29

1 district shall be drawn with the intent to favor or
2 disfavor a political party or an incumbent. This seems
3 to me to be very close to being disfavoring the current
4 incumbent of Congressional District 5, Al Lawson [ph],
5 and I believe that's a blatant violation of the Florida
6 Constitution. And I liked our initial map. And I'm
7 going to vote no on this today, and I hope many of you
8 will join me.

9 PRESIDENT SIMPSON: Is there any
10 additional debate? Senator Pizzo, you're recognized in
11 debate.

12 SENATOR PIZZO: I said I wasn't going to,
13 but I just want to be -- I was not lying. It was just
14 miscommunication.

15 PRESIDENT SIMPSON: That's fine; I
16 understand.

17 SENATOR PIZZO: Mr. President, to my
18 final -- final -- I'm a no because our work here, our
19 work product was sound, solid; in spirit, and an
20 application, it was good. We sent it back, comes back
21 here. Senator Jones made a really excellent point both
22 in its just functional simplicity. I think most of us
23 think the alternative map number 2 is better, so why
24 don't we just flip them around and send it back? We
25 have time.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 30

1 A no vote for me is not because these
2 maps are going to be any better than the work product
3 that the governor would have drawn himself or his staff
4 would have drawn himself. So I don't want people to
5 think that. But a yes also would be blessing concerns
6 that I share with Senator Ausley, I think, a few others,
7 about some of the implications which could have been
8 overcome had they sent over the data to back up or we
9 had the data to back up their cartography.

10 And I hear whisperers around, and I don't
11 disagree that this is headed to the Courts. Concerns
12 about the votes on the other side. Senator Rodrigues,
13 I'm going to ask you, you and I have a good
14 relationship. We're very honest with each other. Talk
15 to the members in this chamber, because on the other
16 side, there was individual members on both sides that
17 were yeses and noes and I'm reading quotes where a
18 Republican, just said, this is absolutely
19 unconstitutional.

20 So if you would, a and as a courtesy to
21 members, I'm a no and I've expressed why and I think
22 I've articulated why. But talk to some of us as members
23 in your closing, if you would, about the implications of
24 being a no or being a yes.

25 PRESIDENT SIMPSON: Is there any

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 31

1 additional debate? Senator Berman, you're recognized in
2 debate.

3 SENATOR BERMAN: Thank you, Mr.
4 President. And I, too, voted for the original Senate
5 map because I believed that that map generally respected
6 the communities of interest in our state and in my
7 county, which is the one I'm able to analyze the best.
8 And unfortunately, with the maps that we have today, I
9 am concerned about Palm Beach County. It looks like the
10 map cracks -- as that term is used in the vernacular of
11 redistricting -- this cracks our communities of color in
12 Palm Beach County. And we've already proven we can draw
13 a map that doesn't do that.

14 And the other concern that I have is when
15 have we ever passed legislation that says, here's two
16 pieces, if not A, then go with B? I don't understand
17 that we're doing a two-pronged piece of legislation. To
18 me, that's extremely unconventional and it makes no
19 sense.

20 But I do want to be clear. While I'm
21 going to be a no vote and I can't support this map
22 today, I am also deeply troubled by the governor's
23 efforts to hijack this process. And if the governor
24 does insist on vetoing this map, I will certainly be
25 with anyone voting to override that veto. Thank you.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 32

1 PRESIDENT SIMPSON: Senator Torres,
2 you're recognized.

3 SENATOR TORRES: Thank you, Mr. President
4 and Senator Rodrigues. Before I begin, I just want to
5 say that I was looking forward to having constituents'
6 input by going around the state like they did in 2016,
7 to listen to their concerns as to the maps and the
8 growth that was going on in the county, especially in my
9 Central Florida, Osceola and Orange. I was a no on the
10 original Senate product because I was concerned about
11 the Latino representation on the I-4 corridor. I am a
12 no today because these issues are still not fixed on
13 this map. And by putting all of Polk County into a
14 single district, I'm also concerned that we are robbing
15 the rapid growing Hispanic community along the I-4
16 corridor of additional representation over the next ten
17 years -- ten years.

18 As long as a longtime Central Florida
19 resident, I am concerned about the rest of the
20 configuration of Orange and Seminole County as well,
21 particularly the configuration of CD 7 under this map.
22 It cracks the student communities in Seminole County
23 away from the University of Central Florida and
24 generally ignores that many residents in Seminole County
25 work in Orange County and vice versa. I see no reason

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 33

1 for these changes, and that is why I still cannot
2 support this matter. Thank you, Mr. President.

3 SENATOR RODRIGUES: Leader Farmer, you're
4 recognized in debate.

5 SENATOR FARMER: Thank you, Mr.
6 President. There's a Yiddish word called chutzpa.
7 Chutzpa has been described in a legal opinion as that
8 quality of a man that compels him to, having killed his
9 mother and father, throw himself on the mercy of the
10 Court because he's now an orphan. I think this governor
11 is demonstrating extreme chutzpa in the way he is
12 inserting himself into this legislative process, in the
13 way he is taking unprecedented action in submitting his
14 own proposed map with a clear goal in mind to reduce or
15 eliminate minority access. It's plain, it's simple,
16 it's patent.

17 Patent is the opposite of latent, as we
18 learned in the construction defect debate. With such
19 obvious mal intention, how can we countenance that? How
20 can we in good conscience countenance that? And how can
21 we pass an either/or product? I mean, how many times do
22 we debate versions of a bill and we go with our version
23 over the House version or a lot more frequently lately,
24 we go with the House version over our version. We don't
25 get to send two versions to the governor and say, hey,

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 34

1 you pick which one you like better. That's not how this
2 works, folks. That's not how this works.

3 The sheer arrogance is really appalling.
4 And I guess we shouldn't be surprised that somebody
5 who's going to wag his face, wag his finger in a kid's
6 face --

7 PRESIDENT SIMPSON: Senator Farmer --

8 SENATOR FARMER: -- because he's choosing
9 to wear a mask would take such action. But we're not
10 doing our job. We're not doing our job appropriately.
11 We're not doing our job constitutionally, and we should
12 vote no on this map. Thank you.

13 PRESIDENT SIMPSON: Is there any
14 additional debate? Senator Cruz, you're recognized.

15 SENATOR CRUZ: Thank you, Mr. President
16 and members. We passed a constitutional amendment that
17 said we want fair districts. We took it to the people.
18 We went around this body and we took it to the people
19 and they said, we want fair districts. We want compact
20 and contiguous districts that represent the people that
21 live there. Not drawing the African American district
22 in a circle here and not drawing the wealthy white group
23 on the beaches here; that's not fair. We want compact
24 and contiguous districts.

25 So I'm a no on this map and I'm going to

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 35

1 tell you, it's because of the obvious., what I see not
2 as bad as it used to be, gerrymandering and partisan
3 favoritism. This map has cracks. It cracks the
4 community around my area in Tampa, the University of
5 South Florida, into two districts. And it also kind of
6 cracks communities of color in Tampa and in Temple
7 Terrace.

8 Now, I have concerns over the Senate's
9 original product. I did. I was hopeful that I would
10 let it go on and some of these concerns might be
11 addressed as the process kind of moved forward. Not
12 only were these concerns not addressed in this map, this
13 map has gotten worse. I can't support a map today as I
14 don't believe it's constitutional. I truly do not
15 believe this one is constitutional, and I believe it
16 undermines the opportunities for racial minorities in
17 Tampa Bay and in your district, Senator Torres.

18 I cannot understand how all we have
19 talked about for the last ten years, and even more so
20 after the devastating hurricane in Puerto Rico, all
21 we've done is talk about this rapid growth in the I-4
22 quarter, specifically the Orlando area. Yet the map
23 comes out and I see little or no additional Hispanic
24 representation. Instead, it's been pushed toward the
25 center of the state. Not fair. Just not fair.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 36

1 I don't have confidence, you know? I
2 don't have confidence in what we passed as a fair
3 district amendment. Look at congressional District 5.
4 I think that's currently Congressman Lawson, is that
5 right? He is a little stain in the center of
6 Congressional District 4. Ridiculous. He's a stain
7 right there in the middle. Just let's forget about the
8 rules. Let's just put him right there in the middle and
9 forget about what we're supposed to do. There's a stain
10 there.

11 There's a stain in this whole process.
12 It is an ugly stain, and I don't know how we fix it.
13 But I'll tell you what I do know, that my no vote today
14 is not a no vote against this body that I have much
15 respect for. I believe that our maps and the work that
16 we did, with the exception of more Hispanic
17 representation, was an honorable map. What I don't want
18 to see is this project hijacked. I don't want to see
19 someone inject themselves and try to use this as
20 political theater. And I am going to say that, in my
21 opinion, trying to hijack this map, one of the most
22 important aspects of our work is the redistricting of
23 our state. I mean, we work hard on the budget and make
24 sure that we send out a balanced budget. We don't spend
25 any more money than we have, and we work hard to do

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 37

1 that. It's honorable, good work. This is the zenith or
2 the pinnacle of the work that we do here. We are here
3 following an amendment, a constitutional amendment, that
4 our people said, we want fair districts. We want
5 democracy. We see it falling apart in other places of
6 this world, but here, democracy stands. So I'm going to
7 say, Governor DeSantis, do not become a stain on the
8 democracy of the state of Florida. Thank you, Mr.
9 President.

10 PRESIDENT SIMPSON: Is there any
11 additional debate? Senator Rodrigues, you're recognized
12 to close on your bill. Excuse me. Senator Taddeo,
13 you're recognized in debate.

14 SENATOR TADDEO: Thank you, Mr.
15 President. And I'm on the corner, so sometimes it's
16 hard to -- it's easy to miss. I first want to say to
17 Senator Rodrigues, I am so impressed with the work that
18 you have done and the staff. I really -- I have been
19 really impressed. I didn't sit on any other committees,
20 but I've watched and I voted for the maps that we sent
21 over to the House. And I know it's hard work. I mean,
22 you even got rid of your cell phone. I was really
23 impressed with that. I don't know that I could do that,
24 although I'm sure some people would love for me to do
25 that. This has been hard work, and I commend you.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 38

1 I am, however, really, really concerned
2 about the map we received and extremely disappointed by
3 the process that's been going on in the public with
4 respect to the governor's office getting involved.
5 Look, let's be real. On the eve of Martin Luther King
6 Day, there was a map that was released by the governor's
7 office, which, as far as I know, we had never seen, in
8 which it actually erased majority black seats. I -- I
9 can't believe it. I couldn't believe it when I saw it.
10 I can't believe that that was happening. Have we gotten
11 so far in our extremism, in our politics, that we're
12 putting aside the importance of minority districts
13 that's in law? It's very disappointing.

14 And now, we're seeing a play with the
15 separations of powers. I mean, we're here to do our
16 job, a very important job. And the governor has every
17 right to veto the congressional maps. But we should put
18 out our maps, the maps we've drawn, the maps we feel
19 pass the intent of the voters when they sent a very
20 strong message about us not injecting politics into the
21 drawing of the maps. Not playing favoritism on
22 incumbents, not paying attention where someone lived,
23 not playing politics with the map drawing, whether it's
24 blue or red. It's a sad day. It's a sad day when we
25 are not standing up to the governor. So I ask you,

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 39

1 let's stand up to the governor. Let's send our original
2 map, the one that we drew, the one that we feel was the
3 appropriate map after a ton of work, a ton of research
4 and clear following of the constitutional amendment that
5 was asked of us from the voters. Thank you.

6 PRESIDENT SIMPSON: Is there any
7 additional debate? Senator Bracy, you're recognized in
8 debate.

9 SENATOR BRACY: Thank you, Mr. President.
10 I'm actually okay with the House maps because I
11 understand where they're coming from. If they are
12 anticipating the governor to veto it, and he asked for
13 certain things, they tried to comply, and he's still not
14 satisfied. And what is clear is that he wants to remove
15 black districts. That's the only other thing that could
16 be done. And I think that's where we should draw the
17 line.

18 I'm going to vote for the Senate maps.
19 That's what I would prefer, because I think it's a
20 better product. But I thought it was important to
21 highlight what is going on here. And so I think, as a
22 Senate, we should stand against what the governor is
23 trying to do. Thank you.

24 SENATOR BRACY: Any additional debate?
25 Senator Rodrigues, you're recognized to close.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 40

1 SENATOR RODRIGUES: Thank you, Mr.
2 President, and thank you, members, for your debate
3 today.

4 As I close on this, I'm going to begin by
5 saying I do believe this is a constitutional map. And I
6 was asked to address some of the concerns that have been
7 expressed by colleagues on this. And I watched the
8 committee hearings in the other chamber, and I've read
9 some of the comments that other members have made on why
10 they're objecting to the map, and I don't agree with
11 them.

12 So what's been offered as a reason for
13 objection is there are two maps on this one bill. Even
14 in this chamber, I heard someone say, we shouldn't send
15 the governor two maps and tell him, you pick the one you
16 like. That's not what we're doing in this bill. We're
17 sending one bill with two maps, and the governor has a
18 choice when he receives the bill. He can either sign it
19 and let it become law; not sign it, and it becomes law;
20 or veto it. But he doesn't get to say, I want this map,
21 not that map. We say that in the bill. It is the first
22 map, unless the Court invalidates it because they find
23 District 5 to be unconstitutional. And then, and only
24 then, does that second map become effective. And that's
25 not any different than what this legislature commonly

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 41

1 does during every session. Many bills contain a
2 severability clause that we pass because we recognize in
3 some areas there may be issues that the Court objects to
4 and so we put into the bill a severability clause so
5 that that portion can go away, but the rest of the bill
6 can remain. That's what we've done here.

7 Now let's look at the actual map itself.
8 I heard a member express concern because it looks like
9 the House has made tweaks, and we were in particular in
10 South Florida, that may be unconstitutional because
11 they're either packing or cracking. That's not the case
12 in the analysis that I've done as I've looked at the
13 maps.

14 When we drew our map, we laid down the
15 county boundaries as our foundation. And the reason we
16 did that was the Court blessed that in apportionment one
17 as the foundation. There are 67 counties, their borders
18 do not change, and they're contiguous. So that is the
19 perfect foundation to begin building the map.

20 Then we made the decision as a body to
21 prioritize geographic boundaries over municipal
22 boundaries. And the reason we did that was geographic
23 boundaries don't change. I-75 hasn't moved. I-95
24 hasn't moved. Our state roads may get wider as we
25 expand them to accommodate the traffic, but they're not

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 42

1 physically relocated.

2 The issue with using municipal
3 boundaries, as we looked at it, is that they're ever
4 changing. When we examined the data from the last
5 reapportionment cycle to today, we saw that there was,
6 on average, one city boundary change every day for the
7 last decade in the 412 cities that we have here in the
8 state of Florida. So we went with the geographic
9 boundaries, and then where we could accommodate keeping
10 municipalities whole, we did that.

11 If you look at fair districts, those are
12 all co-equal tier 2 criteria; geographic boundaries,
13 municipal boundaries, county boundaries. Each approach
14 is valid. To put geographic boundaries over city
15 boundaries is constitutionally valid. What the House
16 did was they put keeping cities whole over geographic
17 boundaries. So they started with the counties as their
18 foundation, and as they built from there, they worked to
19 keep cities whole. That is perfectly constitutional.
20 That is a tier 2 criteria; two different approaches,
21 both of them entirely legal.

22 And so I draw your attention to what the
23 Court said when they upheld our state Senate and the
24 state House map in the joint resolution that we sent to
25 them. When they went through and upheld those maps,

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 43

1 they said, here is the benchmark map that was ordered by
2 the Court last time. This map is more visually compact,
3 but we only don't have to rely only on visual
4 compactness because there are metrics that are
5 recognized by the Court and were used by the Court. So
6 they went through the convex hull metric, the Polsby-
7 Popper metric, and the Reock metric. And they said on
8 each of these metrics, the Senate map is more compact
9 than the previous map, which is an indication that it
10 was not gerrymandered.

11 The map that we passed off this floor,
12 8060, was an improvement over the benchmark map. The
13 benchmark map had a convex hull of .77; the map that we
14 passed in January was .80. The map in front of you
15 today that we're asking you to vote yes on has a convex
16 hull of .82, better than the benchmark and even better
17 than the map that we passed in January.

18 The Polsby-Popper map. The benchmark was
19 .36. The map that we passed in January was .43. The
20 map in front of you that we're asking you to vote yes on
21 today is .42. That's just a tick less than our map, but
22 I'm going to tell you why that's okay when I get to the
23 last metric.

24 The third mathematical metric is the
25 Reock. The benchmark was .44. The map that we passed

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 44

1 was an improvement at .46. The map we're asking you to
2 vote yes on today is .48. Better than the benchmark,
3 better than the map that we passed in January.

4 So we've got the one metric that was just
5 a tick lower than ours. If you go down and look at
6 counsel kept whole and cities kept whole. In the
7 benchmark map, there were 49 counties kept whole. In
8 the map that we passed, we kept 48 whole. In the map in
9 front of you today, 49 counties are being kept whole.
10 It's an improvement over what we passed, and it is as
11 good as the benchmark map.

12 And now we get to the municipal
13 boundaries. Now, remember, we didn't prioritize
14 municipal boundaries, but the House did. Out of 412
15 cities in the benchmark map, 373 of them are kept whole,
16 wholly contained in one congressional district. In the
17 map that we passed, we kept 368 of them wholly contained
18 in a district. This map, the map that we're asking you
19 to vote for today, keeps 394 of the 412 cities
20 completely whole in a district. That accounts for the
21 changes that you see as you look at our map compared to
22 their map. Where there were changes, the changes were
23 made where they kept cities whole. It wasn't packing or
24 cracking. It was following municipal boundaries, which
25 is constitutional. That is a tier 2 criteria that the

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 45

1 Court has upheld. So they keep 26 additional cities
2 whole, one additional county whole and are more visually
3 compact and the map is more mathematically compact on
4 two of the three and practically a tie on the third.
5 This is a constitutional map. It is a good map. And
6 with that, I'd ask for your favorable support.

7 SENATOR BRACY: Senator Rodrigues, you
8 are recognized for a motion.

9 SENATOR RODRIGUES: Thank you, Mr.
10 President. I move that the Senate concur in House
11 Amendment 269533.

12 PRESIDENT SIMPSON: Without objection,
13 sir, that motion adopted, we are back on the bill as
14 amended. The Secretary will unlock the board and
15 Senators will proceed to vote. Lock the board and
16 record the vote.

17 THE CLERK: 24 yeas, 15 nays, Mr.
18 President.

19 PRESIDENT SIMPSON: So the bill passes.
20 Read the next bill. Oh, excuse me, Senators. We are
21 staying on special order where we were this morning.
22 We're going to read the next bill.

23 THE CLERK: Committee substitute for
24 committee substitute for Senate Bill 1430, a bill to be
25 entitled an act relating to insolvent insurers.

3/4/2022

Common Cause, et al. v. Cord Byrd

Audio Transcription

Page 217

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C E R T I F I C A T I O N

I, DIANE OTTO, do hereby certify that I have
carefully transcribed from and compared the foregoing
pages with the original digital audio recording from
said proceeding and that this transcript is true and
correct to the best of my ability.

Dated this day March 8, 2023.

A handwritten signature in black ink, appearing to read "Diane Otto", with a small asterisk to the right.

(Electronically signed)

DIANE OTTO, CET, CER 1353