

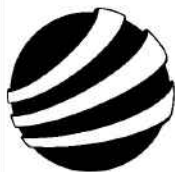
In the Matter Of:

KETO NORD HODGES vs PASSIDOMO

8:24-cv-879

NICHOLAS WARREN

November 18, 2024



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KETO NORD HODGES vs PASSIDOMO

1

1 IN THE UNITED STATES DISTRICT COURT

2 MIDDLE DISTRICT OF FLORIDA

3 TAMPA DIVISION

4
5 KETO NORD HODGES, ET AL.,

6 Plaintiffs,

7 v.

Case No. 8:24-cv-879

8 KATHLEEN PASSIDOMO, ET AL.,

9 Defendants.

10
11
12 DEPOSITION OF

13 NICHOLAS WARREN

14
15 Monday, November 18, 2024

16 10:01 a.m.

17 Shutts & Bowen LLP

18 200 South Biscayne Boulevard, Suite 4100

19 Miami, Florida 33131

20
21 MILENA ARZUMANYANTS

22 Digital Reporter

23 Commission No: HH 562384

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(On the record at 10:01 a.m.)

THE REPORTER: Okay. We are now on the record. The time is 10:01 a.m. on November 18, 2024, to take the deposition of Nicholas Warren in the case of Keto Nord Hodges, et al. versus Kathleen Passidomo, et al.

My name is Milena Arzumanyants, notary public and digital reporter for Esquire Deposition Solutions in the State of Florida.

I will be capturing the verbatim record of today's proceeding using electronic audio equipment, a computer and specialized recording software, which is not a form of stenography.

The witness is located in Miami, Florida, and has confirmed her [sic] identity with the driver's license issued by the Florida Department of Motor vehicles.

Will everyone in attendance, please identify yourselves for the record and state who you represent?

MR. LEVIN: Reid Levin, of Reid Levin, PLLC, and I represent Mr. Nicholas Warren.

MR. TILLEY: Daniel Tilley, ACLU Foundation of Florida, Plaintiffs.

MS. MCNAMARA: Caroline McNamara, ACLU Foundation of Florida, represent the plaintiffs.

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1 MS. RODRIGUEZ: Leylany Rodriguez from Reid
2 Levin, PLLC, representing the plaintiff.

3 MR. LEVIN: Representing Mr. Warren.

4 MS. RODRIGUEZ: Mr. Warren.

5 MS. FRANCIS: Shiza Francis from Shutts &
6 Bowen representing the Florida Senate.

7 MR. BEATO: Michael Beato, B-E-A-T-O, Florida
8 Secretary of State.

9 MR. JAZIL: Mohammed Jazil, J-A-Z-I-L, for
10 the Florida Secretary of State.

11 MR. NORDBY: Daniel Nordby, N-O-R-D-B-Y, from
12 Shutts & Bowen law firm, representing Florida Senate
13 President, Kathleen Passidomo, in her official
14 capacity.

15 MS. REARDON: Kassandra Reardon, Shutts &
16 Bowen, representing the Florida Senate President,
17 Kathleen Passidomo, in her official capacity.

18 THE REPORTER: Thank you. Mr. Warren, please
19 raise your right hand to be sworn.

20 NICHOLAS WARREN
21 having been first duly sworn, testified as follows:

22 THE REPORTER: Thank you,
23 Counsel, you may begin.

24 MR. NORDBY:: Thank you.

25 EXAMINATION

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1 BY MR. NORDBY::

2 Q. Good morning, Mr. Warren.

3 A. Good morning.

4 Q. You've stated your name for the record. Have
5 you ever been deposed before?

6 A. Nope.

7 Q. Are you familiar with the rules governing
8 depositions?

9 A. I am.

10 Q. Do you have any questions at all about the
11 way a deposition works, your obligation to answer
12 truthfully, anything of the sort?

13 A. I do not.

14 Q. Is there anything that would cause you to not
15 be able to give truthful and clear answers today?

16 A. No.

17 Q. You're not under any medication?

18 A. No.

19 Q. You're not ill?

20 A. No.

21 Q. Okay. If you don't understand the question
22 that I'm asking, will you agree to ask me to clarify
23 that question?

24 A. I will.

25 Q. Mr. Warren, by whom are you currently

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1 employed?

2 A. The ACLU of Florida.

3 Q. How long have you worked for them?

4 A. Since September 2020.

5 Q. Is that a different organization than the
6 ACLU Foundation of Florida?

7 A. I am employed by the Foundation.

8 Q. Okay. Could you explain to me what the
9 difference is between those two? Are those two
10 organizations?

11 A. I will try to explain the difference. My
12 understanding is that the foundation is a C 00 is a
13 501(c)(3). And there's another entity, which is
14 the -- we call the Union, which I think is the
15 AC -- the American Civil Liberties Union of Florida.
16 And that's a 501(c)(4).

17 Q. You are employed by the 501(c)(3)
18 organization?

19 A. That's my understanding.

20 Q. Your understanding is that you're employed by
21 the 501(c)(3), or your understanding is that they are
22 a 501(c)(3)?

23 A. My understanding is that I'm employed by
24 them. I know that they are a 501(c)(3).

25 Q. Okay. Do you have a question in your mind as

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1 to who your employer is?

2 A. No.

3 Q. Okay. You said you've been working for them
4 since 2020?

5 A. Yes.

6 Q. Where were you employed before that?

7 A. I was at the United States District Court for
8 the Middle District of Georgia.

9 Q. And what were you doing there?

10 A. I was a digital law clerk.

11 Q. For which Judge?

12 A. Judge Gardner.

13 Q. What time period?

14 A. From -- for a year. From August or September
15 2019 until September 2020.

16 Q. And where were you employed before that?

17 A. I was not employed.

18 Q. Okay. At any time before 2019?

19 A. Immediately before 2019, I was not employed.

20 Q. Okay. What were you doing immediately before
21 2019?

22 A. I was in law school.

23 Q. Where did you attend law school?

24 A. NYU.

25 Q. Roughly three years 2016 to 2019?

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1 A. Yes, sir.

2 Q. And where were you employed before law
3 school, if at all?

4 A. In the year --

5 Q. Actually, let me withdraw that. Were you
6 employed at all during law school in any legal
7 capacity job?

8 A. Yes.

9 Q. Which jobs?

10 A. I was a research assistant at the law school.
11 I was -- I spent a day as a poll worker. I think that
12 is -- other than unpaid internships, those are all the
13 employment that I had during law school.

14 Q. Okay. What about prior to law school?

15 A. Prior to law school, in the year in between
16 college and law school I -- let's see, going in
17 reverse chronological order. I had an -- had two
18 unpaid internships. One was with Congresswoman Gwen
19 Graham's office in DC. The other was at the Florida
20 Supreme Court. And then before that, I was employed
21 for money at a off Broadway theater company called
22 PTP/NYC.

23 Q. I don't intend to go any farther back than
24 that unless you tell me that you've had employment,
25 that was relevant to the issues in this case.

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1 Did you have any employment prior to those unpaid
2 internships and theater that would be relevant to the
3 issues in this case?

4 A. Could you be more specific about what might
5 be relevant?

6 Q. Were you employed in any redistricting or
7 elections-related jobs prior to that?

8 A. Yes.

9 Q. Okay. Where?

10 A. So -- so I guess those would all have been
11 unpaid internships. Would you like me to walk through
12 those?

13 Q. Yes, please.

14 A. Going in reverse chronological order. I was
15 an intern in the United -- the Parliament of the UK in
16 the summer of 2014. I was an intern at the voting
17 section in the Department of Justice in the spring of
18 2014. I worked or volunteered on the campaign of the
19 three Supreme Court justices that were up for merit
20 retention in the summer of 2012. And then in 2011 and
21 2012, I was an intern in the Florida Supreme Court.

22 Q. Is that a separate internship in the Florida
23 Supreme Court from the one you mentioned earlier?

24 A. It was a separate time period.

25 Q. Okay. So you had two separate unpaid

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1 internships in the Florida Supreme Court?

2 A. Correct.

3 Q. Okay. What were the time periods for each of
4 those?

5 A. The first one was in the summer of 2011, and
6 my college has a January term, winter term. I was
7 there during that term as well in 2012, January 2012.
8 And then the second time which we've already discussed
9 was in the fall of 2015.

10 Q. Were you working with any particular justices
11 or offices of the Florida Supreme Court during those
12 time periods?

13 A. Yes.

14 Q. Whose?

15 A. Justice Pariente.

16 Q. On both occasions?

17 A. Correct.

18 Q. I'm going to ask you about methods by which
19 you communicate with others. Do you have any email
20 addresses that you use to communicate?

21 A. Yes.

22 Q. What are those addresses?

23 A. I have a Gmail -- you want the address?

24 Q. I think it's on some of your correspondence.
25 So maybe skipping a step. Is it

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1 nicholaslvwarren@gmail.com?

2 A. Yes.

3 Q. Are there other email addresses that you used
4 to communicate?

5 A. Yes.

6 Q. What are those?

7 A. I have my work email address, which I think
8 you also have.

9 Q. Okay. Any others?

10 A. Those are all -- I have -- those are all the
11 ones that I have to communicate with others. I have
12 ones that are for spam, and like, when you have to
13 give an email at a coffee shop to get rewards.

14 Q. Okay. Have you used any other email
15 addresses to communicate with others from 2019 to the
16 present?

17 A. Yes. Oh, I'm sorry. I have my NYU law email
18 account still, but I don't use it much. But I did use
19 it more in 2019.

20 Q. Okay. Any others?

21 A. When I was working at the Middle District of
22 Georgia, I had a work email through them.

23 Q. Okay. Your phone number on some of your
24 materials is 850-509-5450; is that correct?

25 A. That's right.

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1 Q. Do you have any other phone numbers that you
2 used to communicate with others?

3 A. I have my work phone number.

4 Q. Okay. Do you have any -- the number I read
5 as a cell phone number?

6 A. Yes.

7 Q. Do you have any other cell phone numbers?

8 A. No.

9 Q. Did you use any other cell phone numbers in
10 2020 or 2021?

11 A. No.

12 Q. Do you communicate using social media
13 accounts?

14 A. Yes.

15 Q. Which ones?

16 A. Twitter. Instagram. And those are the main
17 ones.

18 Q. Okay. What are the non-main ones?

19 A. Snapchat, to some extent. That's it.

20 Q. Okay. What is your Twitter handle?

21 A. NLVWarren.

22 Q. And the same question as to Instagram.

23 A. That is N period W-A-R-R underscore N.

24 Q. And Snapchat?

25 A. That is a little inside joke. That is

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1 H-U-N-G period J-U-R-O-R.

2 Q. Okay. Any other social media accounts that
3 you use?

4 A. No.

5 Q. Do you have a Facebook account?

6 A. I don't. It's deactivated, and I haven't
7 used it since, I think 2015 or 2016.

8 Q. Okay. Do you have a Signal account?

9 A. Yes.

10 Q. Okay. What is your information for that?

11 A. I think it's the same as my cell phone
12 number.

13 Q. Is that something you used to communicate?

14 A. Yes.

15 Q. Do you have a Telegram account?

16 A. No.

17 Q. Okay. Are there any other -- do you have a
18 WhatsApp account?

19 A. Yes.

20 Q. What is your WhatsApp account information?

21 A. I think it's the same as my cell phone
22 number. I think -- yeah.

23 Q. And you use that to communicate?

24 A. Yes.

25 Q. Any other technological methods you use to

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1 communicate with others, other than email -- let me
2 ask one other.

3 Do you text using your cell phone number?

4 A. Yes.

5 Q. Do you use iMessage?

6 A. Yes.

7 Q. And SMS messages as well?

8 A. That's --

9 Q. For individuals who do not have iPhones, if
10 you wanted to text someone?

11 A. Yes.

12 Q. Okay. Anything else? Any other apps or
13 other methods that you use to communicate with other
14 people?

15 A. I write letters. I think that's it.

16 Q. I'm going to ask you some questions about who
17 you talked to during the redistricting process, most
18 recent redistricting process in Florida. I'm going to
19 go through some kind of categories of people just to
20 break it down a little bit. And the relevant time
21 period I'm talking about here is 2020 through the
22 present. Do you understand what I'm asking?

23 MR. LEVIN: That's a little outside the scope
24 of the order.

25 MR. NORDBY:: Do you have the order? There's

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1 a time period in there.

2 MR. LEVIN: "Personal involvement in the
3 legislative redistricting process, Which occurred in
4 2020 through January 2022, when the Senate enacted its
5 plan."

6 MR. NORDBY:: Okay.

7 MR. LEVIN: Which should have been January
8 20th, 2022.

9 BY MR. NORDBY::

10 Q. We'll limit it to that time period, 2020
11 through January of 2022.

12 A. Okay.

13 Q. Did you speak with any members of the Florida
14 House of Representatives during that time period?

15 A. About redistricting?

16 Q. Yes.

17 A. Yes.

18 Q. With whom did you speak? Which members of
19 the Florida House?

20 A. I had a meeting with several members about
21 prison populations. And I can't remember everyone who
22 was there, but at least Fentrice Driskell was there.

23 Q. Do you remember anyone else that was there?

24 A. David Grimes was there.

25 Q. Do you know Mr. Grimes' job title or in what

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1 capacity he's employed?

2 A. He is the -- I think it's like the staff
3 director or the chief of staff or the caucus director
4 of the Minority Caucus, the Democratic Caucus, in the
5 House, Florida House.

6 Q. You mentioned Representative Driskell. Any
7 other members that you remember being in that meeting?

8 A. I think there may have been some, but I can't
9 remember who.

10 Q. Approximately how many people were in that
11 meeting?

12 A. Including me and Representative Driskell and
13 David Grimes, there may have been one or two other
14 people there, but I'm not sure.

15 Q. Okay. Did you know who they were?

16 A. At the time that I was there, I'm sure I was
17 introduced to them.

18 Q. Okay. Is there anyone else in that meeting?

19 A. Not that I can remember.

20 Q. Okay. Are there are any other members or
21 staff of the Florida House of Representatives that you
22 communicated with during the redistricting process?

23 A. No.

24 Q. Okay. Do you know an individual with the
25 last name of Dye?

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1 A. Yes.

2 Q. Who am I referring to?

3 A. That's Joe Dye.

4 Q. Okay. Who's Joe Dye?

5 A. He is -- he, until recently, was a legal
6 support staff at the ACLU of Florida, and before that,
7 he was an intern with the House Minority Office.

8 Q. Would he have been present in that meeting
9 you mentioned earlier?

10 A. No.

11 Q. Any other members of the House that you
12 communicated with during the redistricting process?

13 A. No.

14 Q. And I'm referring to other than just this one
15 meeting. At any point through any method of
16 communication that we've discussed earlier?

17 A. No.

18 Q. Any other staff of the Florida House of
19 Representatives that you communicated with?

20 A. No. Other than when I submitted my
21 five -- or four or five or six redistricting plans
22 that went to I think, a Joint Senate House staff body.
23 And I think there was an exchange of emails about the
24 submission of the plans with those individuals, but I
25 don't know who they were.

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1 Q. Okay. Similar questions as to members of the
2 Florida Senate. Did you speak with any members of the
3 Florida Senate during the redistricting process?

4 A. Other than in person at the two subcommittees
5 of which I gave public comment, no.

6 Q. You didn't have any emails, texts, or any
7 other method of communication outside with any member
8 of the Senate other than in your public testimony?

9 A. I emailed Senator Bradley after I spoke at
10 her subcommittee. And I emailed all members of the
11 Florida Senate with a letter after that.

12 Q. What about staff of the Florida Senate? Did
13 you communicate with any staff of the Florida Senate
14 regarding redistricting during the redistricting
15 process?

16 A. Yes.

17 Q. Who?

18 A. John Toman.

19 Q. Who's John Toman?

20 A. I think he is a lawyer in the Senate Minority
21 Office.

22 Q. Did you meet with or communicate with any
23 other members or staff of the Florida Senate during
24 the redistricting process?

25 A. No.

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1 Q. Same question as to members of Congress. Did
2 you communicate with any members of Congress during
3 the redistricting process?

4 A. No.

5 Q. Did you communicate with any congressional
6 staffers during the redistricting process?

7 A. No.

8 Q. The Florida Executive Branch officials. Did
9 you speak with anyone at the Secretary of State's
10 Office or the Governor's Office or any other Executive
11 Branch Office regarding redistricting?

12 A. No.

13 Q. Did you speak with any judges about
14 redistricting?

15 A. No.

16 Q. Okay. Did you speak with any former judges
17 about redistricting?

18 A. I remember sending an email to Justice
19 Pariente with one of the news articles after I spoke
20 in, I think, the first subcommittee in -- in the
21 Senate, the one that referred to me as a
22 cartography-smitten gadfly. And I sent that email
23 to -- or sent that article to her. But other than
24 that, no.

25 Q. Okay. Did you have any subsequent

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1 conversations with her during this process?

2 A. No.

3 Q. Was that email turned over in discovery in
4 this case to your knowledge?

5 A. To my knowledge, no.

6 Q. Okay. Do you know why?

7 A. I don't think it was requested, subject to
8 any of the requests.

9 Q. Any other judges, or former judges that you
10 spoke with about redistricting?

11 A. No.

12 Q. What about members of the media? Who did you
13 speak with that would be considered a member of the
14 media during the redistricting process.

15 MR. LEVIN: I'm going to object based on
16 reporter's privilege, which is privilege of the
17 reporter and it can't be waived by Mr. Warren.

18 MR. NORDBY:: You're instructing him not to
19 answer based on a privilege of a reporter, or you're
20 allowing him to answer, subject to that objection?

21 MR. LEVIN: I'm instructing him not to answer
22 based on reporter's privilege.

23 MR. NORDBY:: And this is a privilege that
24 belongs to someone else?

25 MR. LEVIN: Like an --

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1 MR. NORDBY:: It's the basis for your
2 objection?

3 MR. LEVIN: Like an attorney-client
4 privilege, you can't waive the client's privilege.
5 Mr. Warren can't waive the reporter's privilege.

6 MR. NORDBY:: Okay. We may need to hold the
7 deposition open, but I'll -- I understand your
8 objection on this point.

9 BY MR. NORDBY::

10 Q. I'm going to ask you about political
11 operatives now. Do you understand what the term
12 political operative means?

13 A. Maybe it would be helpful if you defined it.

14 Q. Well, how would you define it? You've heard
15 that phrase before, that term before?

16 A. I've heard that term before.

17 Q. Okay. How would you define a political
18 operative?

19 A. Someone who operates in politics.

20 Q. Okay. Would you understand that term to
21 include people who might call themselves campaign
22 advisors?

23 A. I can -- if you -- if you give me a
24 definition, I can answer a question using that
25 definition.

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1 Q. Why don't I give you a definition then --

2 A. That would be very --

3 Q. -- if this is a term that is unclear.

4 When I use the term political operative, I'm
5 speaking of people who operated, they may advise
6 candidates, they may call themselves analysts or
7 consultants, or campaign managers, or campaign workers
8 or organizers. But they're people who, as part of
9 their job duty is to help a candidate or a political
10 party succeed in their objectives.

11 Does that definition make sense to you?

12 A. Sure.

13 Q. Do you understand the type of person I'm
14 referring to there?

15 A. Yes.

16 Q. Okay. And did you speak in this process with
17 any political operatives as I have defined that term?

18 A. Yes.

19 Q. Who did you speak with?

20 A. Matthew Isbell.

21 Q. Who else?

22 A. I think that's it.

23 Q. Did you speak with Christian Ulvert at any
24 point?

25 A. No.

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1 Q. Did you speak with anyone who is employed by
2 the Florida Democratic Party?

3 A. To my knowledge, no.

4 Q. Is there someone that you're thinking of that
5 you're unclear of whether they worked for the Florida
6 Democratic Party?

7 A. No.

8 Q. Okay. Did you speak with anyone that works
9 for the Florida Democratic Senatorial Campaign
10 Committee?

11 A. No.

12 Q. Did you speak with anyone that works for the
13 National Democratic Redistricting Trust?

14 A. No.

15 Q. Did you speak with anyone that works for the
16 Democratic National Committee?

17 A. No.

18 Q. We've gone through a lot of categories. Is
19 there anyone that you spoke to about redistricting
20 during this relevant time period that you haven't
21 named so far?

22 A. Anyone that I spoke to about redistricting at
23 all during this time period?

24 Q. Yes.

25 A. Members of my family. I'm sure I talked to

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1 friends about it, whether they were listening or not.

2 I'm not sure.

3 Q. Any of your friends who worked in politics in
4 any capacity?

5 A. No.

6 Q. Do you speak with Natalie Katoo about
7 redistricting?

8 A. No.

9 Q. Do you know who that is?

10 A. Yes.

11 Q. Okay. Who is she?

12 A. She's a lawyer in Tallahassee. I learned
13 that she was -- I think she was registered to lobby
14 for the -- one of the -- I'm not sure of the exact
15 entity, but one of the NDRC affiliated corporate
16 entities. Other than that, that's who she is.

17 Q. Okay. Other than members of your family and
18 friends who are not involved in any way in politics,
19 is there someone who you spoke with about
20 redistricting that you have not already discussed?

21 A. People at work.

22 Q. Okay. Who specifically?

23 A. Mr. Tilley who was my supervisor during most
24 of this time. My previous supervisor, Anya Marino.
25 Ms. McNamara, maybe. She joined the ACLU of Florida,

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1 I think, right around the end of this -- the relevant
2 time period. Those would be the main people.

3 MR. NORDBY:: Okay. So 19. All right.
4 We'll mark this as Exhibit 1.

5 (Defendants' Exhibit No. 1 was marked for
6 identification.)

7 BY MR. NORDBY::

8 Q. All right. Mr. Warren, we'll mark this as
9 Exhibit 1. Do you recognize this document that I've
10 handed to you?

11 A. Yes.

12 Q. Okay. What is this?

13 A. This is an email chain involving me and David
14 Grimes and Kara Gross.

15 Q. Who is Kara Gross?

16 A. She is the legislative director and senior
17 policy counsel for the ACLU of Florida.

18 Q. Okay. She's someone you work with?

19 A. Yes.

20 Q. Is this email about that meeting you
21 mentioned earlier?

22 A. Yes.

23 Q. Okay. So it says on Bates page 17, it says,
24 "Hey, Nick, we are set to meet with Rep Driskell and
25 possibly others on Monday from 2 p.m. to 2:45. Are

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1 you still free to join us in person at the Capitol?

2 Thanks - DG," referring to David Grimes.

3 Do you see that?

4 A. Yes.

5 Q. And it's sometimes easier to read these
6 emails from the bottom to the top. This is the first
7 email on the back page. It's an email from Kara Gross
8 to David Grimes and to you, it says, "Just wanted to
9 connect you both. David is the fabulous staff
10 director for the House Democratic Office. He's
11 looking for someone to come and speak to House
12 Legislators about prison gerrymandering. Nick is our
13 fabulous voting rights attorney, who, fortunately for
14 us, is located in Tallahassee."

15 Do you see that?

16 A. Yes.

17 Q. And this meeting happened?

18 A. Yes.

19 Q. Okay. Was this a meeting that you were
20 having in your capacity as a lawyer for the ACLU?

21 A. Yes.

22 Q. What was the subject of that meeting?

23 A. It was, as it says, about prison
24 gerrymandering and the use of prison populations in
25 redistricting. And the case that the ACLU of Florida

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1 had recently had in Jefferson County on that subject.

2 MR. NORDBY:: Okay. So 20.

3 BY MR. NORDBY::

4 Q. Let's mark this as Exhibit 2.

5 (Defendants' Exhibit No. 2 was marked for
6 identification.)

7 BY MR. NORDBY::

8 Q. Mr. Warren, do you recognize this email?

9 A. Yes.

10 Q. This appears to be an email from John Toman
11 to you. It's the first one on the string at the
12 bottom. The subject line "Great to meet". Do you see
13 that?

14 A. Yes.

15 Q. So you mentioned earlier that you believe
16 John Toman is a lawyer in the Senate Democratic
17 Office?

18 A. Yes.

19 Q. Okay. Did you have any communications with
20 Mr. Toman before this email?

21 A. Yes.

22 Q. Okay. Tell me about those communications?

23 A. We -- I think it was the same day that I had
24 the prisons meeting with David Grimes. He introduced
25 me to some of the people in the -- in his office and

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1 gave me a little tour of the Capitol. And -- and I
2 was introduced to John Toman that same day.

3 Q. Was he at that meeting with Mr. Grimes and
4 Representative Driskell?

5 A. No.

6 Q. Okay. Is there anyone else you met that day?

7 A. No. There may have been someone else in the
8 Senate Office where John Toman works that was also
9 there when I was introduced to him, but I can't
10 remember who that was or if there were -- if there was
11 more than one person who worked there.

12 Q. Okay. Mr. Toman's email to you says that
13 he's, "Looking forward to accessing your
14 context/insights/outrage on reapportionment." And it
15 says, "As admitted yesterday, my background knowledge
16 of the process is low."

17 Do you understand his reference to, "as admitted
18 yesterday," to be a reference to your conversation
19 with him that you just discussed?

20 A. Yes.

21 Q. Okay. He's "Looking forward to accessing
22 your context/insights/outrage on reapportionment."
23 Had you expressed some of those to him in that
24 meeting?

25 A. My memory of the first time we met was that I

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1 was introduced as someone who knew about the
2 redistricting process. And he had asked -- well, I
3 think it's basically a lot of what he's saying here is
4 that I'm trying to get educated in this topic because
5 I'll be the point person, I think for the Senate Dems
6 Caucus on this issue, and what are the pointers that
7 you have for me getting up to speed on it.

8 Q. At the end of the second paragraph, Mr. Toman
9 says, "I'm sure," -- "I'm unsure if a Caucus "plan,"
10 will emerge, or if everyone will just be hanging out
11 under the big tent, doing their own thing. This makes
12 it hard (impossible?) to strategize."

13 You understand that to be referring to a
14 potential plan of the Senate Democratic Caucus?

15 A. Yes.

16 Q. And Mr. Toman's wanting to strategize with
17 you about what the Caucus plan will be, if there will
18 be one?

19 A. I don't know that he -- I don't know that
20 that's what this says.

21 Q. Okay. How did you understand it?

22 A. Well, I don't remember how I would have
23 understood it at the time, but I think in -- in
24 general terms, he is saying that he's unsure of
25 whether a Caucus plan will emerge or all the

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1 individual members of the Caucus will be doing their
2 own thing, and so that makes it hard to strategize.

3 Q. He also asks in the third paragraph, if there
4 would be -- he asks you if there would be any value in
5 creating queries or responses that we should have
6 raised at yesterday's staff marching orders, confab.
7 Do you see that?

8 A. I do.

9 Q. He appears to be asking you again for your
10 advice on what should have been raised at the staff
11 meeting. Is that how you understand that?

12 A. Yes.

13 Q. Your response is at the top of the same page,
14 correct?

15 A. That's right.

16 Q. Your response provides him a link and a
17 password to your redistricting webinar. What is the
18 redistricting webinar?

19 A. It's a webinar about redistricting. It was a
20 CLE that I did -- was allowed to do in August or
21 September around that time of 2021. It was called a
22 Florida Redistricting Primer.

23 Q. And the link is to an ACLU Zoom account.
24 This was done in your capacity as an employee of the
25 ACLU?

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1 A. That CLE was, yes.

2 Q. Okay. Or the ACLU Foundation?

3 A. Yes.

4 Q. Okay. And I guess I should have noted your
5 email that Mr. Toman emailed is also a aclufl.org
6 email address, correct?

7 A. That's right. Although I did not understand
8 this exchange to be -- to be work that I was doing for
9 work.

10 Q. How did you understand this exchange?

11 A. As an extracurricular, I guess, as something
12 I was doing personally.

13 Q. Is that both the CLE and this interaction
14 with Mr. Toman?

15 A. The CLE was through work.

16 Q. Okay. You mentioned that you were allowed to
17 do the CLE. Why did you phrase it that way?

18 A. Because my work allowed me to do a CLE on
19 redistricting.

20 Q. Okay. Was there a resistance to that in some
21 way?

22 A. Our executive director in -- well, I think
23 before I started working there, had made a decision
24 that the affiliate was not going to be working on the
25 State level redistricting process in any substantive

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1 way. And so this CLE was an exception to that general
2 rule.

3 Q. Okay. Was the meeting with Representative
4 Driskell and David Grimes an exception to that as
5 well?

6 A. Yes.

7 Q. And the communications with Mr. Toman were an
8 exception to that?

9 A. No. I didn't understand the communications
10 with John Toman to be part of my work duties.

11 Q. You go on to tell Mr. Toman in this email
12 that, "I'm sure there's value in asking questions
13 about the directions to staff that might have been
14 asked Monday, as well as Rodriguez's unilateral?
15 pronouncement that only amendments that improved on
16 the constitutional criteria would be advanced."

17 I understand this to be you responding to Mr.
18 Toman's request for advice on how his members should
19 proceed by telling him, there's value to asking
20 questions. Is that how you intended that response?

21 MR. LEVIN: Objection. Goes to subjective
22 intent in the redistricting process. So that's
23 outside the scope.

24 MR. NORDBY:: I'm asking him -- I appreciate
25 that. I'll rephrase.

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1 BY MR. NORDBY::

2 Q. I'm asking you specifically what this
3 communication is. He asked you for advice, and what
4 did you provide him in response to that request? Not
5 what did you subjectively intend, but what did you
6 tell him?

7 A. Would you like me to quote the email of what
8 I told him?

9 Q. Sure.

10 A. "As far as questions in future meetings, I'm
11 sure there's value in asking questions about the
12 directions to staff that might have been asked Monday,
13 as well as Rodriguez's unilateral? pronouncement that
14 only amendments that improved on the constitutional
15 criteria would be advanced. A map is either
16 constitutional or not. There's no such thing as a
17 more constitutional map. In terms of reading
18 materials, I can't really recommend anything useful at
19 the moment, besides the most obvious federal and state
20 cases that I'm sure you already know."

21 Q. What does that reference to Rodriguez's
22 unilateral pronouncement mean?

23 A. That was a reference to a statement that
24 Senator Rodriguez made at the October 18th,
25 Redistricting Committee meeting or Reapportionment

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1 Committee meeting about the criteria that -- or the
2 standards by which amendments would be judged.

3 Q. Did you observe all of the Redistricting
4 Committee and Subcommittee meetings that were held?

5 A. No.

6 Q. Had you reviewed the one that you referenced
7 here?

8 A. Certainly, part of it, at least.

9 MR. NORDBY:: 21. Okay. Mark this as
10 Exhibit 3.

11 (Defendants' Exhibit No. 3 was marked for
12 identification.)

13 BY MR. NORDBY::

14 Q. Okay. Mr. Warren, do you recognize this
15 email exchange?

16 A. Yes.

17 Q. Okay. These are your emails with John Toman
18 again?

19 A. Correct.

20 Q. The first email in the string at the bottom
21 of the page is an email from Mr. Toman to you on
22 November 15th, 2021. We've gone forward a month here.
23 Mr. Toman says that he's guessing you've had a chance
24 to digest the proposed Congressional and State Senate
25 Maps created by the reapportionment staff. And he

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1 asked you if you've already created any understanding
2 or context information or have sources you can point
3 to, or link to, to forward those along or give him a
4 call. Because he'll be providing his members with
5 notes this afternoon, to generate informed and
6 productive discussions and insights at the week's
7 meeting. And you responded, "John feel free to give
8 me a call this morning. I have a few notes on the
9 maps. Luckily, not too many."

10 You invited him to call you; is that correct?

11 A. That's correct.

12 Q. And did he in fact call you?

13 A. So I will first say, I didn't remember this
14 second exchange with John Toman until I conducted the
15 search for the -- for documents that resulted in
16 finding this. And I'm still not sure I have any
17 independent memory of this exchange or the call. But
18 I don't doubt that he called me and we had a
19 discussion.

20 Q. Okay. What was discussed during that
21 meeting?

22 A. I'm guessing that we talked about the draft
23 staff-produced maps that the Senate had released, I
24 guess, that day or the previous day.

25 Q. To make sure I'm understanding your answer,

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1 the day before or -- oh, you're saying the maps were
2 produced the day before or the previous day before
3 this email exchange?

4 A. Yeah. Although, I guess I think they must
5 have been several days before because the first
6 subcommittee meeting was on the 16th. So anyway,
7 within the prior week, staff had produced the
8 first -- committee -- the Reapportionment Committee
9 staff in the Senate had produced the first
10 staff-developed plans. Yeah.

11 Q. Do you recall what you discussed with Mr.
12 Toman during this either call or Zoom meeting?

13 A. I don't have any independent memory of that
14 call, unfortunately.

15 Q. The next email in the string, appears to
16 provide him a copy of Apportionment 8 and directs him
17 to discussion of Hispanic cohesion, and also mentions
18 review of Tampa Bay is 30-31.

19 Does that help refresh your recollection at all
20 as to what you may have discussed with Mr. Toman?

21 A. I still don't really remember the call, but I
22 don't doubt that we discussed the apportionment 8
23 discussion of Hispanic voters and -- and the role of
24 voting cohesion in the minority protection
25 requirements. And I guess, the discussion of the

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1 configuration of Tampa Bay and the Congressional Map
2 in the 2015 decision.

3 Q. Then the final email in this string is sent
4 the following day. Actually, maybe very late the
5 night of that same one. It looks like it's November
6 16th at 00:31, maybe 12:30 a.m. on the 16th. And
7 that's an email from you to Mr. Toman saying, "It
8 looks like your maps won't be posted in time for
9 tomorrow's committee," but you offered him a link to a
10 Twitter thread explaining them and links to
11 interactive maps; is that right?

12 A. That's right.

13 Q. Okay. When did you draw these maps? These
14 two, what appears to be two Congressional Maps and the
15 State Senate Map?

16 A. After the staff draft -- staff-produced maps
17 plans were released several days before this or a week
18 before this, I worked on developing these alterations
19 to those.

20 Q. And then you provided those to Mr. Toman?

21 A. That's correct.

22 Q. Had he asked you to provide him copies of
23 amended redistricting plans?

24 A. He didn't in this email. I don't remember if
25 he did over the phone call that we had.

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1 Q. He may have?

2 A. I don't know.

3 Q. You have no recollection one way or another
4 as to whether these proposed amendments were solicited
5 by Mr. Toman?

6 A. Well, they weren't -- they wouldn't have
7 been -- he wouldn't have asked me to make them because
8 I had had already done that. I don't know whether I
9 mentioned that I had already submitted plans and
10 whether I volunteered that I would send them to him,
11 or whether he asked me to, I don't remember.

12 Q. Are you saying you made the plans before you
13 talked to Mr. Toman for the first time in this string?

14 A. Did I make them before I talked to him the
15 first time in this thread?

16 Q. In this thread, yes.

17 A. Yes. I made them definitely before Monday
18 November 15th at 8 a.m.

19 Q. Would those plans have been part of the
20 discussion that you had with him, either by phone or
21 Zoom?

22 A. I don't remember. Although, I mean, this is
23 piecing the pieces together from reading this, but
24 it -- the last email on this thread references my maps
25 as if they aren't going to be brand new news to him.

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1 So I'm guessing that I discussed the fact that I had
2 submitted -- had submitted those already.

3 Q. Did you suggest to Mr. Toman that some of his
4 members should consider adopting your maps?

5 A. I don't remember. I don't think we talked
6 much about the members when we talked ever.

7 Q. You said earlier that the only member of the
8 Senate who you communicated with outside of the public
9 meeting with Senator Bradley; is that right?

10 A. And all 40 Senators when I sent them the
11 letter later in December.

12 Q. You never spoke with Representative Shevrin
13 Jones, for example?

14 A. No.

15 Q. You spoke Senator Bracy?

16 A. No.

17 Q. You never spoke with Senator Gibson?

18 A. No.

19 Q. Did you speak with any legislative aides for
20 any of those members?

21 A. No.

22 Q. Okay. I'm giving you here a document titled
23 Florida Senate Select Subcommittee on Legislative
24 Apportionment. Date on it is 11/17/21. Do you see
25 that document?

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1 A. I do.

2 Q. This is a transcribed portion of a Senate
3 Select Subcommittee meeting that was held on November
4 17th, 2021. On the second page of this document,
5 which is page number 30 at the bottom, line 5 starts
6 off with Warren Nicola. Do you see that?

7 A. I do.

8 Q. What's that?

9 A. I'm not used to seeing such big text.

10 Q. What does this document appear to be to you?

11 A. This is a transcript of the November 17th,
12 2021, Senate Select Subcommittee on Legislative
13 Reapportionment excerpted to include my public
14 testimony at that meeting.

15 Q. You mentioned earlier you did provide public
16 testimony at that meeting?

17 A. I did.

18 Q. Okay. Your public testimony is laid out here
19 on page 30 and 31. I'm not going to read all of it to
20 you or ask you to read all of it here, but I wanted to
21 ask you a few questions about this. You refer to
22 something that you call plan P000S0042. Can we call
23 that plan 42?

24 A. We can.

25 Q. All right. You'll understand what I mean?

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1 A. I will.

2 Q. Your testimony in front of the Senate Select
3 Subcommittee was that your plan, I'm reading from line
4 8 here, "just tries to solve one problem that I
5 identified or one issue with Tier Two compliance,
6 which is in Tampa Bay and seeks to avoid having a
7 district that crosses Tampa Bay and thereby alters six
8 Districts from the staff-drawn maps."

9 Did I read that accurately?

10 A. You did.

11 Q. What is Tier Two compliance in your
12 understanding?

13 A. That is compliance with Tier Two of the
14 Florida Constitution's requirements for redistricting
15 plans in Article III, Section 21(a) and 20(a).

16 Q. And what do you understand those requirements
17 to be the Tier Two compliance requirements?

18 A. So you're asking about my understanding of
19 something, but I think I would say the same
20 understanding that Mr. Ferrin gave on Friday, which is
21 that Districts have to be compact and shall utilize
22 existing political and geographic boundaries where
23 feasible. And -- and be equally populated.

24 Q. Okay. And your testimony goes on to explain
25 why you believe your district satisfied those

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1 requirements, correct?

2 A. I think it does, yes.

3 Q. Okay. You refer to boundary of Tampa Bay,
4 and you refer to compactness, and you refer to Pasco
5 County making up a certain percentage of the District
6 in certain cities being kept whole; is that right?
7 I'm generalizing from your testimony here.

8 A. I think that's a pretty good summary, yes.

9 Q. Okay. At the conclusion of your testimony,
10 you explained that the -- you say those are the
11 advantages of this approach, and you hope the
12 Subcommittee gives it some consideration as y'all keep
13 doing this work. So you --

14 A. I said y'all, but yes.

15 Q. You did say y'all. Your public testimony
16 does not say that the plan currently before the
17 Florida Senate was a racial gerrymander, does it?

18 A. I did not say that.

19 Q. You don't say that at all in this testimony?

20 A. I did not say that in this public comment.

21 No.

22 Q. And your public comment refers to this being
23 methods to improve Tier Two compliance, correct?

24 A. Are you quoting?

25 Q. I am. Line 8, "tries to solve one problem

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1 that I identified or one issue with Tier Two
2 compliance which is in Tampa Bay."

3 A. That's what I said, yes.

4 Q. Okay. You don't identify your employer in
5 this public testimony, do you?

6 A. I did not volunteer that, no.

7 Q. Okay. Did you believe that your employer was
8 known to the members of the Senate, such that it did
9 not need to be identified?

10 MR. LEVIN: So objection. That's his
11 subjective intent and motivations.

12 MR. NORDBY:: No, I don't think it is. I'm
13 asking if he believed that the Senate knew who his
14 employer was. Not what he intended by means of his
15 testimony.

16 THE WITNESS: Some of the members of the
17 Senate knew who I worked for, yes.

18 MR. NORDBY:: Okay. Get number 11 for me.

19 THE WITNESS: The second part of your
20 question was such that it didn't need to be disclosed,
21 and I wasn't asked.

22 BY MR. NORDBY::

23 Q. Appreciate it. Which members of the Florida
24 Senate knew your employer?

25 A. Well, I had had previous interactions with

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1 Senator Bradley on Twitter, where my employer is
2 identified. I'm not sure whether -- I don't know for
3 a fact that she knew who I worked for, but she had
4 previously interacted with me. Senator Gruters had
5 also previously interacted with me on Twitter. I -- I
6 know I had -- not part of my work, but I had, I think
7 essentially sent sort of public comment-type emails on
8 different issues to at least some senators prior to
9 that subcommittee meeting, such that I wasn't, you
10 know, wouldn't have been a total stranger to some
11 senators, or it wouldn't have been the first time that
12 they had ever interacted with me. And then -- yeah.

13 Q. Did you have any interactions with any
14 members of the Florida Senate on Twitter about
15 redistricting?

16 A. I don't think so.

17 Q. And when I referred to Twitter, I'm referring
18 to both the public timeline and the direct messaging
19 function on Twitter.

20 A. Definitely not the direct messaging function.

21 I will say there, before I worked for the ACLU, I
22 reached out to some -- this was -- would have been in
23 maybe 2017, 2018, 2019. I reached out to some of the
24 members, both the House and Senate, who represented
25 Dixie County and its border with Gilchrist, I think,

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1 because there was a quirk of the county boundary in
2 that area where if I'm thinking of the right county,
3 Dixie is noncontiguous as a county. And so there are
4 certain district configurations that you could draw,
5 where you might be trying to follow the county
6 boundary, but you end up with a noncontiguity. And I
7 suggested in advance of the redistricting process
8 before the Census had even happened, I think, to the
9 members who represented that area that they might
10 suggest just tweaking the boundary in the middle of
11 the Swanee River, I think, to make it easier in future
12 redistrictings for the legislature to draw districts
13 in that area without worrying about that.

14 I can't remember who represented those areas at
15 that time, but in my recollection is that I emailed the
16 reps and senators who represented that area about
17 that. So that's somewhat related to redistricting.

18 Q. Okay.

19 A. I also -- this is -- well, I'm not sure --

20 Q. And let me limit my question to Florida
21 Senate Redistricting.

22 A. Well, it could affect the redistricting of
23 Florida Senate. But I also -- I don't remember the
24 beginning of the time period when you asked me
25 communications with senators about redistricting. And

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1 I can't remember exactly when these letters would have
2 been. But I think it would have been in the first
3 half of 2020. I mailed letters to some of the
4 leadership in the House and Senate, essentially
5 expressing an interest in applying for work in the
6 Redistricting Committees if there was an opportunity
7 to apply for open positions.

8 Q. Okay.

9 A. And I think one of those letters went to now
10 President Passidomo.

11 Q. Okay. The document in front of you is your
12 appearance record, we'll call this Exhibit 5.

13 (Defendants' Exhibit No. 5 was marked for
14 identification.)

15 BY MR. NORDBY::

16 Q. Do you recognize this document?

17 A. Yes.

18 Q. Is this the appearance record that you
19 submitted before the testimony that we just reviewed?

20 A. Correct.

21 Q. The email address you include on here is not
22 your ACLU of Florida email address, correct?

23 A. Correct.

24 Q. Why is that?

25 A. That's because this appearance was as an

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1 individual and not related to work.

2 Q. Your communications with Mr. Grimes, and Mr.
3 Toman, were conducted under your ACLU email address,
4 though, correct?

5 A. That's correct.

6 MR. NORDBY:: And number 18. Actually right
7 down.

8 BY MR. NORDBY::

9 Q. You mentioned earlier, in response to a
10 question about political operatives that you've spoken
11 with Mr. Isbell. Who is Mr. Isbell?

12 A. He is a -- I think his day job, is in the
13 Leon County Property Appraiser's Office. He also is
14 a -- my understanding is that he does consulting work
15 for -- data consulting work for political campaigns,
16 and he comments about politics and has a blog.

17 Q. Does he have any particular partisan
18 affiliation in the candidates that he works for?

19 A. I think they're all Democrats.

20 Q. Okay. When did you first meet Mr. Isbell?

21 A. Meet? I mean, I'm sure I followed him on
22 Twitter since around when I joined Twitter in 2015 or
23 2016. I'm not sure when we first interacted beyond
24 that.

25 Q. Did you interact with him at all in 2015 or

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1 2016?

2 A. I don't think so. Other than -- I mean, my
3 Twitter would tell that better than me, which is
4 public, whether we commented on each other's posts or
5 something like that.

6 Q. This is at the time when you were working at
7 Florida Supreme Court for Justice Pariente?

8 A. No. I was not on Twitter while I was at the
9 Florida Supreme Court, or I didn't have an account.

10 Q. Okay.

11 A. Or if I had an account. I'm not sure when I
12 started my account, but -- but I would not have been
13 interacting with him besides following him during that
14 time.

15 Q. You did communicate with him though during
16 this relevant time period, 2020 to 2022?

17 A. Correct.

18 Q. Did you meet with him in person at any time?

19 A. No.

20 Q. Did you have phone calls with him?

21 A. No.

22 Q. Did you leave voice memos for him?

23 A. Not during the time period covered by the
24 protective order.

25 Q. Did you communicate with him via Snapchat or

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1 Signal or Telegram at all during the time period?

2 A. No.

3 Q. How did you primarily communicate with him?

4 A. Twitter Message.

5 Q. So what I've handed you is an excerpt of some
6 of the Twitter direct message exchanges between you
7 and Mr. Isbell that were produced in discovery in this
8 case.

9 (Defendants' Exhibit No. 6 was marked for
10 identification.)

11 BY MR. NORDBY::

12 Q. Have you seen these documents before?

13 A. Yes.

14 Q. Do you have any reason to doubt the
15 authenticity of these direct message exchanges?

16 A. I haven't checked every single message. I'm
17 not even sure that I have my version of these. I
18 don't think that anyone forged them.

19 Q. Why do you not have your version of these?

20 A. I said I don't -- I'm not sure if I do.

21 Q. Okay. Did you turn over any direct messages
22 with Mr. Isbell in discovery in this case?

23 A. No.

24 Q. To your knowledge, did you delete direct
25 messages with Mr. Isbell?

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1 A. No. To my knowledge, no.

2 Q. Do you routinely delete direct messages?

3 A. Of all kinds? Yes.

4 Q. Okay. Including with Mr. Isbell?

5 A. Not to my knowledge, no, or not. I don't
6 think I have, no.

7 Q. So you routinely delete direct messages, but
8 you do not delete messages from Mr. Isbell. Is that
9 what you're saying?

10 A. I have no memory of specifically deleting
11 direct messages from Isbell. I routinely delete
12 messages.

13 Q. The dates on these direct messages start with
14 May of 2021. Do you see that?

15 A. I do.

16 Q. Okay. You and Mr. Isbell appeared to discuss
17 redistricting a lot. Is that a fair characterization?

18 A. During this time period, yes.

19 Q. I'm going to ask you to turn to the second
20 page of this composite, the Bates number at the lower
21 right is Isbell000012. Do you see that?

22 A. Yes.

23 Q. There's a message in the middle of this page
24 that says, "It's so gratifying to see people argue
25 about something I worked on." And then a follow-up

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1 with what appears to be a picture of a map. Do you
2 see that?

3 A. Yes.

4 Q. What is that?

5 A. That is an excerpt of the Supreme -- Florida
6 Supreme Court's Apportionment 8 decision, I think.

7 Q. Okay. And why do you say that that's
8 something you worked on?

9 A. Because I made those physical maps that
10 appear in that opinion.

11 Q. Okay. The bottom of this page, is a
12 reference -- this is from Mr. Isbell -- actually, it's
13 from Florida Data Geek, a square with a cross in it,
14 and it says, "@mappingfl." Is that Mr. Isbell to your
15 knowledge?

16 A. To my knowledge, yes.

17 Q. If I just refer to it as Mr. Isbell rather
18 than Florida Data Geek Mapping FL, will you understand
19 what I'm talking about?

20 A. I will.

21 Q. Okay. Mr. Isbell says, "Also, the Tampa Bay
22 never gonna not be fought over. Can't wait for the
23 State Senate fight up." And you respond on the next
24 page. "Yeah. We will lose that fight."

25 Do you see that?

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1 A. I do.

2 Q. Okay. What does that mean?

3 A. What does it mean?

4 Q. Yes.

5 A. It is a reference to the configuration of
6 districts in the Tampa Bay area. And an expression
7 that we will lose the fight over the configuration of
8 districts in that area.

9 Q. Okay. Who is "we"? You say, "We will lose
10 that fight."?

11 A. I'm not sure. It could be me and Mr. Isbell.
12 It could be people who want the districts to be
13 configured differently.

14 Q. Were you in May of 2021 having a fight over
15 Tampa Bay Senate Districts?

16 A. Well, the message from a few -- from the
17 minute prior is about Congressional Districts in the
18 area. So I'm not sure that this was discussing -- oh,
19 I see. He mentioned the State Senate fight.

20 Can you repeat your question?

21 Q. My question is who is "we"? He refers to a
22 State Senate fight. You say, "We will lose that
23 fight." And then reading two messages later, you say,
24 "Unless they trade Brandes for Cruz."

25 Brandes, I understand, is referring to former

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1 Senator Jeff Brandes?

2 A. That's correct.

3 Q. And Cruz is referring to former Senator Janet
4 Cruz?

5 A. That's correct.

6 Q. So my question is, you refer to "we," and
7 "they," and I'm wondering who "we," and "they," were
8 in this exchange?

9 A. I think "we," definitely includes me and
10 Isbell. And I'm assuming that "they," refers to the
11 legislative majority of the people drawing the maps in
12 the Legislature.

13 Q. Okay. How were you and Mr. Isbell having a
14 fight on State Senate maps?

15 A. Having a fight with each other?

16 Q. No. Having a fight with "they," whoever they
17 are, the majority of the Florida Legislature.

18 A. Well, we were not having a fight in this
19 discussion because the map drawing hadn't happened
20 yet.

21 Q. Okay. You anticipated a fight though?

22 A. At this time, I did.

23 Q. You refer down further on page 13 of this
24 composite exhibit here, "It's also funny that HD70 on
25 the whole," --

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1 A. Wait, wait, wait. Sorry. What page?

2 Q. I'm sorry, Isbell 13.

3 A. Okay.

4 Q. Bates number at the bottom. The same page.

5 You say, "It's also funny that HD70 on the whole helps
6 Dems, because if it were just in St. Pete, HD69 would
7 be much redder."

8 What is much redder a reference to?

9 A. It's a reference to the partisan lien of that
10 district.

11 Q. And the word Dems, is it fair to say that
12 refers to Democrats?

13 A. That would be fair to say.

14 Q. Mr. Isbell responds, "LOL, wonder if the GOP
15 will figure that out."

16 That's also referring to the Republican Party?

17 A. It is.

18 Q. Then further on, I would give the minutes,
19 but it looks like these were coming in rapid
20 succession. So several of them are at 11:51 p.m.
21 Third message from the bottom of the same page says,
22 "They are winning and will keep winning. They won at
23 worst a 23-17 majority in a Senate Map drawn in John
24 O'Neal's Los Angeles apartment."

25 Is the reference to "they," in that message also

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1 to the Republican majority in the Florida Senate?

2 A. Yes.

3 Q. Who is John O'Neal?

4 A. My memory is that he was the -- the map
5 drawer in the 2015 Congressional and Senate
6 litigation, who was retained by the plaintiffs in
7 those cases and who -- there was a -- a discussion, I
8 think, in one of -- at least one of those hearings
9 about how he lived in Los Angeles and was drawing
10 these maps in his apartment that were submitted to the
11 courts in those cases.

12 Q. Okay. Do you know John O'Neil?

13 A. No.

14 Q. The next message also refers to a Florida
15 Senate District becoming deep red and says, "they'll
16 naturally gain a seat out of that." "They," also
17 refers to the Republican majority there?

18 A. Correct.

19 Q. I'm going to ask you to turn to the next page
20 of this, which is Isbell 15 Bates number of the lower
21 right-hand corner. Do you see that?

22 A. Yes.

23 Q. This is a conversation from the following day
24 where you ask Mr. Isbell "Are you involved in Caucus
25 strategy or anything?"

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1 What Caucus strategy is being referenced there?

2 A. That would have been the Minority Caucuses, I
3 suppose.

4 Q. You were asking Mr. Isbell if he was involved
5 in Caucus -- in strategy for the Democratic Caucus in
6 the Legislature?

7 A. Yes.

8 Q. Mr. Isbell responds, it looks like there was
9 a cross talk about a meme, but Mr. Isbell responds on
10 the following page that "Directly with members? No.
11 Will I be involved? Yes."

12 Mr. Isbell seems to be saying that he will be
13 involved in the Caucus strategy, but not working
14 directly with members. Is that how you understand
15 that?

16 A. He says he won't be working directly with
17 members and that he'll be involved.

18 Q. Okay. And you ask him to keep you updated to
19 the extent that he can. And this is the 12:04 message
20 "I have concerns with how things have been going so
21 far."

22 Do you see your message to that effect?

23 A. I do.

24 Q. What were your concerns in May of 2021 of how
25 things have been going so far?

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1 MR. LEVIN: I'm going to object to the scope,
2 subjective intent and motivations.

3 MR. NORDBY:: I'm not asking subjectively.
4 I'm asking objectively what were his concerns with how
5 things have been going so far.

6 MR. LEVIN: Well, someone's concerns are
7 their own subjective feelings about something, right?
8 I mean, is a concern, can it ever be objective? I
9 don't --

10 MR. NORDBY:: Sure it can. I'll try to
11 rephrase and see if that answers your objection.

12 BY MR. NORDBY::

13 Q. Did you communicate with someone, what your
14 concerns were with what's going on in May of 2021?

15 A. Other than in these messages with Isabel, no.

16 Q. Okay. What were your concerns?

17 A. I don't remember what that reference is.
18 It's possible that I tweeted about it.

19 Q. Okay. Were there any maps -- had any maps
20 been released in May of 2021?

21 A. No.

22 Q. Was the Census data available in May of 2021?

23 A. No.

24 Q. Sitting here today, you don't recall what
25 your concerns were?

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1 A. No. I -- at that time? No, I'm not sure
2 what that refers to. But there may have been news
3 stories. I mean, there must have been news stories or
4 something that the fact that covered how the
5 Legislature and the Democratic Caucuses were preparing
6 or not preparing, I think. But I'm not sure.

7 Q. I'm going to ask you to flip forward a few
8 pages to Isbell 26. About halfway down that page, you
9 say, "It's funny, I'm now remembering that last year,
10 Dan Newman asked me to come up with a list with all
11 the districts that were protected by the VRA/FDA."

12 Do you see that?

13 A. I do.

14 Q. Who is Dan Newman?

15 A. He is a political consultant. And a person
16 who works in campaigns. I'm not sure if he currently
17 works in campaigns, but he did at this time, at least.

18 Q. Okay. He's not someone you mentioned
19 earlier, when I asked you about political operatives?

20 A. That's correct.

21 Q. Would you consider him a political operative?

22 A. Yes.

23 Q. Okay. What did he ask you to come up with?

24 A. A list of all the districts in his
25 understanding that were protected by the Voting Rights

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1 Act and the Minority Protection Provisions of the Fair
2 Districts Amendments.

3 Q. Did you provide that to him?

4 A. I'm not sure. I think I actually explain
5 what I told him further down the page. Which -- which
6 I think explains that -- what he was asking for. I
7 can't remember. I think some of his assumptions in
8 asking the question were sort of faulty.

9 Q. Does Mr. Newman work primarily with Democrats
10 or Republicans?

11 A. Well, I know he's worked with both, I think.
12 I think, so I'm not sure.

13 Q. You don't know primarily whether he works
14 with one party's candidates over an others?

15 A. Nowadays, I'm -- I don't know.

16 Q. I'm going to ask you to flip over to page
17 Isbell 61. This is an exchange from August of 2021.

18 A. And I think -- staying on Mr. Newman for a
19 second. I didn't speak to him about redistricting
20 during the time period that you requested, just that
21 one exchange about Amendment III in the 2020 election.
22 That wasn't really about redistricting, just about the
23 impact of Amendment III on minority voting
24 opportunities.

25 Q. But do you know whether Mr. Newman was

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1 working at -- for primarily Democratic or Republican
2 candidates at that time?

3 A. I'm trying to remember when -- at -- in 2020?

4 Q. Whenever Mr. Newman spoke to you?

5 A. In 2020, I think it would have been my
6 understanding that he was primarily working for
7 Democrats.

8 Q. Okay.

9 A. Whether he was or not, I'm not sure.

10 Q. Okay. Are you on page Isbell 61?

11 A. Yes.

12 Q. What is that at the top of the page there?

13 A. That is a tweet of mine.

14 Q. And there's an image, but what's the text
15 beneath that indicate that the text or the tweet was?

16 A. The text of the tweet was "Well, this could
17 be a big deal if Florida Senate District 19." -- "a
18 Florida Senate District 19 with the same Black
19 population as the benchmark without crossing Tampa
20 Bay."

21 Q. Okay. And there's an image of a draft State
22 Senate District there?

23 A. Yes.

24 Q. Mr. Isbell responds to your tweet, responds
25 by direct message to the forwarding of your tweet.

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1 "One person told me whether the Bay gets crossed might
2 also relate to if they try to screw over Cruz and just
3 cede a Pinellas seat." "They," refers to the
4 Republican majority in the Senate there?

5 A. I believe so, yes.

6 Q. Do you understand that to have been the
7 partisan impact of the plan that you have proposed in
8 that tweet?

9 A. Of that district that I drew, no.

10 Q. Why is that?

11 A. That's an individual district.

12 Q. Okay. Mr. Isbell reacts to that district,
13 though, by referring to ceding a Pinellas seat.

14 A. Right.

15 Q. Okay. What do you understand the partisan
16 impact to be based on this plan he's drawn to the
17 overall State Senate --

18 A. Well, I think Mr. Isbell is referring to a
19 speculation about whether the Senate majority would
20 choose to put forward a plan without a district that
21 crossed Tampa Bay. And the result of that being that
22 one Senate District in Pinellas County would become
23 less Republican. Or that would be a potential result.

24 Q. Can you flip to Isabel 90, please?

25 A. You don't want to talk about Suwannee County?

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1 Q. I want to talk to Jackson County. You say
2 about halfway down this page "Do you know anyone who
3 could explain to me the dynamics of a 2020 Dem primary
4 in Jackson County?"

5 Do you see that?

6 A. Let me find it. Yes.

7 Q. And Mr. Warren -- not Mr. Warren. You're,
8 Mr. Warren. Mr. Isbell responds to you by referring
9 you to somebody named Jeremy Branch and also someone
10 named Judy Mount. Do you know who those individuals
11 are?

12 A. I know Jeremy Branch was a former County
13 Commissioner in Jackson County. And Isabel says Judy
14 Mount is the current and long-time chair of the County
15 Democrats in Jackson. I think she also works in the
16 House Democratic Office.

17 Q. Okay. Did you in fact speak with Judy Mount
18 or Jeremy Branch?

19 A. No.

20 Q. Take you now to page Isbell 102. So this is
21 an exchange between you and Mr. Isbell on October 17
22 and 18th of 2021. Do you see that?

23 A. Yes.

24 Q. You have a message about two thirds of the
25 way down the stage starts with "What's the point."

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1 Could you read that?

2 A. "What's the point of preparing great
3 questions for Dem Senators if they don't even say a
4 fucking word."

5 Q. And Mr. Isbell responded, "I'm losing my mind
6 in a text chain right now. These people are
7 worthless."

8 What was the context for this exchange?

9 A. Well, I recognized the date as a date of the
10 big Senate Reapportionment Committee Meeting on
11 October 18th. So I --

12 Q. We earlier looked at an exhibit -- sorry to
13 interrupt you.

14 We earlier looked at an exhibit that was an email
15 exchange between you and Mr. Toman from a couple of
16 days after that same meeting, correct?

17 A. Yes.

18 Q. Okay. What else can you tell me about the
19 context of these -- of this exchange?

20 A. Can you ask a more specific question?

21 Q. Sure. The exchange says, "What's the point
22 of preparing great questions for Dem Senators." Did
23 you prepare great questions for Dem Senators?

24 A. No.

25 Q. Did you prepare any questions for Dem

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1 Senators?

2 A. No.

3 Q. Who prepared questions for the Democratic
4 Senators?

5 A. I'm not sure.

6 Q. Did you prepare questions for someone else
7 that should be asked at that meeting?

8 A. No.

9 Q. Are you aware of someone else preparing
10 questions for the Democratic Senators at that meeting?

11 A. No, I'm not aware.

12 Q. Can you explain why you would say, "What's
13 the point of preparing great questions for Dem
14 Senators," when neither you nor anyone else you knew
15 had prepared great questions for Dem Senators? I'm
16 trying to understand why this -- what this
17 email -- what this text means.

18 MR. LEVIN: And I think asking him why he
19 would explain is objectionable. I object because that
20 goes to his subjective intent and his actions.

21 BY MR. NORDBY::

22 Q. You don't know what this this text means, or
23 this Twitter direct message means?

24 A. I know what it says. And I definitely was
25 disappointed in the quality of the understanding of

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1 redistricting amongst many of the members of the
2 Legislature throughout the process. But I'm not sure
3 what this is in specific reference to.

4 Q. Did you see any questions that were provided
5 for Democratic Senators?

6 A. No. Not that I remember, no.

7 Q. Did you have any meetings about questions
8 that could be asked in a Redistricting Committee
9 Meeting?

10 A. No. If my discussion with Toman happened
11 after this meeting, I don't think so, no. Although,
12 I'm not sure what time of day we would have met, when
13 we met first in person. So it's possible that this is
14 in reference to discussing potential things that
15 people could ask at the October 18th meeting with him
16 the first time I met him, but I'm not sure.

17 Q. The next page, 115. There's what appears to
18 be an image of somebody standing alone in a corner
19 with a party hat. Do you see that?

20 A. I do.

21 Q. And it appears to be an image associated with
22 a tweet that says, "They don't know I just submitted a
23 Tampa Bay Senate Map."

24 Do you see that?

25 A. It is actually not an image associated with a

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1 tweet. That is an image that was just sent over this
2 message.

3 Q. Okay. Could you explain the difference of
4 that?

5 A. The image was sent in the message. There's
6 not a link to a tweet in the message.

7 Q. Okay. This was sent just by direct message
8 then; this was not tweeted?

9 A. Correct.

10 Q. Okay. This is you telling Mr. Isbell you had
11 just submitted a Tampa Bay Senate Map?

12 A. That's what it says, yes.

13 Q. Mr. Isbell response to you, it says, "What I
14 find amazing is that the Dem primary makeup for their
15 plan is almost the same as mine, and I don't cross the
16 Bay. The Pinellas portion isn't even that Black since
17 they grab a ring of white liberal Dems as well."

18 Do you see that?

19 A. I do.

20 Q. What do you understand Mr. Isbell to be
21 referring to in that response?

22 A. He is referring to the comparing the share of
23 Democratic Primary Electorate that is Black, in what
24 we've been referring to in this litigation as the
25 Protected District. And comparing that in the

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1 staff-drawn plan, and I guess, the plan that Isabel
2 had posted on his blog. And then he is referring to
3 the portion of that Protected District that staff drew
4 in Pinellas County and the racial makeup of that
5 portion.

6 Q. His comment is, "It isn't even that Black
7 since they grab a ring of white liberal Dems as well."
8 I assume there Democrats -- Dems is referring to
9 Democrats?

10 A. I think you're right about that.

11 Q. Mr. Isbell's reaction is that the Pinellas
12 portion of this State Senate District isn't that Black
13 because they, presumably the staff, grab a ring of
14 white liberal Dems as well. That's his reaction?

15 A. That's what he says. Yes.

16 Q. Did you agree with that comment?

17 A. I agree that that is an accurate statement of
18 what the staff drafted plans did. Or I mean, the
19 relative racial makeup of the Pinellas County portion
20 of the Protected District in the staff-drafted plans.
21 I think that's an accurate statement of that, yeah.

22 Q. So when you responded and said, "I know,"
23 exclamation point. You were expressing agreement with
24 Mr. Isbell's comment on that?

25 A. I definitely was agreeing that it's factually

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1 correct.

2 Q. And you responded, "Mine has a higher share
3 of Dem primaries than the benchmark."

4 That's referring to the plan that you submitted?

5 A. Yes. And I guess I should say there's sort
6 of -- there's two different things or several
7 different things that he's expressing in that first
8 message. And it certainly was remarkable to me in the
9 sense that I remarked on it or that I felt it was
10 interesting. That going back to the image of the
11 standalone district that I tweeted, that under the
12 2020 Census data, it was possible to draw a district
13 just in Hillsboro County that had the same metrics in
14 the functional analysis, especially with the Black
15 share or the share of Democratic primary voters who
16 are Black, that that metric could be the same as in
17 the benchmark, even without crossing into Pinellas
18 County, and including that -- that heavily Black
19 section of St. Pete.

20 Q. And that was a focus of your plan, wasn't it?

21 A. Was not crossing Tampa Bay and including a
22 Protected District just in Hillsborough County, yes.

23 Q. And including a higher Black share of
24 Democratic primary voters than the benchmark?

25 A. It my plan definitely had a higher Black

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1 share of Democratic primary voters than in the
2 benchmark, yes.

3 Q. I'll ask you to flip over to Isbell 119.

4 A. It's a big picture of me.

5 Q. There's a picture of you. I'm not going to
6 ask about that. I'm asking you about the messages on
7 November 17th, 2021. The bottom, you say, "I'm
8 guessing Dems decided.," -- this is following a
9 discussion of Senate District 38. You say, "I'm
10 guessing Dems decided they don't want to shake
11 anything up for fear of things only getting worse.
12 But the four Dems on the Senate Committee are some of
13 the least equipped to be smart."

14 "Things only getting worse." What is that
15 referring to?

16 A. That's probably a reference to the plan not
17 getting -- well, the plan being less fair or in a
18 sense, less favorable for the Democrats in the Senate.
19 And I'm guessing there about their motivations, and
20 what they -- what they figured to do in the Senate
21 process.

22 Q. Okay. I'll ask you to look now, Isbell 128.
23 Moving ahead, December 2nd of 2021. The second
24 message on this page says -- is you asking Mr. Isbell,
25 "What is the strategy? I really have to ask." And he

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1 responds, and you say, "No. The coalitions and Dems
2 strategy, your strategy."

3 What is the strategy that you're referring to
4 there?

5 A. So I recognize the date as I -- from reading
6 a lot of transcripts recently, I think being one of
7 the dates of the House Subcommittees. So I think it
8 was probably -- if I'm guessing right, a comment on
9 probably, some of the questions that the Democratic
10 members in the House Committee were asking at that
11 meeting. And the second message broadens that out to
12 ask about the Legislative Democrat strategy and
13 Isabel's strategy.

14 Q. You were frustrated with the approach being
15 taken by the Democratic Caucuses in the Legislature.
16 Is that a fair characterization?

17 A. I think I said it was excruciating.

18 Q. Okay. On the next page, Isbell 132, you have
19 an email stating "You, me," or Twitter direct message
20 is rather saying, "You, me, and Andrew Pantazi are the
21 real Fair Districts Coalition."

22 Who is Andrew Pantazi?

23 A. He's a reporter.

24 Q. Okay. Why are you Mr. Isbell and Mr. Pantazi
25 the real Fair Districts Coalition in you're telling?

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1 A. I think this is a reflection of the fact that
2 the three of us we each disseminating a lot of factual
3 information about the redistricting process in
4 contrast to others who were -- who were giving less
5 than well-taken comment on what was happening in the
6 Legislature.

7 MR. NORDBY:: I've been going for about an
8 hour and a half. Do we want to pause the clock --

9 MR. LEVIN: I would love to use the bathroom.

10 MR. NORDBY:: -- and take a break?

11 MR. LEVIN: I would love to use the bathroom.

12 MR. NORDBY:: Let's do that.

13 THE REPORTER: We're off the record 11:35.

14 (Off the record.)

15 THE REPORTER: Okay. Back on record 11:47.

16 MR. NORDBY:: Thank you.

17 BY MR. NORDBY::

18 Q. I'm going to ask you to actually flip back a
19 few pages to Isbell 102. The second message from the
20 bottom says, "In the spring, I deleted a tweet that
21 was like, Florida Dems are doing exactly the wrong
22 things to prepare for this redistricting cycle after
23 random, important people started shitting on me. Wish
24 I hadn't deleted it." Mr. Isbell responds, "I hear
25 you. I'm holding public fire for the moment, but it

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1 won't last this rate."

2 This was a further exchange on October 18th. Who
3 are the "random, important people," referenced in your
4 message?

5 A. My memory is -- this actually jogs my memory
6 about what we were talking earlier in the spring in
7 May or something of 2021. That I think there was an
8 article, let's see. My memory is that there was an
9 article about Florida Democrats prepare for
10 redistricting by doing X, Y, Z, or something like
11 that. And -- and it just -- yeah. It caused me to
12 tweet that. And I think random important people is
13 definitely an exaggeration. A friend of mine, I
14 think, sent me a message that he had received from
15 someone who I don't even think I learned their
16 identity. That was along the lines of who is this
17 asshole, in reaction to what I had tweeted about.

18 Q. Which friend of yours relayed that message?

19 A. I think that was Matt Christ.

20 Q. And what was the -- which person was it that
21 made the negative comment about you?

22 A. I don't think I ever learned that person's
23 identity. I think it was just a screenshot of the
24 message itself.

25 Q. And you said you responded to that

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1 communication by deleting your tweet?

2 A. Yes.

3 Q. And by October, you wish you hadn't deleted
4 that tweet?

5 A. Yes.

6 Q. Is that because you were frustrated with the
7 way that Florida Democrats were approaching the
8 redistricting process?

9 A. Yes.

10 Q. It was excruciating, I think in your later
11 words, correct?

12 A. It was.

13 Q. Okay. Mr. Isbell agreed with that?

14 A. Yes. I think -- I think Tom Leek and Cord
15 Byrd and Tyler Sorois would probably share some of
16 those same feelings too.

17 Q. I'd like to skip ahead to January of 2022,
18 page 14- -- Isbell 148. Actually, 136, I'm sorry, one
19 prior page.

20 Let me correct myself one more time. Page 135,
21 one page earlier than that. This is an exchange
22 between you and Mr. Isbell that extends over two or
23 three pages and appears to express a disagreement
24 between you and Mr. Isbell about a map.

25 Can you tell from the context on page 135 whether

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1 this is a Senate, Congressional or House Map?

2 A. This is a State House Map.

3 Q. Okay. And on page 133, Isbell 133, you say,
4 "There is simply no partisan intent in any of the
5 draft maps. They drew new Dem seats voluntarily. The
6 Committee Chair's own district gets shaken up
7 dramatically."

8 Do you see that?

9 A. I do.

10 Q. Mr. Isbell disagreed with you --

11 A. He did.

12 Q. -- correct?

13 A. He did.

14 Q. Okay. You say that "They're party blind."
15 Are you referring to the maps there that those are
16 party blind?

17 A. Yes.

18 Q. These are the State House Maps?

19 A. The State House Maps, for sure. And
20 I'm -- I'm guessing also the -- well, I guess I'm not
21 sure, but it's possible that it also covers the
22 Congressional Maps as well.

23 Q. Okay. And then on page 135, and I'll try to
24 read these together because it looks like there's some
25 crosstalk with Mr. IsBel. But you say, "I think it's

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1 not smart for you to ascribe intent where you don't
2 have evidence when the pattern of map drawing is not a
3 GOP gerrymander." And Mr. Isbell disagreed with you?

4 A. He disagreed with me, yes.

5 Q. Okay. Your conclusion, though, is that the
6 pattern of the Map drawing was not a Republican
7 gerrymander?

8 A. That's correct.

9 Q. And on page 136, Isbell 136, you continue
10 that. You say to Mr. Isbell "Argue that they don't
11 respect COI." Is that communities of interest?

12 A. That's correct.

13 Q. "But don't dress that argument up as though
14 as they're egregiously gerrymandering." And Mr.
15 Isbell says, "I'm not going to give them the benefit
16 of the doubt."

17 "Them," is referring to the Republican majority
18 in the Legislature?

19 A. Yes.

20 Q. And your conclusion was --

21 A. Or, that's -- that's my understanding.

22 Q. Okay. Your conclusion was that there was not
23 a Republican gerrymander based on the maps?

24 A. That's correct.

25 Q. Now, I'll get to page 148. The top of the

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1 page it says, "Wait, aren't Baxley and Perry paired?"

2 Do you know who Baxley and Perry are?

3 A. They were or are two senators.

4 Q. Okay. What does "aren't Baxley and Perry
5 paired," mean to you?

6 A. It means I'm asking whether Baxley and Perry
7 were paired in the same district.

8 Q. Those are two Republican state senators?

9 A. That's correct.

10 Q. Would generally be disadvantageous to pair
11 them in the same district.

12 A. For them, yes.

13 Q. Okay. And Mr. Isbell responds, "As best I
14 know, yes." And you say, "Hmm, leadership said they
15 were yday," I interpret as yesterday; is that correct?

16 A. That's a good interpretation.

17 Q. "Wonder if Baxley moves to Lake." Who is
18 "leadership," in that message that you sent?

19 A. I -- let's see. This came a day after the
20 full Senate Redistricting Committee met on January
21 13th. I'm guessing that either Ray Rodriguez -- I
22 guess, Ray Rodrigues commented that there was a
23 pairing of senators. I think.

24 Q. Do you think the Senate in the Committee
25 referred to where incumbents live and whether they're

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1 paired or not?

2 A. I don't remember where that came from, but I
3 do remember some comment coming from Senate Leadership
4 about -- maybe it was from whatever the campaign arm
5 is of the Senate Republicans, if they have a chair or
6 something like that and commented on the fact that two
7 people were chaired -- were paired. I think that's
8 what that refers to. But I'm not sure.

9 Q. You don't remember that.

10 A. I don't have a firm memory of that, no. But
11 I think there was an acknowledgment from Senate
12 Leadership that in the Senate Plan that was coming out
13 of the Committee that -- that there was a pairing of
14 Republican incumbents.

15 Q. Could it have come from the Democratic Office
16 Leadership?

17 A. I'm not -- I don't think that's what that
18 refers to. But if it -- if it is, that would have
19 been from news reports that were published around that
20 time.

21 Q. You then respond, "Could I launder through
22 you a history lesson thread on the importance of
23 filing floor amendments to maps, trying to get Shev or
24 Taddeo, anyone else to file a Tampa Map?" And Mr.
25 Isbell says, "Sure, sounds good to me."

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1 Tell me about wandering through Mr. Isbell a
2 history lesson on the importance of filing floor
3 amendments?

4 A. My memory is I drafted a thread on the
5 importance of filing floor amendments, and he posted
6 it.

7 Q. With attribution to you?

8 A. I don't believe so, no.

9 Q. Why was it important to you to launder
10 through Mr. Isbell this history thread rather than
11 publishing it in your own name?

12 MR. LEVIN: Objection. Goes to his
13 subjective intent and motivations and his
14 participation in the redistricting process.

15 BY MR. NORDBY::

16 Q. Did you, under your own name, provide a
17 history lesson on the importance of filing floor
18 amendments?

19 A. I tweeted many things about redistricting
20 around this time. And I'm not sure whether any of
21 those encompassed topic that you just asked about.

22 Q. Okay. Well, this --

23 A. The specific thread that we're discussing
24 now, I did not post.

25 Q. Okay. Mr. Isbell posted it?

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1 A. That's correct.

2 Q. But you wrote it?

3 A. That's correct.

4 Q. And he didn't indicate that he wrote it. He
5 indicated as though he wrote it.

6 A. He didn't indicate that I wrote it. He
7 posted it.

8 Q. Okay. And you say, "trying to get Shev or
9 Taddeo, "who are Shev and Taddeo?

10 A. That's Senator Shevrin Jones, and Senator
11 Annette Taddeo.

12 Q. Okay. You spoke with them about filing a
13 Tampa Map?

14 A. No.

15 Q. Can you explain to me why it says, "trying to
16 get Shev or Taddeo, anyone else to file a Tampa Map?

17 A. I viewed them as some of the smartest members
18 of the Florida Senate.

19 Q. Okay. You didn't speak to them?

20 A. No.

21 Q. Did you speak to someone else who could speak
22 to them?

23 A. I didn't -- I mean, I spoke to a lot of
24 people who could speak to a lot of people, but --

25 Q. Let me be more clear. Did you speak to

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1 someone else with the intent that they communicate to
2 Representative Senator Jones or Senator Taddeo, that
3 you would like a Tampa Map filed?

4 A. No.

5 Q. Okay. Can you explain what this message
6 means, if, in fact, you are not trying to get Shev or
7 Taddeo to file a Tampa Map?

8 A. I mean, that is what I was trying to do.

9 Q. How were you trying to do that?

10 A. By asking Isbell to post a thread on the
11 importance of filing floor amendments to Maps.

12 Q. Your expectation was that they would read Mr.
13 Isbell's thread?

14 A. I don't know that I had -- had that specific
15 an expectation.

16 Q. Your testimony is you did not speak to
17 Senator Jones or Senator Taddeo, or anyone else, to
18 pass a message along to them?

19 A. That's correct. Just throwing it out into
20 the void. Hoping somebody listened.

21 Q. Page Isbell 149. Near the end of this page,
22 "Is my initial thought on renumbering when I worked
23 for the court in 2011, '12, was that they did
24 manipulate the numbers to make competitive seats up in
25 midterms."

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1 This is referring to the numbering process for
2 State Senate Districts in 2011, 2012?

3 A. That's correct.

4 Q. And "they," again, refers to the Republican
5 Leadership there?

6 A. That's correct. Actually, no. That refers
7 to -- we're a little -- we're getting a little bit
8 outside of the -- my involvement in the 2022 process.
9 But my initial thought was looking back at what
10 happened in 2002, that what leadership did in 2002 was
11 to make competitive seats up in midterms.

12 Q. You said 2002. Did you me 2012?

13 A. No. I mean, when I was working at the court
14 in 2011 and 2012, when I was looking back at what
15 happened in 2002, my initial thought was that the
16 Republican Leadership manipulated the numbers to make
17 competitive seats up in midterms.

18 Q. Okay. Take you now to Isbell 150. At the
19 top of the page, it says, "Makes me feel like we
20 deserve a good midterm in a bad national environment,
21 but I know better than to expect/hope for that."

22 "We," again, refers to Democrats?

23 A. That's correct.

24 Q. And Mr. Isbell responds that "it would be
25 ironic if we," again, I assume meaning, Democrats,

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1 "gained some legislative seats and knock DeSantis off
2 in 2022. Frankly, my goals are just defend 3, 14, and
3 38 and take 10, but even that seems like a monumental
4 task."

5 Do you have an understanding of what 3, 14, 38,
6 and 10 are?

7 A. 38, I -- well, 38, I recognize as a Senate
8 District number. I think my -- I would have a better
9 understanding if I was able to refer to maps with
10 district numbers on them.

11 MR. NORDBY:: Kassie, can you get the 858
12 plan?

13 THE WITNESS: Oh, I think these are all
14 Senate District numbers under the -- under old Senate
15 Map.

16 MS. REARDON: This one.

17 MR. NORDBY:: Yeah. This one. This will be
18 Exhibit 6 --

19 THE REPORTER: 7.

20 MR. NORDBY:: 7.

21 (Defendants' Exhibit No. 7 was marked for
22 identification.)

23 BY MR. NORDBY::

24 Q. Mr. Warren, do you recognize this map that
25 has be placed in front of you?

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1 A. Yes.

2 Q. Okay. Do you understand this to be the
3 Enacted Plan?

4 A. Yes.

5 Q. Okay. Looking at this plan and those numbers
6 that were referred to, do you have a -- provide you
7 better context to answer my question about Mr.
8 Isbell's numbers?

9 A. Yes.

10 Q. Okay. What is Mr. Isbell referring to there
11 to your understanding?

12 A. He's referring to Senate Districts 3, 14, 38,
13 and 10 under the new Senate Plan.

14 Q. Okay. Mr. Isbell wanted to defend those
15 Senate Districts, 3, 14 and 38 and to take 10. Is
16 your understanding that Districts 3, 14 and 38 were
17 represented by Democrats at that -- at the time this
18 message was sent?

19 A. The -- in the sense that the senators
20 representing generally the same area were Democrats,
21 but obviously not yet elected under this plan, yes.

22 Q. Fair point. And in later that same year in
23 2022, Senator Ausley attempted to defend District 3,
24 Senator Cruz, attempted to defend District 14, and
25 somebody was down in District 38. Whose name does

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1 it --

2 A. I think it was open.

3 Q. And District 10 is in Seminole County?

4 A. And a little bit of Orange.

5 Q. Okay. You responded to Mr. Isbell's
6 statement of his goals to defend Democratic seats and
7 take a Republican seat by saying, "Ya, Ausley loses in
8 a 2010 14 environment."

9 A. Very prescient.

10 Q. And that is what happened?

11 A. It is.

12 Q. Later on that page, you expressed, "Hopefully
13 a House Dem proposes amendments." Do you know what
14 amendments were at issue there?

15 A. I'm sure they were redistricting amendments.

16 Q. Okay. Do you remember which map?

17 A. No. I -- no. I think probably any map.

18 Q. Okay. And again, you referred to Shev and
19 Taddeo, proposing amendments in the alternative to
20 House Democrats proposing amendments. You didn't
21 speak to either of them?

22 A. No.

23 Q. And you didn't speak to anyone who spoke to
24 them about this?

25 A. No.

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1 Q. I'll take you now to Isabel 152. There's an
2 image of a -- I don't know what you'd call it. The
3 image of a person with a hoodie on that says, "As the
4 Florida Senate Maps are poised for floor votes next
5 week, here's a little history lesson on why it's
6 important for legislators to propose alternative
7 maps."

8 Do you see that?

9 A. I do.

10 Q. Is it your understanding this is the Twitter
11 thread that you laundered through Mr. Isbell?

12 A. I believe it's the Twitter thread that I
13 wrote and that he posted, yes.

14 Q. And you responded, "Thank you," exclamation
15 point. Exclamation point. Exclamation point.

16 "Beautiful." His thread achieved your objectives?

17 A. I don't think anyone proposed any amendments,
18 so I would say the answer to that is no.

19 Q. Your immediate objective of having that
20 information put out into the ether so you said. That
21 that was achieved?

22 A. Yes.

23 Q. On the next page, Isbell 161, halfway down
24 the page, you say, "Please tell UMich it's Fair
25 Districts, not the VRA or 14th Amendment that

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1 prohibits St. Pete-Tampa."

2 Do you see that?

3 A. Yes.

4 Q. Who is UMich?

5 A. That's another person on Twitter who was
6 active talking about redistricting.

7 A. Okay.

8 Q. What is this message referring to?

9 A. Well, there was a lot of misunderstandings
10 floating around about redistricting during this whole
11 time period. And I'm assuming that UMich, who I don't
12 know what their real name is, had posted something
13 about the Florida Maps that I thought was inaccurate
14 or reflected a misunderstanding of the law.

15 Q. Do you know whether Mr. Isbell knew who UMich
16 was?

17 A. I don't know.

18 Q. Okay. I'm asking because you're asking Mr.
19 Isbell to tell someone else something.

20 A. Well, I'll rephrase that. I don't know, like
21 the true identity of an anonymous account. I don't
22 know whether he knew that.

23 Q. Okay. The message you were asking to be
24 conveyed, though, is that it's Fair Districts, meaning
25 the Florida Constitutional requirements, not the

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1 Voting Rights Act or the 14th Amendment that prohibits
2 St. Pete-Tampa, correct?

3 A. Right.

4 Q. And you say, "It's just partisan
5 gerrymandering and Tier Two. Nothing racial about it,
6 except if that's their pretext, it's obviously faked."

7 Did I read that correctly.

8 A. You did.

9 Q. Are you expressing to Mr. Isbell and asking
10 him to convey to UMich that a district connecting St.
11 Petersburg and Tampa could be explained by partisan
12 gerrymandering or Tier Two considerations, but not by
13 racial means?

14 A. In reference to the Congressional Map, yes.
15 This is -- you probably will be able to find the tweet
16 that I was reacting to from UMich around this time.
17 My memory is that, as you might expect that person, I
18 think, lived in Michigan. And so was interested in
19 the Florida Congressional Map because that had
20 national implications. And that person, and I think
21 this was part of the general conversation amongst
22 people who were following closely the redistricting
23 around the country, was that the Florida Supreme Court
24 had ruled that in the Apportionment 7 Decision, that
25 that the Congressional Map couldn't connect Tampa and

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1 St. Pete.

2 And My memory from looking at this is that that's
3 what I was reacting to. Is that that was a
4 misunderstanding. Whatever that person was expressing
5 about what the Floor Supreme Court had said was a
6 misunderstanding of -- of why St. Pete
7 and -- what -- what they said, the reasons why Tampa
8 and St. Pete couldn't be connected in the
9 Congressional Map in 2015, which I think in Plan
10 8060 -- well, in one or both of the Congressional
11 Plans that were being bandied about at that time, I
12 think that was a feature of those plans.

13 Q. Okay. I'll turn you now to Isbell 178.
14 There was a tweet at the top from Lauren Book. You
15 understood her to be a State Senator at the time?

16 A. I understood that, yes.

17 Q. Okay. Mr. Isbell responds to that tweet by
18 theorizing about the motivations of Senate Democrats
19 with regard to the State Senate and Congressional
20 Maps. Is that a fair characterization of what he
21 said?

22 A. I think that's a good summary of his message.
23 Yes.

24 Q. Okay. And Mr. Isbell says, what drives him
25 nuts, is "how we get no amendments, offering changes

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1 to Tampa or Broward Senate seats. And all the
2 Hispanic talk made my mind melt."

3 What is he referring to there?

4 A. Which part?

5 Q. Take it in pieces. First, what drives him
6 nuts about getting no amendments? What is he
7 referring to there?

8 A. That he was driven nuts. That he was
9 frustrated. Well, I guess, you know, this is me
10 characterizing what he meant, but I am guessing he was
11 frustrated that no Democratic Senators offered changes
12 to the Tampa or Broward Senate configurations.

13 Q. That was a consistent subject of frustration
14 between you and Mr. Isbell throughout this chain,
15 correct?

16 A. A lack of engagement in the in the
17 redistricting process on the part of the Minority
18 Caucuses in both chambers. A lack of interest in
19 engaging in the process in a meaningful way was
20 definitely a common thread. It was certainly a -- a
21 frustration that I held personally.

22 Q. And part of your response here says,
23 "Combined with a lack of understanding of the facts
24 and issues."

25 Is that part of your characterization of the

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1 Caucus as well?

2 A. That's right.

3 Q. Following page, Isbell 179.

4 A. You forgot to ask about all the Hispanic
5 talk, but -- we can move on if you want.

6 Q. You say on page 179, "House Dems are
7 apparently going to be another shit show TMR." Which
8 I understand to mean tomorrow. And Mr. Isbell says,
9 "Oh, I have no fucking doubt." You say, "They are
10 taking really bad advice and ignoring good advice."

11 What bad advice were the House Democrats taking
12 and what good advice were they ignoring?

13 A. I believe these messages came outside the
14 time frame of the protective order.

15 MR. LEVIN: So the protective order goes
16 through January 20th, when the Senate passed its
17 Enacted Plan and its final form.

18 MR. NORDBY:: Okay. These are from January
19 20th.

20 MR. LEVIN: Right. So I guess the question
21 is what time of day the plan was enacted. Once it's
22 enacted, it's outside the scope of the protective
23 order. So Mr. Warren is stating that these messages
24 happened after the plan was enacted.

25 BY MR. NORDBY::

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1 Q. So these messages about the good advice that
2 the House Democrats were taking and -- the bad advice
3 that they were taking and the good advice that they
4 were ignoring, this message came outside of the time
5 frame, is that your position?

6 A. Well, if you go back to the previous page,
7 you were asking me about Senator Books's comment about
8 the State Senate Map that the Senate had just passed.
9 Which that message was from 6:33 p.m., so --

10 Q. Well, let me take it outside the context of
11 this message then, which may or may not have come
12 after the Senate Plan was mapped -- was passed.
13 Before that time period, what bad advice were the
14 House Democrats taking?

15 A. I'm not sure that I have any specific
16 knowledge before this time about the advice that they
17 were actually given. But it was certainly apparent to
18 me from watching them in the public meetings, that
19 they were as I said before, had a lack of
20 understanding of the facts and issues about
21 redistricting.

22 Q. Were you giving them advice?

23 A. No.

24 Q. You were communicating with Mr. Grimes
25 throughout this process, though, weren't you?

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1 A. I communicated with David Grimes a couple of
2 times. I wouldn't say that was throughout the
3 process. I also don't -- I mean, we can turn to those
4 messages if you want, but --

5 Q. So let's do that.

6 MR. NORDBY:: Do you have 24, Kassie?

7 (Defendants' Exhibit No. 8 was marked for
8 identification.)

9 BY MR. NORDBY::

10 Q. Exhibit 8. This is a document that you
11 produced in discovery. Do you recognize this
12 document?

13 A. Yes.

14 Q. Okay. What is this document?

15 A. These are messages that I sent David Grimes.

16 Q. Okay. This is something you sent by phone
17 text messages or iMessage?

18 A. I'm not sure. I think this was on Twitter.

19 Q. Okay. The messages that are provided here,
20 are these messages or content that you sent or that
21 were sent to you?

22 A. These are messages that I sent.

23 Q. Okay. So what's here is your communications
24 to Mr. Grimes, correct?

25 A. That's correct.

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1 Q. Okay. So what you say to Mr. Grimes is, I
2 understand this to be "For what it's worth, enough
3 different people have separately reached out to me
4 with extreme frustration about what's going on inside
5 the Caucus on redistricting, that I thought I should
6 say something. I don't have the firsthand knowledge
7 like they do, but I know what I see on the Florida
8 Channel for what it's worth. Given what all I've
9 heard, I didn't feel comfortable not saying anything,
10 especially since the chance of litigation is near
11 zero."

12 Who are you referring to as people that had
13 "separately reached out to you about what's going on
14 inside the Caucus"?

15 A. First, I'd say, I -- I believe these messages
16 came after January 20th as well. So I'm not sure
17 they're inside the scope of the protective order.

18 Q. Okay. Setting these messages aside, did
19 people reach out to you with extreme frustration about
20 what's going on inside the Caucus?

21 A. No. Not -- not during the time period that
22 we're discussing.

23 Q. Okay. Were you not telling the truth to Mr.
24 Grimes when you said that different people have
25 separately reached out to you?

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1 A. So again, you're asking me about messages
2 that happened after January 20th. And I gave you an
3 answer about what happened before January 20th.

4 Q. Okay. So you're parsing it in that way, that
5 people reached out to you after January 20?

6 A. I'm not going to testify to things that
7 happened outside the temporal scope of the protective
8 order.

9 Q. Okay. Before January 20th, did anyone reach
10 out to you with frustration about what was going on
11 inside the House Redistricting Caucus?

12 A. Not people who worked inside the Caucus, no.

13 Q. Who did?

14 A. I mean, there were definitely people who
15 were -- well, I guess when I say people. I know Mr.
16 Isbell was frustrated what was going on inside the
17 Caucus from all the messages that you've already read.
18 And I don't have any specific memory of others beyond
19 that, but I think people who were -- who followed
20 redistricting could tell that -- that the questions
21 that the House Democrats were asking in particular
22 were just not -- just not based in any kind of
23 understanding of the subject matter.

24 Q. You said people who followed redistricting,
25 I'm looking for more specifics than that. Which

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1 people?

2 A. I -- I don't have any memory of talking to
3 anybody about this during this time period. But I
4 think if you -- if you were to scroll the people that
5 I follow on Twitter, news articles that were published
6 about the committee meetings, I think -- I think that
7 was in the air.

8 Q. You talked to Mr. Grimes about redistricting
9 in this process?

10 A. I sent -- well, other than the meeting about
11 prison populations, I sent him messages. I otherwise
12 didn't talk to him.

13 Q. Okay. And you talked to Mr. Toman on the
14 Senate side about redistricting during the process?

15 A. Correct.

16 Q. From the earlier email exchange, we went
17 through, he appeared to be frustrated with the
18 members. Is that a fair characterization?

19 A. I'm not sure.

20 Q. Okay. He was soliciting advice from you
21 about strategy on and questions that could be asked?

22 A. I think he referenced that in his email.

23 Q. Okay. And you wrote a Twitter thread for Mr.
24 Isbell to publish that talked about questions that
25 should be asked?

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1 A. I don't know about questions that should be
2 asked. I think the thread was about the importance of
3 filing amendments in -- in historical redistricting
4 cycles.

5 Q. And is it correct you won't answer questions
6 that I ask you about communications with members of
7 the media about these topics?

8 A. On the instruction of my lawyer, that's
9 correct.

10 Q. There may have been some, but you won't tell
11 me if there were any. Is that part of your objection
12 as well, whether there were, in fact, conversations?

13 MR. LEVIN: Yeah. Whether there were,
14 whether there weren't, who they were with, subject
15 matter, anything like that is subject to the common
16 law reporters privilege.

17 MR. NORDBY:: So just to be clear, you
18 construe the reporters privilege a broader than the
19 attorney-client privilege and that it doesn't even
20 extend to when conversations occurred, with whom they
21 occurred, setting content of the conversations aside,
22 that's the position you taking?

23 MR. LEVIN: Well, with whom they occurred is
24 one of the chief protections of the common law
25 reporters privilege because it protects sources. And

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1 it's reciprocal in the sense that if a source were to
2 divulge who they spoke with, then it's giving up the
3 reporter's privilege to protect the source. And case
4 law --

5 MR. NORDBY:: I'm just trying to understand
6 your objection.

7 Okay. Mr. Warren, I'm done with my questions
8 for now. Mr. Jazil may have some.

9 MR. JAZIL: Counsel, I would like to
10 understand the objection to questions based on the
11 common law reporters privilege. Is it your position
12 that any information that one would ordinarily see on
13 a privilege log is information to which we're not
14 entitled based on your use of the common law reporters
15 privilege?

16 MR. LEVIN: I'm not really sure I understand
17 the question --

18 (Crosstalk.)

19 MR. JAZIL: Sure. So let me ask you the
20 question this way. The question of when a
21 conversation happened, so not with whom, but when a
22 conversation happened would be material that would
23 ordinarily appear on a privilege log for
24 attorney-client privilege, right?

25 MR. LEVIN: (No audible response.)

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1 MR. JAZIL: Yes?

2 MR. LEVIN: Sure.

3 MR. JAZIL: And so it's your position that
4 we're not entitled to the when of a conversation that
5 Mr. Warren might have had with a reporter, right?

6 MR. LEVIN: Well, as a lawyer, I always want
7 to do research and know the law. My gut is telling me
8 that yes, because the "when," if there's a
9 communication, and then there's, let's say, an article
10 printed the next day, then the when leads to giving up
11 the, you know, giving up the privilege.

12 MR. JAZIL: Got it. So, Counsel, so you're
13 instructing your client not to answer questions about
14 when conversations happened with reporters based on
15 your gut, about what the common law privilege would
16 cover? I just want to make sure the record is clear
17 for purposes of Rule 37 and your instructions to your
18 client.

19 MR. LEVIN: Well, I can take a five minute
20 break, and I can, you know, double-check my research
21 on this issue. My understanding is reporters and any
22 discussions with reporters may be outside the scope of
23 the deposition to begin with. I don't know that
24 reporters are defined as political operatives or
25 legislators or legislative staff.

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1 MR. JAZIL: So let's take that five-minute
2 break.

3 And Madam Court Reporter, can you tell me how
4 much time we have left in the deposition?

5 THE REPORTER: How much time?

6 MR. LEVIN: Seventeen minutes.

7 MR. JAZIL: All right. Let's take that
8 break.

9 THE REPORTER: Okay. Off record 12:26.

10 (Off the record.)

11 THE REPORTER: Okay. Back on record 11:36
12 [sic].

13 MR. JAZIL: A. All right. Counsel, so are
14 you going to ask your client to continue to not answer
15 any questions concerning when conversations with
16 reporters were had about redistricting?

17 MR. LEVIN: So we have two objections.

18 MR. JAZIL: Okay.

19 MR. LEVIN: One is the objection to the
20 scope, right? So in the order, the questions may
21 concern how he developed plan 42 and who may have
22 provided him with assistance.

23 MR. JAZIL: Okay.

24 MR. LEVIN: So you are free to bring within
25 the scope, ask questions about who provided him with

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1 assistance, and we can go from there and whether
2 people provided him with assistance.

3 And then our second objection is with the
4 reporter privilege. So any information that would
5 reveal Mr. Warren as a confidential source would
6 defeat the privilege. You can ask if he was a
7 confidential source, you can ask if he had any
8 non-confidential communications with reporters or was
9 a non-confidential source of reporter. If he was
10 quoted in a news story, and so on and so forth. But
11 to the extent that there may have been confidential
12 communications that fall within the scope of that.

13 MR. JAZIL: Okay. So I get.

14 EXAMINATION

15 BY MR. JAZIL:

16 Q. So, Mr. Warren, let me ask you this, did Mr.
17 Andrew Pantazi ever provide any assistance concerning
18 redistricting?

19 MR. LEVIN: And I'm sorry to interrupt.
20 We're still talking about within the scope of that
21 time frame.

22 BY MR. JAZIL:

23 Q. Within the scope of the time frame that your
24 counsel has outlined.

25 A. To -- to use the language from the magistrate

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1 judge's order, no. He never provided me assistance in
2 developing Plan 42.

3 Q. Did he review Plan 42 before you submitted
4 it?

5 A. No.

6 Q. Did he review Plan 42 after you submitted it?

7 A. I think he reported on it publicly. So I'm
8 assuming that he did, yes.

9 Q. Were you on-the-record source for that
10 reporting?

11 A. About legislative redistricting? No.

12 Q. Were you off-the-record source for that
13 reporting?

14 A. I can't answer that question.

15 Q. Did Mary Ellen Klas provide any assistance to
16 you about the redistricting plans that you submitted
17 during the time frame?

18 A. No.

19 Q. Did Jacob Ogles provide you any assistance
20 regarding the plans that you submitted --

21 A. No.

22 Q. -- during this time frame?

23 And, sir, if I understood your testimony
24 correctly, your testimony is that you did not draft
25 any questions for Democratic members of the Florida

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1 Legislature to ask during their public sessions on
2 redistricting, correct?

3 A. Within the period that I was asked about,
4 that's correct.

5 Q. Okay. Did you --

6 A. As far as -- with the exception of based on
7 the timing of the first time I met John Toman and the
8 message that Dan asked about -- about questions at the
9 Senate meeting on October 18th. I don't remember
10 that, but I'm not ruling out the possibility that I
11 suggested some questions for John Toman to put to his
12 Caucus members.

13 Q. So if I understand this, you don't recall
14 whether or not you suggested questions to Mr. Toman to
15 give to his Caucus members to ask on redistricting?

16 A. I don't remember that. No. I don't -- I
17 don't remember doing that. No.

18 Q. You could have done it or you might not have
19 done it, right?

20 A. It's possible that during that first
21 conversation with him, that I said here a few things
22 that could be asked about at today's meeting, but I'm
23 not sure.

24 Q. Did you provide any questions to Mr. Grimes
25 or suggest any topics for Mr. Grimes for his Caucus

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1 members to ask?

2 A. I think that's in an email.

3 Q. Okay. You have an email that lays out
4 questions that Mr. Grimes should have his Caucus
5 members ask during the sessions?

6 A. I think I gave you that email. About
7 prisons.

8 Q. Anything beyond prisons?

9 A. No.

10 Q> Sir, did you speak to Dan Newman and offer to
11 Mr. Newman any questions that Democratic members of
12 the Florida Legislature should ask about
13 redistricting?

14 A. No.

15 Q. Did you ask Mr. Ulvert to forward any
16 questions on legislative redistricting to the
17 Democratic members of the Florida Legislature?

18 A. No. I don't think I've been asked about
19 Christian Ulvert yet today. Maybe I have, but I know
20 who you're talking about, and, no.

21 Q. And what's your understanding of who Mr.
22 Ulvert is?

23 A. My first understanding of him was as a
24 plaintiff in some of the gay marriage cases that the
25 ACLU of Florida worked on before I started here. And

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1 other than that, I think he's a political consultant.

2 Q. Did you know that Mr. Ulvert was advising the
3 Democratic members of the Florida Legislature on
4 redistricting this past cycle?

5 A. I didn't know that at the time the
6 redistricting was happening.

7 Q. When did you find out that Mr. Ulvert was
8 advising Democratic members of the Florida Legislature
9 on redistricting?

10 A. I think it was when you asked Fentrice
11 Driskell about an email involving him at the Common
12 Cause trial last year.

13 Q. Did you know that Democratic members of the
14 Florida Legislature were speaking to individuals
15 affiliated with the National Democratic Redistricting
16 Trust about redistricting?

17 A. Later in the process, I looked up the
18 lobbyist registrations and found that out. Well, I
19 found out that -- that members of -- that there were
20 lobbyists who were registered for, as I said, Natalie
21 Kato was registered for one of the NDRC-affiliated
22 entities? And I later learned as reflected in my
23 messages with Isbell that she was advising the House
24 Democrats on redistricting.

25 Q. What's your understanding of what Ms. Kato

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1 was hired to advise the House Democrats on?

2 A. I don't know.

3 Q. Do you know whether Ms. Kato was advising the
4 House -- pardon me, the Senate Democrats on
5 redistricting?

6 A. I don't know.

7 Q. Did you know whether Mr. Isbell and Ms. Kato
8 ever discussed redistricting?

9 A. I don't know. I don't think so.

10 Q. Did you ever ask Mr. Isbell whether he was
11 communicating with Ms. Kato?

12 A. If I did, it would be in the messages.

13 Q. Did you ever speak to Ms. Kato about
14 redistricting?

15 A. No.

16 Q. Have you ever spoken to Ms. Kato?

17 A. I have.

18 Q. When?

19 A. That would be beyond the scope of the
20 protective order.

21 Q. What did you speak to her about?

22 A. Non redistricting work or non -- not
23 redistricting-related topics.

24 Q. Sir, did you give any questions to Mr. Isbell
25 to give to Democratic members about redistricting?

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1 A. I don't think so, but if I did, it would be
2 in the Twitter messages.

3 Q. So you would never talk to Mr. Isbell on the
4 phone about questions or ideas?

5 A. Never spoken to him on the phone.

6 Q. You only communicate with him via text or
7 Twitter?

8 A. About 99 percent Twitter message. And then
9 there were a few voice memos that I sent him over
10 texts that you also have.

11 Q. So Twitter, text, and voice memos, those are
12 the only forms of communication with Mr. Isbell?

13 A. Yes. Although, I don't remember texting him
14 except for sending him the voice memos.

15 Q. Did you ever meet up with Mr. Isbell to
16 discuss redistricting in person?

17 A. Not during the time period.

18 Q. Were you in Tallahassee during the January
19 20, 2021, time frame?

20 A. I don't remember if I was in Tallahassee on
21 January 20th, 2022, but I was living in Tallahassee
22 during that time, yeah.

23 Q. Okay. Can you tell me how long you've lived
24 in Tallahassee?

25 A. I actually don't live there anymore, but I

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1 was born there and lived there until I moved away for
2 college and then came back for breaks and whatnot.
3 And I was there in between college and law school when
4 I wasn't -- when I -- when I wasn't working in another
5 city. And then I moved -- I moved fully back to
6 Tallahassee after the pandemic in February or March,
7 2021. And then I moved to Jacksonville last October.

8 Q. So, sir, when the Florida Legislature was
9 considering the Senate Redistricting Plan, this past
10 cycle, you lived in Tallahassee, right?

11 A. That's right.

12 Q. When the Florida Legislature was considering
13 the Florida House Maps, you lived in Tallahassee,
14 right?

15 A. That's right.

16 Q. And when the Florida Legislature was
17 considering the Congressional Map, this past
18 redistricting cycle, you lived in Tallahassee, right?

19 A. Same time frame. That's right.

20 Q. And how far away from the Florida Legislature
21 did you live during that time frame, physically?

22 A. Well, I think my -- my home address Secretary
23 Byrd kind of has in his possession on my voter
24 registration. It was probably a 10 or 15 minute drive
25 away.

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1 Q. Ten or fifteen minute drive. And are you a
2 registered voter?

3 A. I think -- I think that's also in Secretary
4 Byrd's records. Yes.

5 Q. And you're a registered Democrat, right?

6 A. I am.

7 Q. And how long have you been a registered
8 Democrat?

9 A. Since I registered to vote.

10 Q. When was that?

11 A. I think I pre-registered, which I think you
12 can do when you're 16.

13 Q. Yes. So you pre-registered to vote when you
14 were 16?

15 A. That's my memory.

16 Q. And you pre-registered to vote as a Democrat?

17 A. I -- my party affiliation was with the
18 Democratic Party.

19 Q. And have you ever changed that party
20 affiliation?

21 A. No.

22 Q. So you've been a registered Democrat since
23 you pre-registered at 16 until now, right?

24 A. Yes.

25 Q. And you mentioned Joe Dye in your earlier

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1 colloquy with Mr. Nordby, and you said, as I
2 understand it, that Joe Dye worked for the ACLU for a
3 period of time?

4 A. He did.

5 Q. Who hired him at the ACLU?

6 A. He was brought in as an intern that I
7 supervised. He was -- he was initially -- I'm not
8 sure whether he was a paid intern or an unpaid intern,
9 but he was working in the legal department.

10 Q. Did you recommend --

11 A. But that, again, we're now out -- well
12 outside the scope of the protective order.

13 Q. Did you recommend him for the internship?

14 A. I -- I think this is well outside the scope
15 of the protective order.

16 Q. With respect, sir, Mr. Dye was working in the
17 Florida Legislature during this redistricting cycle,
18 then he started working for the ALU. I have a right
19 to know whether or not he was hired because of your
20 recommendation and whether or not there's a link
21 there. So you can answer the question.

22 MR. LEVIN: Not if he was hired because of a
23 recommendation that occurred outside the time frame.
24 I mean, the scope is pretty clear about his personal
25 involvement in the Legislative Redistricting Process,

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1 which occurred, 2020 through January 2022. So
2 anything that happened after that is outside the
3 scope.

4 BY MR. JAZIL:

5 Q. Did you speak to Mr. Dye about redistricting
6 at any point during the 2022 redistricting cycle?

7 A. I definitely didn't speak to him about
8 redistricting, my recollection is before January 20th.

9 Q. You did not coach Mr. Dye on redistricting
10 issues before January of 2021. That's your testimony?

11 A. My, again --

12 MR. TILLEY: Object to the form.

13 THE WITNESS: Again, and I think except for
14 going through some of my historical background and
15 education and work history, all my answers to all
16 these questions are going to be with respect to the
17 time period outlined in the protective order. I did
18 not know Mr. Dye during that time period.

19 BY MR. JAZIL:

20 Q. You did not know Mr. Dye during the time
21 period that is the subject of this deposition. Is
22 that a fair characterization of what you just said?

23 A. Correct.

24 Q. And during that period, you did not talk to
25 Mr. Dye about redistricting?

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1 A. I didn't know him. Didn't talk to him.
2 That's my memory.

3 Q. And earlier, you mentioned a meeting that Mr.
4 Grimes organized with the House members about
5 redistricting. Do you recall that?

6 A. I do.

7 Q. Do you know whether or not Mr. Dye was in the
8 room in that meeting?

9 A. I don't remember him being there. I think as
10 I said, the only people there were David Grimes,
11 Fentrice Driskell, and one or two other
12 representatives.

13 Q. All right. Mr. Warren, I have no other
14 questions.

15 Thank you for your time.

16 A. Thank you.

17 THE REPORTER: Will you be ordering the
18 transcript?

19 MR. NORDBY:: I didn't know if they had any
20 questions.

21 THE REPORTER: Sorry.

22 MR. LEVIN: I don't have any questions.

23 MR. NORDBY:: Okay. Yes, we'll be ordering.

24 THE REPORTER: Yes.

25 Okay. I'm going to go off the record. The

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1 time is 12:49.

2 (Whereupon, the deposition concluded at 12:49 p.m.)
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CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, the undersigned authority, certify that
NICHOLAS WARREN personally appeared before me and was
duly sworn on NOVEMBER 18, 2024.

Witness my hand and official seal this 25th
day of November, 2024.

Milena Arzumanyants

MILENA ARZUMANYANTS, DIGITAL REPORTER

Notary Commission No. HH 562384

Commission Expires: June 17, 2028

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REPORTER'S CERTIFICATE

I, MILENA ARZUMANYANTS, Digital Reporter and
Notary Public within and for the State of Florida do
hereby certify:

That the foregoing witness whose examination
is hereinbefore set forth was duly sworn and that said
testimony was accurately captured with annotations by
me during the proceeding.

I further certify that I am not related to
any of the parties to this action by blood or
marriage, and that I am in no way interested in the
outcome of this matter.

In witness thereof, I have hereunto set my
hand this 25th day of November, 2024.

Milena Arzumanyants

MILENA ARZUMANYANTS, DIGITAL REPORTER

Notary Commission No. HH 562384

Commission Expires: June 17, 2028

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TRANSCRIBER'S CERTIFICATE

I, Natalie Young, legal transcriptionist, do
hereby certify:

That the foregoing is a complete and accurate
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the testimony and proceedings captured in the above
entitled matter. As the transcriptionist, I have
reviewed and transcribed the entirety of the
proceeding to ensure a verbatim record to the best of
my ability.

I further certify that I am not neither
attorney for, nor a relative or employee of any of the
parties to the action; further, that I am not a
relative or employee of any attorney employed by the
parties hereto, nor financially or otherwise
interested in the outcome of this matter.

In witness thereof, I have hereunto set my
hand this 25th day of November, 2024.

Natalie Young

Natalie Young

Legal Transcriber

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DEPOSITION ERRATA SHEET

Our Assignment No. J12015947

Case Caption: KETO NORD HODGES, ET AL. vs. KATHLEEN
PASSIDOMO, ET AL.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I
have read the entire transcript of my examination
taken in the above-captioned matter or the same has
been read to me, and the same is true and accurate,
save and except for changes and/or corrections, if
any, as indicated by me on the DEPOSITION ERRATA SHEET
hereof, with the understanding that I offer these
changes as if still under oath.

Signed on the _____ day of _____, 20____.

NICHOLAS WARREN

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