

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

1

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
CASE NO. 8:24-cv-879

KETO NORD HODGES, et al.,

Plaintiffs,

vs.

BEN ALBRITTON, et al.,

Defendants.

VIDEOCONFERENCE DEPOSITION OF CORY McCARTAN, Ph.D.
Appearing Remotely Via Videoconference from
University Park, Pennsylvania 16802

Taken By Counsel for Defendants
(Pages 1-80)

Monday, December 2, 2024
2:34 p.m. - 4:24 p.m.

HELD REMOTELY
VIA VIDEOCONFERENCE

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CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

2

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CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

3

I N D E X

PAGE

Direct Examination by Ms. Price	4
Cross-Examination by Mr. Warren	73
Errata Sheets	76-78
Certificate of Reporter	79
Certificate of Oath	80

EXHIBITS

NO.	DESCRIPTION	PAGE
Exhibit 1	Dr. McCartan's Curriculum Vitae	10
Exhibit 2	Benchmark Plan Map	17
Exhibit 3	Enacted Plan Map	18
Exhibit 4	Expert Report of Cory McCartan, Ph.D.	22
Exhibit 5	Redrawn Area of Enacted Plan zoomed in to Tampa	28
Exhibit 6	Senator Rodrigues Memo to Jay Ferrin dated 10/18/2021	35
Exhibit 7	Illustrative Plan A	36
Exhibit 8	Illustrative Plan B	55
Exhibit 9	Illustrative Plan C	59

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

4

1 Videoconference Telephonic Deposition
2 stenographically reported by Jennifer Figueroa,
3 Registered Professional Reporter and Notary Public in
4 and for the State of Florida at Large, in the above
5 cause.

6 * * * * *

7 (Mr. Thomas is not present.)

8 THE COURT REPORTER: Do you swear or affirm
9 that the testimony you're about to give will be the
10 truth, the whole truth, and nothing but the truth?

11 THE WITNESS: I do.

12 THE COURT REPORTER: And you are currently
13 located in University Park, Pennsylvania, with a
14 ZIP Code of 16802. Is that correct?

15 THE WITNESS: That's right.

16 THE COURT REPORTER: Thank you so much.
17 Counsel, you may proceed.

18 THEREUPON,

19 CORY MCCARTAN, Ph.D.,
20 having been first duly sworn or affirmed, was examined
21 and testified as follows:

22 MS. PRICE: Thank you, Madam Court Reporter.

23 DIRECT EXAMINATION

24 BY MS. PRICE:

25 Q. Hello, Dr. McCartan. How are you doing this

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

5

1 afternoon?

2 A. Well, thanks. How about you?

3 Q. Good, thank you.

4 My name is Tara Price. I'm counsel for the
5 Florida Senate for President Albritton, and I'll be
6 questioning you today.

7 Would you mind stating your full name for the
8 record, please?

9 A. Yes. It's Cory McCartan.

10 Q. And I previously stated this, but on the
11 record could you just identify where you're presently
12 located?

13 A. I'm in University Park, Pennsylvania.

14 Q. Thank you.

15 Dr. McCartan, have you had your deposition
16 taken before?

17 A. Yes.

18 Q. Are you familiar with the general ground
19 rules?

20 A. Yes.

21 Q. Okay. I'll go over them just so we touch on
22 them, but I'll do it quickly since you said you're
23 familiar.

24 You understand today your testimony is under
25 oath and you have an obligation to tell the truth, just

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

6

1 as if you were in a court of law?

2 A. Yes.

3 Q. And when you respond to my questions, as you
4 are doing now, you'll need to make sure that you say
5 "yes" or "no" instead of nodding or shaking your head,
6 especially since we're on Zoom.

7 Do you understand that?

8 A. I do.

9 Q. And if for any reason you don't understand my
10 question, will you agree to let me know so that I can
11 explain it or rephrase it?

12 A. Yes.

13 Q. Okay. Thank you.

14 So in light of that, is it fair for me if you
15 understand my question that I can assume you understood
16 what I'm asking you?

17 A. Yes.

18 Q. And, you know, today is not a test. So if you
19 don't know the answer to one of the questions, it's not
20 like when you're students, just let me know, that's
21 fine, and we can move on to the next question.

22 Do you understand?

23 A. I do.

24 Q. Thank you.

25 And if you need a break, let me know. I know

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

7

1 that we're only here for two hours today, so I'd like to
2 kind of power through it and hopefully cover as much
3 ground as possible. But I understand and feel free to
4 ask for a break if you need one. I would just ask that
5 if there's a question pending, you answer the question
6 that's on the table and then we can take a break
7 afterwards.

8 A. I understand.

9 Q. Great.

10 Is there any reason why you wouldn't be able
11 to testify completely and truthfully today?

12 A. There is not.

13 Q. Okay. So you're not feeling sick or
14 physically ill or under the influence of anything that
15 might affect your participation today?

16 A. No.

17 Q. Thank you so much.

18 And since we're doing the deposition via Zoom
19 I have to ask a couple of questions.

20 You previously spoke with the court reporter,
21 but is there anyone else in the room with you today?

22 A. There is not.

23 Q. And do you have any materials or notes in
24 front of you?

25 A. I have a printed copy of the report I

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

8

1 submitted in this case.

2 Q. Okay. Is that the only document that you have
3 in front of you?

4 A. Yes.

5 Q. Okay. Do you have any writing or notes or
6 comment on the printed copy of your report?

7 A. No.

8 Q. What about any highlighting?

9 A. No.

10 Q. It's the same exact copy of the report we
11 would have received from plaintiffs' counsel in this
12 case.

13 A. Yes.

14 Q. Is that correct?

15 A. (Moves head up and down.)

16 Q. Okay. Are there any other documents or emails
17 or text or any other communications in front of you?

18 A. No.

19 Q. Okay. Dr. McCartan, can you tell us who hired
20 you to participate in the lawsuit.

21 (Mr. Thomas entered the videoconference.)

22 A. I was retained by the American Civil Liberties
23 Union of Florida.

24 BY MS. PRICE:

25 Q. Okay. Do you remember when you were first

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

9

1 contacted?

2 A. Not exactly. I was contacted while retained
3 on another separate case. So sometime in late 2023, I
4 believe.

5 Q. Okay. Were you aware -- well, I guess since
6 this is 2023, the lawsuit didn't exist then.

7 And you mentioned that you were retained by
8 other litigation. Can you tell me what that litigation
9 was that you were currently working on then for the
10 ACLU?

11 A. I believe it was called GRACE, Inc., versus
12 City of Miami.

13 Q. Okay. What were you retained to do in that
14 case?

15 A. I calculated various population and
16 demographic statistics of some districts and maps that
17 were at issue in that case.

18 Q. Okay. Have you been hired by the ACLU for any
19 other cases?

20 A. The ACLU of Florida?

21 Q. Yes.

22 A. Yes. I don't remember the caption but there
23 is a -- a case that's been filed regarding congressional
24 and state Senate districts that I've been retained to do
25 work on.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

10

1 Q. Okay. Do you know where that was filed?

2 A. I believe the Miami division.

3 Q. Okay. Anything else?

4 A. Other cases? No.

5 Q. Okay. I'm going to go ahead and pull up your
6 CV that we were provided. We'll do a share screen so
7 you can take a look. All right. Technical
8 difficulties.

9 MS. PRICE: Now let's start with the top so we
10 can see -- there you go. Just slowly scroll down.

11 BY MS. PRICE:

12 Q. It looks like this is five pages. Does this
13 look like a true and accurate copy of your CV, Doctor?

14 A. Yeah. This is an updated version since the
15 report was first filed, but this looks to be -- this
16 looks to be accurate.

17 MS. PRICE: Let's go ahead and mark this as
18 Exhibit 1.

19 (Exhibit 1 will be marked for identification
20 and attached to the transcript once received by the
21 reporter.)

22 BY MS. PRICE:

23 Q. And then on Page 5 it looks like you list some
24 experiences where you've been retained by --

25 MS. PRICE: Scroll down.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

11

1 BY MS. PRICE:

2 Q. -- the ACLU. Does that refresh your
3 recollection as to other cases in which you've been
4 retained?

5 A. Well, these list cases where I testified by
6 deposition or at trial or submitted reports. So the
7 case I mentioned for the ACLU of Florida the report has
8 not been yet submitted.

9 Q. Right. These are other cases though?

10 A. With the National ACLU and the Florida
11 affiliate, that's correct.

12 Q. Okay. So we've got GRACE. I'm not sure how
13 to say "Nairne," I butchered that; I believe the Women
14 Voters versus Ohio; and the Miami case in which you said
15 there wasn't a report due; and then this case, all are
16 ACLU. Is that correct?

17 A. Or its affiliates.

18 Q. Or its affiliates. Okay.

19 Have you ever been retained in a case where
20 the ACLU or its affiliates appeared on the other side,
21 you're testifying against them?

22 A. No.

23 Q. Okay.

24 MS. PRICE: And then if you can scroll up just
25 a little bit.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

12

1 BY MS. PRICE:

2 Q. It looks like you have a couple of cases on
3 behalf of the NAACP Legal Defense Fund?

4 A. Yes.

5 Q. Can you tell us a little bit about those?

6 A. Two cases which I've submitted reports or
7 testified they're listing there. McClure is ongoing.

8 Q. Have you ever been retained as an expert
9 witness in a case where the NAACP Legal Defense Fund or
10 any of its affiliates were on the other side?

11 A. No.

12 MS. PRICE: Can you just scroll down a little
13 bit.

14 BY MS. PRICE:

15 Q. And then the part that says "Data for
16 Progress," can you tell me a little bit about what that
17 is?

18 A. They're a nonprofit based in D.C. that
19 conducts polling and issue adequacy. I was retained by
20 them to forecast the results of the 2022 midterm
21 elections.

22 Q. Do you know whether they work to advance
23 either Republican or Democratic interests?

24 A. I think my understanding is they're a 501(c)3.
25 I don't think they're a (c)4, but I'm not sure about

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

13

1 that. So I don't think they're explicitly a partisan
2 organization, to my knowledge. I'm not familiar with
3 their mission statement.

4 Q. Okay. So you don't know that organization
5 well enough to know whether it advances democratic or
6 republican interests?

7 A. Well, I took you -- I took you to mean by
8 "democratic interest," you know, advocacy on the
9 democratic party particularly. So there are other
10 political or -- interests that, you know, would overlap
11 in some cases and not in others that would not be
12 described, you know, as Democratic or Republican
13 interest.

14 So to the best of my knowledge it's not a
15 democratic organization the way, you know, the
16 D triple-C is.

17 Q. How would you describe it?

18 A. A think-tank issue adequacy organization. It
19 conducts polling, you know, broadly upon what they would
20 consider progressive causes.

21 Q. And coming up to this lawsuit, can you
22 describe what you were asked to do in this case?

23 A. Sure.

24 I was retained to redraw a portion of the
25 Florida Senate district map in the Tampa area and write

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

14

1 a report describing my changes.

2 Q. All right. Are you familiar with the term
3 "benchmark plan"?

4 A. Sorry, let me stop you there. I realized
5 my -- answered this question now, I misspoke earlier in
6 describing the other ongoing case with the ACLU of
7 Florida. It deals with congressional and house
8 districts, not congressional and state Senate districts.

9 Q. Okay.

10 A. To answer your question, I'm not sure I
11 understand what you mean and -- without more context
12 about what you mean by "benchmark plan."

13 Q. You never heard the term "benchmark map" or
14 "benchmark plan"?

15 A. I've probably used the phrase "benchmark," I'm
16 talking about a plan in some context, but probably not
17 the way that -- or maybe not the way you're thinking of.

18 So no, without context, I'm not sure what that
19 means.

20 MS. PRICE: Okay. Let's pull up the benchmark
21 plan.

22 BY MS. PRICE:

23 Q. Doctor, I'm going to show you now the map that
24 was in plan -- in place for senate districts prior to
25 when the Enacted Plan that the Legislature passed was

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
15

1 adopted.

2 Have you seen this before? And we can scroll
3 in on any parts of it if you'd like.

4 A. I have looked at a -- not this exact document,
5 but I've looked at the Florida State Senate map that was
6 in place from 2016 to '22.

7 Q. And you believe that to be a different map
8 than this map?

9 A. Oh, I -- I don't -- I don't know the map well
10 enough to say yes or no.

11 Q. I don't want to characterize your review or
12 not review. It sounds like you've seen the benchmark
13 map but your analysis didn't involve it that much. Is
14 that fair to say? Or I'm -- talk to me about how you
15 either looked at or used or didn't use the benchmark
16 map.

17 A. Sorry. You're referring to this -- this map
18 in front of us as the "benchmark map"?

19 Q. When I talk about the "benchmark map" -- let's
20 back up.

21 If I talk about the "benchmark map," I'm
22 talking about the map that was in place until 2022.

23 Do you understand that?

24 A. Yes.

25 Q. So whether it was this document or if you

CORY MCCARTAN, PH.D.

December 02, 2024

KETO NORD HODGES vs ALBRITTON

16

1 remember another document, please let me know. I'm
2 trying to understand to what extent you looked at,
3 analyzed, reviewed, did anything with the benchmark map.

4 A. After drawing the maps that I produced for
5 this report, I reviewed portions of the benchmark plan
6 and other historical state senate and state house and
7 congressional plans to contextualize the changes that I
8 made in past choice that the Legislature has made in
9 drawing districts. So to the extent that that review
10 involved the benchmark plan, I would have looked at
11 portions of that plan.

12 Q. Okay. That -- and you said "after." Does
13 that mean you didn't look at the benchmark before you
14 drew the districts?

15 A. That's correct, to the best of my
16 recollection.

17 Q. This document that's in front of you right
18 here -- again, I don't want to characterize what you
19 said, but I thought you said you weren't sure whether
20 this is the document you reviewed or if you reviewed
21 another document. Is that correct?

22 A. I believe I looked at the benchmark plan on
23 the Legislature's redistricting website, so it would not
24 have been this exact PDF.

25 Q. Does this PDF look like a true and accurate

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

17

1 representation of the benchmark plan that you looked
2 at?

3 A. I -- I don't recall enough of the details, the
4 configuration, the benchmark plan to say yes or no, but
5 I'm happy to accept your representation that this is
6 showing us the benchmark plan.

7 Q. Okay.

8 MS. PRICE: Let's mark this as Exhibit 2,
9 please.

10 (Exhibit 2 will be marked for identification
11 and attached to the transcript once received by the
12 reporter.)

13 BY MS. PRICE:

14 Q. And another term that I want to talk to you
15 about and we used a little bit, but I want to make sure
16 you understand, is "Enacted Plan." Have you used that
17 phrase before or are you familiar with that phrase?

18 A. Yes. When you say "Enacted Plan," I
19 understand that to mean the plan enacted by the
20 Legislature that is being challenged by the plaintiffs
21 in this case.

22 Q. Okay. We're going to go ahead and pull that
23 up.

24 Is that a document or a plan that you reviewed
25 prior to starting your work?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
18

1 A. Yes.

2 Q. And what did you review the Enacted Plan
3 for?

4 A. I was, you know, shown the Enacted Plan in --
5 you know, as part of my assignment which was to redraw,
6 you know, the -- you know, according to instructions the
7 Tampa portion. So I would have -- you know, in altering
8 this map to draw my map, I would have then, you know,
9 seen this map and used it as a starting point.

10 Q. Do you recognize this document that's up right
11 now as the Enacted Plan?

12 A. I recognize the Tampa region.

13 MS. PRICE: Let's go ahead and mark this as
14 Exhibit 3.

15 (Exhibit 3 will be marked for identification
16 and attached to the transcript once received by the
17 reporter.)

18 BY MS. PRICE:

19 Q. Does this look like a true and accurate
20 representation of the Enacted Plan that you would have
21 reviewed?

22 A. In the Tampa region that I'm familiar with,
23 yes; and I'll accept your representation that the rest
24 of the map is likewise accurate.

25 Q. Okay. Besides the enacted map and prior to

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

19

1 your drawing of Plans A, B, and C, did you review any of
2 the staff drawn maps that the Florida Senate considered
3 during the redistricting process?

4 A. No.

5 Q. Did you review any public submissions that the
6 Florida Senate received --

7 A. No.

8 Q. -- during redistricting process?

9 No.

10 Are you familiar with a public submission
11 known as "P000S0042" or "Plan 42" which was created by
12 Nick Warren?

13 A. Not that I know of or I can recall.

14 Q. So you don't remember reviewing that before
15 you began your work or as a part of your work in this
16 litigation?

17 A. No.

18 Q. Are there any other maps that you reviewed
19 during your work on this litigation?

20 A. No.

21 Sorry. Sorry. Could you repeat the question?

22 Q. Yes. I'm wondering whether there's any other
23 maps that you reviewed as a part of your work in this
24 litigation?

25 A. Ahh. Yes. As I mentioned I reviewed numerous

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

20

1 historical plans as part of writing my report. I don't
2 have that list off the top of my head, but I could read
3 it out of the relevant sections of my report if that
4 becomes necessary.

5 Q. All right. Anything else?

6 A. No other maps.

7 Q. Were you given any financial constraints with
8 regard to your analysis in this case?

9 A. Could you be more specific?

10 Q. Were you given any constraints on the amount
11 of -- financial amount to which you would have built
12 plans --

13 A. Oh.

14 Q. -- for your work in this litigation?

15 A. Probably. There's usually a clause like that
16 in the retainer. I don't remember the details for this
17 particular matter.

18 Q. What about time constraints?

19 A. Only insofar as that would be implied by a
20 financial constraint.

21 Q. All right. How much time do you -- how much
22 time did you spend on your analysis and the preparation
23 of this expert report --

24 A. I don't --

25 Q. -- approximately?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

21

1 A. I don't recall.

2 Q. Is it a couple of days?

3 A. The work was spaced out over a long period of
4 time and then concluded a while ago when the report was
5 filed; so, yeah, I couldn't say exactly.

6 Q. Cumulatively would it be closer to a couple of
7 days or a couple of weeks?

8 A. Days, probably.

9 Q. Okay. Dr. McCartan, what did you do to
10 prepare for today's deposition?

11 A. I met with counsel and we discussed sort of
12 what to expect.

13 Q. Did you review any documents?

14 A. We reviewed my report.

15 Q. Any other documents?

16 A. Not that I recall.

17 Q. And how long did you meet to prepare with
18 counsel for this deposition?

19 A. About 45 minutes or an hour if I remember
20 correctly.

21 Q. And it was just one meeting. Is that
22 correct?

23 A. Yes.

24 Q. I am going to pull up a document titled
25 "Expert Report of Cory McCartan, Ph.D." And I know it

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
22

1 is lengthy, but we're going to just scroll through the
2 first 21 pages slowly. I will assure you the rest of
3 the exhibits are there, but I'd like you to just look at
4 it as we scroll through it and let me know if you
5 believe that is a true and accurate copy of your expert
6 report.

7 I think your signature is on Page 21.

8 A. It appears to be.

9 MS. PRICE: Go ahead and mark this as 4? Is
10 that correct?

11 THE COURT REPORTER: (Moves head up and down.)

12 (Exhibit 4 will be marked for identification
13 and attached to the transcript once received by the
14 reporter.)

15 BY MS. PRICE:

16 Q. And, Dr. McCartan, you said you were contacted
17 probably late 2023 about this project. When did you
18 actually begin working on doing the analysis for the
19 parts of your expert report?

20 A. I don't remember exactly. Early spring 2024
21 probably.

22 Q. Okay. And I know that we talked about some of
23 the maps that you would have reviewed that at least you
24 looked at the enacted map prior to doing your work.

25 Did you also take a look at the complaint as a

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
23

1 part of your analysis and expert report?

2 A. Not that I recall.

3 Q. Is there any document that plaintiffs' counsel
4 provided to you?

5 A. I was provided with written instructions which
6 if I remember included a memo from the State Senate
7 about criteria to use in drawing districts.

8 After drawing the maps I was also provided
9 with a list of past districts which were represented to
10 me as being protected that I should analyze as part of
11 contextualizing the choices made in the plans that I
12 drew.

13 Q. All right. So you were provided with a memo.
14 You were provided with past districts to analyze, and
15 you said that you were provided with a set of written
16 instructions?

17 A. That's correct.

18 Q. Do you still have those written
19 instructions?

20 A. Yes.

21 Q. Is that something you are willing to provide
22 us today by the end of the day?

23 A. I mean, I -- both counsel and I have those and
24 I'm sure they can be provided.

25 MS. PRICE: Counsel, is that agreeable?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

24

1 MR. WARREN: To the extent that Dr. McCartan
2 was provided facts or data that he considered in
3 forming his opinions or assumptions that he relied
4 on, certainly he can testify to any of those. I
5 think otherwise any communications between counsel
6 and him about his report would be protected under
7 26(b)4(C).

8 MS. PRICE: I'm not looking for any privileged
9 communications. What I'm looking for are
10 instructions that he said he followed and relied
11 upon in conducting his analysis in his report.

12 MR. WARREN: He --

13 MS. PRICE: He talked about some of those
14 instructions in his report. So that's just what I
15 would like to see is just the instructions that he
16 relied upon.

17 MR. WARREN: I think this same line of
18 questioning happened in Dr. Trende's deposition,
19 and Mr. Raban I think gave the same answer that I'm
20 going to give now, which is that you can definitely
21 ask him about what he was asked to do that he talks
22 about in his report and facts and data and
23 assumptions that he considered and relied on; but
24 other communications between counsel and expert are
25 protected.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
25

1 MS. PRICE: Okay.

2 BY MS. PRICE:

3 Q. Dr. McCartan, since finalizing and submitting
4 your report have you had an opportunity to review it?

5 A. Yes.

6 Q. You're satisfied with the analysis and the
7 opinions inside?

8 A. Yes.

9 Q. How many maps did you create or draw as a part
10 of this litigation?

11 A. Three.

12 Q. Did you create any maps that were not included
13 within your expert report?

14 A. The three maps that I provided were drawn
15 interally, so there were drafts that I had revised. So
16 any draft maps were not included.

17 Q. Does that mean you had draft maps that you
18 showed to other individuals and then made changes to it
19 after that?

20 A. That's correct.

21 Q. And who would those individuals have been?

22 A. Counsel for the plaintiffs.

23 Q. Besides counsel for plaintiffs did anyone else
24 review your maps?

25 A. Well, I don't always know who's a lawyer and

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

26

1 who's not a lawyer, you know, on these calls. So it's
2 possible there were staff for counsel for the plaintiffs
3 or assistants; but outside of, you know, ACLU of
4 Florida, no.

5 Q. So did you have like a research assistant or
6 anyone help you drawing the maps or creating the maps?

7 A. No.

8 Q. What about in helping you draft or create your
9 expert report?

10 A. No.

11 Q. On Page 2 of your report --

12 MS. PRICE: Let's scroll to Page 2, if that's
13 okay, Kassie.

14 BY MS. PRICE:

15 Q. -- you discuss a simulation algorithm -- it's
16 called an "SMC algorithm" -- that generates many
17 randomly sampled redistricting plans. Is that right?

18 A. Yes.

19 Q. Is that something that you -- well, first off,
20 can you talk to me about what an SMC algorithm is, just
21 generally?

22 A. "SMC" stands for "Sequential Monte Carlo."
23 It's a general statistical technique that is used to
24 allow algorithms that can generate random samples. I
25 developed a particular type of SMC algorithm for the

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
27

1 redistricting context in the paper that's footnoted
2 there.

3 Q. So you -- do you put like certain inputs
4 around what you're looking for and then it generates
5 maps pursuant to those inputs, or do you just show the
6 geographical area and it generates random maps or how --
7 can you, I'm sorry, dumb-it-down for me like I'm a third
8 grader?

9 A. That's roughly correct. So you provide the
10 relevant geographic data, particular constraints that it
11 supports that need to be met, it will generate randomly
12 and according to specific probability distribution plans
13 from that region, from that part of the state.

14 Q. Okay. Is that -- did you use that algorithm
15 in this litigation?

16 A. I did not.

17 Q. You did not. Okay.

18 Let's go to ...

19 MS. PRICE: Can you pull up the redrawing area
20 of the Enacted Plan? It's a separate exhibit.

21 BY MS. PRICE:

22 Q. On Page 5 of your report you have a Figure 1,
23 and it's called "Redrawn area of the enacted plan." I'm
24 going to show you just a zoomed-in picture of it.

25 Does that look like a true and accurate

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
28

1 representation of Figure 1 to you?

2 A. Yes.

3 MS. PRICE: Let's go ahead and mark this as --
4 I think we're on 5?

5 THE COURT REPORTER: (Moves head up and down.)

6 (Exhibit 5 will be marked for identification
7 and attached to the transcript once received by the
8 reporter.)

9 BY MS. PRICE:

10 Q. How is this Figure 1, "redrawn area of the
11 enacted plan," different from the Enacted Plan that we
12 saw before which I think we marked as Exhibit 3?

13 A. This map represents the same plan. It's just
14 zoomed in to the Tampa area.

15 Q. But it says "redrawn." So is it -- how is it
16 different?

17 A. As I said, this map is the same as the Enacted
18 Plan. It's just zoomed in to the Tampa area.

19 Q. Why did you redraw this map instead of using a
20 map off the Florida Legislature's website?

21 A. I'm not sure I understand the question. Could
22 you rephrase it?

23 Q. Figure 1, did you get this figure from the
24 Florida Legislature's website?

25 A. No.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
29

1 Q. Did you draw this figure?

2 A. Yes.

3 Q. Why did you draw a figure that you could have
4 gotten from the Florida Legislature's website?

5 A. I was producing a number of maps to include in
6 this report, such as Figures 2 and 3 and 4, and so I
7 also produced Figure 1 using the same type of map so
8 they were comparable.

9 Q. Comparable but not identical?

10 A. I'm not sure I understand. Is there a
11 question there?

12 Q. Yes. I'm asking if this is identical to the
13 map that you would have seen off the Florida
14 Legislature's website?

15 A. As I said, this is the same as the Enacted
16 Plan, it's just zoomed in to the Tampa area.

17 Q. So is that a "yes, it's identical," or is that
18 a "no"?

19 A. I'm just -- you've asked the same question.
20 I'm giving you the same answer.

21 Q. I'm looking for a "yes" or a "no" answer,
22 Doctor. It's a yes-or-no question.

23 A. So what do you mean by "identical"?

24 Q. "Identical" means "exactly the same." Is it
25 exactly the same as the figure that you would have

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

30

1 gotten off the Florida Legislature's website?

2 A. No, because the Florida Legislature website
3 does not have a zoomed-in version of the Enacted Plan
4 with these colors and these labels of the Enacted Plan.
5 So it's not identical.

6 Q. Did plaintiffs' counsel ask you to redraw the
7 Enacted Plan?

8 A. Those are my instructions in this case, yes.

9 Q. On Page 3, going back to your expert report,
10 Paragraph 8, it says you "performed initial adjustments
11 and district drawing using Dave's Redistricting App
12 software." Do you see that?

13 A. Yes.

14 Q. Can you just kind of talk me through what that
15 means, "initial adjustments and district drawing"?

16 A. I drafted maps in the DRA software.

17 Q. Okay. But you're using -- okay.

18 So did you start with a blank slate or is
19 there any significance to the word "initial
20 adjustments"?

21 A. I see. I began with the Enacted Plan.

22 Q. Okay. Okay. And then you made -- tell me if
23 I'm wrong or not. You made adjustments to the Enacted
24 Plan using this software.

25 A. That's correct.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

31

1 Q. Is that correct?

2 Okay. And then in the second sentence it says
3 you performed additional adjustments using the
4 Legislature's online redistricting software. Is that
5 correct?

6 A. Yes.

7 Q. So can you talk to me about what you did
8 during the initial adjustments and what you did during
9 the additional adjustments and why that required the use
10 of two different softwares?

11 MS. PRICE: Objection; form.

12 A. The first question --

13 BY MS. PRICE:

14 Q. We'll start with the first question.

15 Can you talk to me about the difference
16 between your initial adjustments and your additional
17 adjustments?

18 A. Sure. The majority of the drafting occurred
19 in DRA. After completing that drafting I loaded the
20 maps into Legislature's software to make sure that there
21 was no -- there were no inaccuracies, as it were, in the
22 DRA software and that the final map would satisfy all
23 the, you know, population bounds and so on per the
24 Legislature's own software.

25 At that point there were several other maybe

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

32

1 block-by-block adjustments that were made to regularize
2 boundaries or adjust water blocks and so on. And so any
3 sort of final small block little tweaks would have been
4 applied, you know, while in the Legislature software
5 after they had already been loaded into the software.

6 Q. Okay. So it's a difference in size of the
7 adjustments?

8 A. It was just -- it was just sequential. I did
9 most of the drafting and then I got it ready in the
10 software. And then any other changes that I made after
11 I initially loaded things into the website or software
12 happened in that software and those were -- what I
13 recall those were exclusively very small block-level
14 adjustments.

15 Q. We previously touched on -- you said you were
16 given instructions by plaintiffs' counsel. Can you talk
17 to me about the instructions that plaintiffs' counsel
18 gave you?

19 A. Yes. Do you have a more specific question?

20 Q. What instructions did plaintiffs' counsel give
21 you?

22 A. I was instructed to adjust the map to ensure
23 that District 16 was wholly contained in Hillsborough
24 County; and then make, you know, any necessary changes
25 to the surrounding districts to accomplish that and end

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

33

1 up with a plan that still complied with all of the
2 relevant state and federal and constitutional criteria.

3 Q. Any other instructions?

4 A. I think I was asked to produce three such
5 plans.

6 Q. Okay. What else?

7 A. Those are the only instructions that I
8 remember receiving.

9 Q. Can you tell me who gave you those
10 instructions?

11 A. Counsel for the plaintiffs.

12 Q. And if we go to Page 4, Paragraph 12, I think
13 this is what you're talking about. You were instructed
14 to adjust District 16 to be wholly within Hillsborough
15 County. Correct?

16 A. Yes.

17 Q. And then it says here "while altering
18 surrounding districts only to the extent necessary to
19 accomplish this change."

20 A. Yes.

21 Q. What does that mean?

22 A. Well, for instance, redrawing districts
23 around, you know, Jacksonville wouldn't generally be
24 necessary because you could just make changes to
25 districts immediately in the Tampa area.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

34

1 So once you've redrawn District 16 to be
2 within Hillsborough there's now a gap on the other side
3 of the bay that needs to be filled. So some of the
4 changes are going to have to be made. I was instructed
5 to keep those changes as minimal as possible while still
6 complying with the redistricting standards.

7 Q. So the "surrounding districts," what do you
8 understand that term to mean? How broad?

9 A. Both districts that immediately adjoin
10 District 16 and those that due to changes in the
11 adjoining districts would also be impacted. So there
12 might be some districts that don't immediately adjoin
13 District 16 that would count as surrounding due to the
14 way they're configured in the locations of county
15 boundaries.

16 Q. And who made the decision as to whether it was
17 necessary to alter a surrounding district? Is that you
18 or plaintiffs' counsel or both?

19 A. Me.

20 Q. Do you know why plaintiffs' counsel asked you
21 to draw District 16 wholly within Hillsborough County?

22 A. Not exactly.

23 Q. What do you mean by "not exactly"?

24 A. I'm not sure exactly what their reasons are
25 for that instruction.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

35

1 Q. Okay. You can't say one way or the other. Is
2 that fair?

3 A. I understand that keeping districts wholly
4 contained within counties where possible is part of the
5 constitutional standards for redistricting. So I could
6 surmise that the instructions have something to do with
7 that requirement, but I'm not privy to their larger case
8 strategy as it were.

9 Q. Were you instructed to make any other
10 districts fit wholly within the county?

11 A. No.

12 Q. And you said that you were provided with
13 memorandum here from Senator Rodrigues to Jay Ferrin.
14 Let's take a look at a Rodrigues memo dated October 18,
15 2021.

16 Doctor, I'd like you to take a look at this
17 and let us know if this looks like a true and accurate
18 copy of the memorandum that you were given and reviewed
19 and followed as a part of your work.

20 A. Yeah, that appears to be the same memo.

21 MS. PRICE: Great.

22 Let's mark this as 6, please.

23 (Exhibit 6 will be marked for identification
24 and attached to the transcript once received by the
25 reporter.)

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

36

1 BY MS. PRICE:

2 Q. And are there any other instructions that you
3 remember as we're talking through all this now that you
4 were also given to follow as a part of your work?

5 A. No, not that I recall.

6 Q. Let's go ahead and go plan by plan, if that's
7 okay. I'm going to pull up an enlarged copy of Plan A
8 which is Figure 2 from your expert report.

9 I'd like you to take a look at it,
10 Dr. McCartan, to make sure this is a true and accurate
11 copy of Plan A.

12 A. Yes, it looks to be.

13 Q. Great. Thank you.

14 MS. PRICE: Let's go ahead and mark this as
15 Exhibit 7.

16 (Exhibit 7 will be marked for identification
17 and attached to the transcript once received by the
18 reporter.)

19 BY MS. PRICE:

20 Q. And, Doctor, in your own words can you
21 describe to me how you drew Plan A?

22 A. Sure.

23 So I began by removing the portion of District
24 16 contained in St. Petersburg. So I removed all those
25 blocks.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

37

1 That required then sort of bringing the
2 boundary of District 18 down so that it would contain
3 the rest of the peninsula there, which then in turn
4 required that District 21 be adjusted to take in --
5 taking of the population there.

6 At that point District 21 adjoins, you know,
7 both District 14 and District 23 in the enacted map, but
8 its boundary with District 14 is completely along the
9 county border. And so to avoid introducing, you know,
10 additional county splitage, it wasn't necessary for me
11 to adjust the District 21/14 border.

12 So instead I adjusted the border of District
13 23, and then that then created a need to adjust the
14 boundaries of District 16 in the northeast as well as
15 District 20 to keep populations balanced.

16 In all those changes I attempted to comply
17 with all the two tiers of the redistricting
18 requirements.

19 Q. Okay. Any -- I'm sorry. I thought you got
20 through 23. Did you get down to 20 or ...

21 A. Yeah. So the adjustment of 23 then required
22 adjustments to 20 and 16 to fill in the map and keep
23 populations balanced.

24 Q. All right. So you said you started by moving
25 the Pinellas population of enacted 16 into 18. Right?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
38

1 A. Yeah, that's one way to put it.

2 Q. Okay. And then you said you moved the excess
3 from 18 into 21?

4 A. Yes.

5 Q. Okay. Why did you do that instead of moving
6 it into 14 or 20?

7 MS. PRICE: Object to form.

8 BY MS. PRICE:

9 Q. Why did you choose to put the excess
10 population from 18 into 20?

11 A. Well, as I said, you know, avoiding splitting
12 counties is one of the tiers of the redistricting -- one
13 of the redistricting criteria. So adjusting the 21/18
14 boundary can require introducing additional county
15 splits and was a more minimal change compared to
16 somehow, you know, having 20 stretch across into the new
17 county or having 14 also cross the bay.

18 Q. Okay. You previously used the word
19 "required." Did you understand that to mean you could
20 not draw a map with those options?

21 A. I'm sorry. I don't -- I don't recall the
22 context in which I said "required."

23 MS. PRICE: Madam Court Reporter, can you read
24 back Dr. McCartan's answer when he talked about --
25 I first asked him to describe how he drew Plan A,

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

39

1 and he said that he moved population into 18, and
2 then I think he said he was required to then move
3 it to 21 and then that required to move it
4 somewhere else. Can you read that, please?

5 THE COURT REPORTER: Yes, ma'am.

6 (Reporter read back as requested.)

7 BY MS. PRICE:

8 Q. So, Dr. McCartan, can you explain why you used
9 the word "required" twice there?

10 A. Yeah. So I guess I should, yeah. So
11 "required" in the sense of the only district adjoin --
12 yeah, that -- so once you unassign the blocks in
13 Pinellas that were part of District 16 then you said,
14 "Okay, where do those blocks get assigned?" The only
15 option that doesn't introduce a new county split is to
16 assign those blocks to District 18.

17 So my understanding of compliance with
18 constitutional standards would be that 18 -- putting
19 those blocks in 18 would be the appropriate choice. So
20 I did not receive, you know, instruction to do that
21 per se.

22 Q. And is the same true for 21?

23 A. Yes.

24 Q. Okay. Let's talk about the boundaries between
25 16 and 23.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

40

1 MS. PRICE: And can we enlarge those a little
2 bit just so we can see the difference between the
3 blue and the yellow?

4 BY MS. PRICE:

5 Q. Can you talk to me how you drew those
6 boundaries between 16 and 23?

7 A. Yeah. I intended to, you know, ensure that
8 municipalities -- incorporated municipalities -- weren't
9 split and major roadways, waterways, canals and the like
10 were followed. The irregular shape of some of the
11 census blocks in that part of the county led to, you
12 know, some abnormalities in the geographic shape of the
13 border.

14 But the adjustments there were, you know, as
15 elsewhere, to meet the population targets for each
16 district while, you know, complying with those
17 constitutional standards.

18 Q. It looks like there's an east-west road that's
19 pretty straight across going down -- just south of the
20 north border of 16. Why didn't you follow that road for
21 more clear boundary and make adjustments to 14 and 23
22 and 16 there?

23 A. Well, as I mentioned, adjusting District 14
24 was not necessary to make adjustment to 16 that I was
25 instructed to do. My instructions were only to make

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
41

1 necessary changes. So any adjustment to 14 would not
2 have been in line with my instructions.

3 Q. Did you --

4 A. As to why -- oh.

5 Q. Go ahead. I'm sorry.

6 A. As to why that particular road, I couldn't
7 speculate. I made -- I drew these maps a while ago and
8 all the decisions sort of play off each other so you
9 can't really isolate one decision from another.

10 Q. You're not able to look at these maps today
11 and tell me whether you were following roads or cities
12 for portions of them? Is that what you're saying?

13 A. I don't believe that's what I just said.

14 Q. Can you restate what you're saying then so
15 that I can better understand.

16 A. Sure.

17 Because of the need to keep every district
18 within a cer -- narrow population band, changes to one
19 portion of a boundary unnecessarily create changes on
20 other boundaries. So any one decision about a portion
21 of a map implicates decisions elsewhere.

22 So I can't look at any one portion of the
23 boundary and justify that particular choice of boundary
24 only with regards to that boundary. It may also have
25 depended on what was happening elsewhere in the map as I

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
42

1 was drawing it.

2 Q. Okay. Can you tell me right now whether the
3 north side of 16 follows a road or any particular
4 cities?

5 A. Just based on this map we have in front of us
6 there's not enough detail for me to answer that
7 question.

8 Q. And you don't remember this as a part of your
9 work sitting here today?

10 A. No.

11 Q. Okay. You said that it wasn't necessary to
12 adjust District 14 and so you didn't. Is that
13 correct?

14 A. That's right.

15 Q. Did you understand the instruction that you
16 could only change districts if it was necessary to mean
17 that you couldn't adjust District 14?

18 A. As I mentioned my instruction was to adjust
19 surrounding districts only to the extent necessary to
20 accomplish, you know, keeping 16 within Hillsborough.
21 So if a change -- it was possible to leave a district
22 unchanged, then yeah, my interpretation of that
23 instruction would be that I was required not to change
24 it.

25 As I mentioned due to the configuration of 14

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
43

1 against the northwest corner of Hillsborough it was not
2 necessary to alter 14 to make the changes to District 16
3 that I was instructed to.

4 Q. So then I think what I'm hearing you say it's
5 based on the northwest corner of 14 and your
6 instructions from plaintiffs' counsel you were not able
7 to make changes to District 14. Is that correct?

8 A. Yes.

9 Q. Okay. Let's talk about -- so for -- I think
10 it says in Paragraph 17 of your report -- and I don't
11 want to switch over to it, but I think you have a copy
12 of it in front of you. Is that correct, Doctor?

13 A. I do.

14 Q. It says that 23 had too much population and so
15 you adjusted both 16 and 20 to balance it out.

16 Why didn't you just take that excess
17 population and put it into 16 and leave 20 alone?

18 A. Sorry. I'm just reading that section of the
19 report.

20 Q. That's okay.

21 A. So in removing the portion of 16 in Pinellas
22 now 16 was underpopulated, so it had to gain from
23 somewhere. It could gain partially from 23, but in, you
24 know, complying with the standards as I interpreted
25 them, it made more sense to end up adjusting both 16 and

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

44

20. And that makes sense especially considering the original adjustment of 16 was down in the southern portion of the district which is right about where it interfaces with District 20.

Q. So what requirements made you take population and change population from 20? I'm trying to understand why it wouldn't have just been solved by expanding 16 to take the overflow from 23.

A. Yeah. So part of it is that you have incorporated municipality over around Plant City, so you try to avoid splitting that. So it a little bit boxes you in as sort of where you can take population up in that corner, whereas there are not really many incorporated municipalities down in the southern portion of the county.

Additionally, you know, one of the requirements in the memo is to, you know, make sure that you're not diluting the voting power of minority voters. And so to the extent that you start to include portions of the county that would have that effect, I try to avoid doing that.

And so putting those things together, making adjustments to both 16 and 20, to me in my judgment that complied with those standards more closely.

Q. Are there any other incorporated areas of 23

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

45

1 besides Plant City that you were concerned about
2 avoiding in Hillsborough County?

3 A. There may have been. That's the one that, you
4 know, comes to mind right now that I recall. I don't
5 have -- I don't memorize all of the incorporated ones.
6 That's the one that comes to mind.

7 Q. I grew up in Dade City, so I'm a little bit
8 familiar with this area. So I'm just wondering, you
9 know, if there's something in that northeastern part of
10 Hillsborough County that you were trying to avoid
11 putting into 16?

12 A. Nothing specific comes to mind.

13 Q. Okay. So it would have been either -- I think
14 what I hear you saying, let me know if this is a fair
15 representation -- it would have been either avoiding
16 splitting incorporated cities or municipalities, or else
17 making sure that you didn't diminish the voting power of
18 other races, minority races. Is that correct?

19 A. That's right.

20 Q. Okay. Let's talk about -- if we could scroll
21 down a little bit -- the boundaries of 16 and 20.

22 Can you talk to me a little bit about how you
23 decided to make these boundaries, the entire boundary
24 line between 16 and 20? What was driving your
25 decisions?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

46

1 A. Sure.

2 So at a high level in line with, you know,
3 requirements to not dilute minority voting power, you
4 know, I was aware of sort of the broad demographic
5 trends in southern Hillsborough.

6 And then looking specifically at other aspects
7 of those criteria, you have some major roadways,
8 north-south roadways, that are sort of paralleling the
9 shore there. So it made sense to build a district
10 boundary around those roadways or in some cases
11 waterways. So I ended up with that configuration in
12 this particular map sort of balancing those two
13 considerations.

14 Q. Let's take this piece by piece.

15 I heard you say that you were making
16 considerations based on the demographics of southern
17 Hillsborough County. Is that correct?

18 A. Yes.

19 Q. Can you talk to me a little bit more about
20 what that means?

21 A. I had through the Legislature software, for
22 instance, had access to, you know, the demographics of
23 this area. And, you know, mathematically if you add --
24 for instance, if you have a district that's -- has a
25 high minority percentage and you add an area that has a

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

47

1 low minority percentage that's going to reduce the
2 overall minority percentage of the district.

3 And so -- and sort of laying out the overall
4 configuration of 16, I was trying to balance keeping 16
5 as similar as possible to the existing plan while on the
6 margin while changing things, avoiding, for instance,
7 removing portions of District 16 that, you know, had,
8 you know -- you know, heavily black areas, for instance.

9 Q. Okay. So you had to take race into account
10 when you were drawing these lines, particularly with
11 regard to southern Hillsborough County?

12 A. I don't know about "particularly." In order
13 to comply with the redistricting standards and to avoid
14 diluting, you know, or diminishing voters' ability to
15 elect their representatives -- minority voters' ability
16 to elect representatives -- I had to be aware of the
17 racial composition of different parts of the county.

18 Q. Okay. So you made decisions based upon some
19 of that demographic information?

20 A. The overall sort of strategy or configuration
21 aware at a high level changes were made was informed by
22 that, yes.

23 Q. And I heard you -- let's just talk about that
24 coast part from like Gibsonton down to Ruskin. I heard
25 you say you were following a roadway. It looks like

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
48

1 you're really close to the coastline. So I think you
2 were following you said the memo and like Tier 2
3 considerations.

4 Why wouldn't you just -- why would you carve
5 that coastline part out of District 16?

6 A. I mean, I do have a map that doesn't do that,
7 so I provided multiple options.

8 In this particular map I found that roadway to
9 be a natural boundary. There's a reasonable amount of
10 population in between that roadway and the coast and so,
11 you know, included in the coastal area would have
12 required adjustments elsewhere. So I did produce a
13 version that tried out that configuration as well.

14 Q. Okay. But in this map you carved that piece
15 out by following that roadway. Is that correct?

16 A. I guess I'm not sure I would characterize it
17 as "carved it out." The boundary has to go somewhere.
18 I found that that roadway was a boundary that led to --
19 you know, it was a major roadway. It was a, you know,
20 pretty, pretty straight boundary. It helped me comply
21 with all the standards.

22 Q. How many municipalities did you split by
23 following that roadway?

24 A. I'm not sure.

25 Q. More than one?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

49

1 A. To the best of my recollection there are no,
2 you know, incorporated municipalities in that portion of
3 the county, so I -- I'm not sure the answer would be
4 yes.

5 Q. Okay. So if you split Gibsonton, Apollo
6 Beach, Ruskin, any other areas down there, you're saying
7 that's okay because they're not incorporated?

8 A. That's --

9 MR. WARREN: Objection.

10 A. -- my understanding of the criteria, yes.

11 BY MS. PRICE:

12 Q. Okay. And you considered following the road
13 boundary to be more important than a compactness
14 requirement in this particular map. Is that correct?

15 A. Could you --

16 Q. I guess if you had to choose between something
17 that would improve compactness or following the road
18 boundary, it looks to me like for Plan A you went with
19 the road boundary?

20 A. I'm not quite understanding the hypothetical
21 here. Is the hypothetical that not following this
22 particular road boundary would have led to a more
23 compact map?

24 Q. Well, you tell me. Do you think 20 would have
25 been more compact if you took 16 all the way west to the

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
50

1 coast?

2 A. I'm not sure. You know, compactness is a
3 visual judgment. It's also -- you know, the portion of
4 the districts that's in the bay is not sort of shown on
5 this map, and there's no metrics on compactness you can
6 use to measure it. I'm not sure exactly what the impact
7 would have been on some of those metrics, so --

8 Q. So when -- I don't mean to cut you off. I'm
9 sorry.

10 A. Yeah. Just to conclude, you know, it's
11 possible that a particular reconfiguration of moving the
12 boundary to the coast would have made one district or
13 the other more compact or it might not have. It might
14 have made one district more compact, the other less
15 compact.

16 So compactness was, you know, an element that
17 I considered in drawing these districts, but I'm not
18 sure it's fair to characterize it as saying I picked one
19 over the other in drawing Map A.

20 Q. In drawing Map A it -- I'm trying to think of
21 an accurate way to phrase this that accurately restates
22 what you're saying.

23 You're saying you looked at compactness, but
24 sitting here today you can't tell me whether following
25 that road instead of going to the coast impacts

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

51

1 compactness one way or the other? Is that what you're
2 saying?

3 A. Well, as I mentioned earlier, whenever you
4 make a change to one part of a map, you have to make a
5 change elsewhere on the map to balance population. So I
6 don't know other than by looking at a comparison with
7 the version -- yeah, with Plan C which does do something
8 like this. Other than that, I can't tell you what the
9 specific impact would have been in compactness because
10 there would have been changes to both districts in not
11 just this region but elsewhere.

12 So overall when drawing these districts I
13 balanced and kept sort of equal as it were, you know,
14 trying to follow these major boundaries and visual
15 compactness of the districts.

16 Q. Let's talk about the southeastern boundary
17 right here between 16 and 20.

18 A. Okay.

19 Q. If you start from the bottom where it says,
20 "Sun City Center," it looks like you kind of shot over
21 to the east and then you're jetting over to the west and
22 then you're going due east again and then you kind of go
23 north.

24 Can you kind of tell me what was driving those
25 line-drawing decisions?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
52

1 A. Sure.

2 Some of those follow major roadways, others
3 follow waterways, others are just boundary portions
4 trying to connect the pieces that do follow roadways or
5 waterways.

6 Q. Did those line-drawn decisions have anything
7 to do with race?

8 A. I would -- I need a more specific question.
9 Like overall, as I mentioned, the configuration of these
10 districts wasn't formed by racial demographics. I
11 wouldn't characterize any particular segment of that
12 boundary as drawn due to race or something like that.

13 Q. Does that mean that you don't think that you
14 can look at pieces of a boundary on a district and
15 characterize those as drawn by race as examples of that?

16 MR. WARREN: Object to the form.

17 A. Are you saying as a general principle or for
18 my map specifically?

19 BY MS. PRICE:

20 Q. I'm trying to understand what you just said.
21 It sounded to me like you said as a general principle
22 you can't look at a specific line of a district and say
23 whether it was informed by race or not. So I'm trying
24 to understand if you mean with your maps or with any
25 map?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
53

1 A. Gotcha.

2 I think it's a much bigger conversation than
3 general principle. I'm not here to really speculate on
4 that.

5 In my map specifically, as I mentioned, race
6 helped inform the overall configuration of the district.
7 But any boundary portion, any decision there, had
8 implications for the rest of the other boundaries, the
9 rest of the map, the rest of the population constraint.

10 So I'm not able to look at a particular
11 portion of a boundary that I drew here and tell you, you
12 know, this was, you know, this percentage due to race or
13 what have you. These were sort of holistic decisions
14 made by trying to balance the requirements within each
15 tier while avoiding diminishing, you know, black voters'
16 ability to elect their representatives of choice.

17 Q. Do you recall if there's any municipal
18 boundaries that you're following here, or is it just I
19 think you said roadways?

20 A. I'll have to check, but I don't think to my
21 recollection there are incorporated municipalities in
22 that portion of the county. So those would in all
23 likelihood not be incorporated municipal boundaries.

24 Q. The Enacted Plan kind of took 301 down as its
25 eastern border down with 20.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

54

1 Why didn't you follow that road since it's a
2 major highway?

3 MR. WARREN: Object to form.

4 A. Well, in this case if I had done that there
5 would have been not enough population in District 16.
6 So adjustments elsewhere would have been had to be made.
7 And I think several other of my maps did explore
8 configurations where, you know, other roadways or other
9 choices were made there.

10 BY MS. PRICE:

11 Q. You couldn't have gone a little bit east of
12 the 23 and gone over to the coast and gone south more
13 and still stayed within Hillsborough?

14 A. I'm not sure I follow that hypothetical.

15 Q. If you -- was it possible for you to draw --
16 was it possible for you to stay with U.S. 301 in drawing
17 16 and still comply with the instructions that you were
18 given?

19 A. So I understand 301 to be the sort of
20 right-most marked road on this map, so I'm not familiar
21 with all the roadways. So if that is in fact 301, it
22 may be possible to draw a map that does that, that stays
23 within Hillsborough and that complies with all the
24 criteria. In trying to balance these considerations I
25 did not produce such a map.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
55

1 Q. Do you recall why you went east of 301 as
2 opposed to south or east into 23?

3 A. I just -- I didn't think about that particular
4 decision as a trade-off in that way you just framed.

5 (Mr. Evans exited the videoconference.)

6 A. I believe I probably had finalized the
7 boundary up around 16 and 23 or close to it and then the
8 southern portion, so I wasn't thinking about trading
9 off, following 301 versus, you know, drawing up there in
10 23, so ...

11 BY MS. PRICE:

12 Q. Go ahead and go to Plan B now. I'm going to
13 pull up an enlarged graphic of Plan B from your report
14 which is Figure 3.

15 Doctor, I'd like you to take a look at this.
16 Let me know if you believe this to be a true and
17 accurate copy?

18 A. It looks to be.

19 MS. PRICE: Let's go ahead and mark this as 8.

20 (Exhibit 8 will be marked for identification
21 and attached to the transcript once received by the
22 reporter.)

23 BY MS. PRICE:

24 Q. Can you talk to me about how you drew Plan
25 B?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

56

1 A. Sure.

2 I began with Plan A and made sort of minor
3 adjustments, including drawing District 23 out to the
4 gulf coast; making some adjustments to other boundaries
5 to, you know, look at different configurations that
6 still respect both compactness and following major, you
7 know, roadways, waterways, and so on.

8 I think in general I went from A to B. I
9 tried to sort of -- not always but, you know, produce
10 versions that prioritize compactness a little more; or,
11 you know, when there were two ways to go in Plan A,
12 maybe Plan B looked at the one that ended up with a more
13 visually compact result.

14 So overall the adjustments to Plan A were
15 relatively minor.

16 Q. Why did you start with Plan A instead of
17 starting with the enacted map and drawing a new -- a new
18 plan?

19 A. My instructions were to produce three plans.
20 The overall sort of -- I didn't feel there were that
21 many choices to make regarding the overall configuration
22 given the constraints involving county splits, you know,
23 the things we talked through with Plan A.

24 And so through the overall configuration that
25 I found Plan A I felt was sort of what made the most

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

57

1 sense, what was sort of implied by the various
2 instructions and requirements.

3 So re-deriving that same configuration from
4 the starting point wasn't necessary. I sort of began
5 with the configuration that was in Plan A and made
6 further adjustments in there to produce another
7 alternative for plaintiffs.

8 Q. Okay. So I think what I hear you saying is
9 that based on the constraints as you understand them in
10 the Florida Constitution, as well as the instructions
11 you were given, I think you said you didn't have that
12 many choices. Is that correct?

13 A. I'm sorry. Can you repeat that question?

14 Q. Yes. I want to make sure I understand what
15 you're saying. And I think you said that based on the
16 constraints and the requirements of the Florida
17 Constitution, as well as the instructions that you were
18 given in doing your drawing, I think you said you didn't
19 have that much choices. Is that correct?

20 A. In terms of the overall configuration of the
21 districts, yes.

22 Q. Yes. Okay.

23 And you mentioned 23. Here you're taking 23
24 out to the coast. Can you talk to me about what drove
25 that decision?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
58

1 A. Well, that sort of -- we're going to call it
2 the western boundary of 23, and Plan A was a little bit
3 irregular due to the need to avoid splitting
4 municipalities while trying to still follow major
5 roadways. And so to produce an alternative with a bit
6 of a cleaner western boundary, I found that going out to
7 the coast, then coming in and having sort of a more
8 vertical north-south boundary down to the county line
9 was possible in a way that it sort of didn't work out
10 that way in Plan A.

11 Q. Let's talk about the adjustment that you made
12 between 16 and 20.

13 MS. PRICE: Can you scroll down there a little
14 bit? Thanks.

15 BY MS. PRICE:

16 Q. Can you tell me -- just talk me through what
17 adjustments you made here?

18 A. Yeah. They were pretty minor overall, so I'm
19 not going to recall all of them.

20 Q. Sure.

21 A. One that does turn up just looking side by
22 side is sort of straightening out the 16/20 border near
23 the northern end of District 20. So I made this a
24 straight north-south line here in this map, whereas
25 there was a jog on a major east-west road in Plan A.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
59

1 Q. And then are your boundaries between 16 and
2 23? Did you adjust much of that or is that mostly the
3 same?

4 A. There was a adjustment to the northeast corner
5 to sort of make that a little more square. I mentioned
6 the sort of irregular census block shapes up in that
7 area. So I found a configuration here with Plan B that
8 increased the visual compactness and sort of squared off
9 that corner.

10 Q. And it looks like you didn't make any changes
11 to District 14 here either. Is that correct?

12 A. That's correct.

13 Q. Okay. And is it for the same reason as we
14 discussed for Plan A?

15 A. Yes.

16 Q. Okay. Let's go ahead and go to Plan C now.

17 Dr. McCartan, this is an enlarged
18 representation of Figure 4 which is Plan C in your
19 expert report. Does this look like a true and accurate
20 copy to you of Plan C?

21 A. Yes.

22 Q. Great.

23 MS. PRICE: Let's go ahead and mark this as
24 Exhibit 9.

25 (Exhibit 9 will be marked for identification

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

60

1 and attached to the transcript once received by the
2 reporter.)

3 BY MS. PRICE:

4 Q. So can you tell me how you drew Plan C?

5 A. Sure.

6 So I believe most of the changes -- if I
7 remember correctly most of the changes here involved
8 sort of the 16 and 23 -- it was mostly 16 and 20 border.

9 So I was working off Plan B and just sort of
10 made further adjustments to sort of explore the
11 trade-off, to the extent there was one, between visual
12 compactness and some of the other, you know, standards.

13 And so I moved the southern portion of the
14 western boundary of District 16 out to the coast, and
15 then made sort of adjustments from there to the other
16 portion of the boundary while trying to sort of still
17 follow major roadways and waterways and previous compact
18 districts.

19 Q. So I think I heard you say you started with
20 Plan B.

21 A. That's right.

22 Q. Is that right?

23 And is that for the same reasons we discussed
24 before as why you started with Plan A previously for
25 Plan B?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
61

1 A. Yes. So the chronological -- I first drew
2 Plan A, then Plan B and then Plan C. So it made sense
3 to take the most recent plan at each stage when drawing
4 the next one.

5 Q. And it looks like the adjustments that you're
6 making are kind of narrowing off with time. Is that
7 right? Did you make more adjustments between Plan A and
8 B than B and C?

9 A. I would say that B to C probably involved a
10 bigger change, especially in the configuration of 16 and
11 20. But it's true that fewer districts were adjusted
12 between Plan B and Plan C.

13 Q. The bigger change is between 16 and 20, and I
14 don't know if you made any changes -- you can tell me --
15 with 21, 23, 18 and 14?

16 A. I don't believe I did.

17 Q. Okay. And you just said no changes to
18 District 14 like in B you had in A. Is that for the
19 same reasons that we discussed for --

20 A. Yes.

21 Q. -- Plans A and B?

22 Dr. McCartan, did you author a rebuttal report
23 as a part of this litigation?

24 A. No.

25 Q. Did you review the expert report from Dr. D.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
62

1 Stephen Voss in this litigation?

2 A. No.

3 Q. Does that mean -- do you plan to have any
4 opinions at trial regarding any opinions in Dr. Voss's
5 report?

6 A. I don't -- I don't know anything about this
7 report, so at this moment I have no plans.

8 Q. You have no plans to review it and do further
9 analysis. Is that correct?

10 A. That's correct.

11 Q. Did you review an expert report from Dr. Sean
12 P. Trende in this litigation?

13 A. No.

14 Q. And do you have any plans to review that
15 report and do any analysis of that?

16 A. No.

17 Q. So is it fair to say that you do not plan to
18 offer any rebuttal of any of the opinions in
19 Dr. Trende's report at trial?

20 A. Yes.

21 Q. Let me ask a few more questions. If we go to
22 Paragraph 28 in your expert report, which is Page 10, to
23 Exhibit 4.

24 And it looks like here you had done in the
25 paragraphs before compactness analysis. Is that

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
63

1 correct?

2 A. Yes.

3 Q. And your conclusion in 28 is that across the
4 three compactness measures the three plans, A, B, and C,
5 have comparable scores to the Enacted Plan. Is that
6 correct?

7 A. Yes.

8 Q. And then Paragraphs 29 through 33 it looks
9 like you talk about boundary analysis scores?

10 A. That's correct.

11 Q. And at the bottom of Page 10, top of Page 11
12 in Paragraph 29 it says, you know, "The legislative
13 software produces boundary analysis scores ...

14 "These scores do not measure how much these
15 component major boundaries are respected or utilized;
16 rather, they measure only what percentage of a
17 district's boundary tracks the categories of boundaries
18 incorporated into the software."

19 Do you see that?

20 A. I do.

21 Q. Can you help me understand in just a very
22 elementary school level what that means; what it doesn't
23 include, what it does analyze?

24 A. Sure.

25 So anytime we write redistricting

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
64

1 requirements, those are written in English; and anytime
2 we try to measure those aspects of a particular plan or
3 district, that happens in math and computer code. So
4 some translation needs to happen and there are
5 reasonable judgments and decisions can be made about how
6 to best do that.

7 So Legislature software has intended to
8 translate the requirement of respecting, you know,
9 municipal boundaries, waterways, roadways, et cetera, in
10 terms of this particular measurement. But a particular
11 score on this -- you know, these boundary scores don't
12 in and of themselves establish or disestablish
13 compliance with that particular constitutional standard.

14 Q. Okay. What -- I'm trying to understand what
15 the sentence means. It does "not measure how much these
16 component major boundaries are respected or utilized;"
17 it only measures what percentage of a district's
18 boundary tracks the categories of boundaries in the
19 software.

20 So does that mean it's not telling you whether
21 you move away from a boundary? I guess I'm trying to
22 under -- do you know what I mean? Like I'm trying to
23 understand what this metric is used for.

24 A. So the first part of that sentence refers to
25 the fact that the scores don't tell you whether or not

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

65

1 you have respected those boundaries in the sense of the
2 constitutional standards.

3 The second part of that sentence says that
4 what they do tell you is numerically what percentage of
5 the boundary, you know, follows -- you know, aligns with
6 these various types of, you know, natural and political
7 boundaries.

8 Q. And it looks like your analysis covers
9 Districts 16 and 18.

10 Did you do an analysis for Districts 21, 23,
11 20, and 14?

12 A. All those scores were produced as part of the
13 legislative software's report, and I believe those are
14 appended to my report. But given that the district I
15 was redrawing was District 16 and that immediately
16 impacted, you know, the region drawn by District 18, I
17 focused on those two districts in the report write-up
18 here.

19 Q. Okay. But you changed boundaries -- right? --
20 for 21, 23 and 20. Right?

21 A. That's right.

22 Q. But you didn't do -- is it true, did you do a
23 boundary analysis for four of those three districts, 21,
24 23, and 20, or no?

25 A. I did. They're in the appendix to my report.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

66

1 Q. It's in your appendix but it's not in your
2 narrative. Is that correct?

3 A. That's correct.

4 Q. Okay. Do you recall sitting here today,
5 without going into your appendix, how those three
6 districts faired with the boundary scores?

7 A. I do not.

8 Q. Okay. If I use the term "geopolitical
9 boundaries" to refer to cities, municipalities or county
10 boundaries, will you understand what I mean?

11 A. Yes.

12 Q. Have you done any analysis of the percentage
13 of which your Plans A, B, and C deviate from
14 geopolitical boundaries?

15 A. To the extent measured by the boundary scores
16 which are in my appendix and discussed in the report,
17 yes.

18 Q. But I thought this said this doesn't talk
19 about whether you complied on deviation. It just talks
20 about -- I guess this is where I'm getting confused.

21 A. Maybe I'm confused. I maybe misheard or
22 misunderstood what you meant by "deviate" in your
23 question. So the percentage of the boundaries in each
24 district that align with geopolitical boundaries is
25 measured by the --

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

67

1 Q. Uh-huh.

2 A. -- (inaudible) score, and that's included in
3 my report.

4 Q. In the narrative?

5 THE COURT REPORTER: I'm sorry. I couldn't
6 hear that part. "Is measured by" what "score"?

7 THE WITNESS: It's measured by the boundary
8 scores --

9 THE COURT REPORTER: Thank you.

10 THE WITNESS: -- included in my report.

11 BY MS. PRICE:

12 Q. Okay. Is that in the appendix or is that this
13 narrative that we're talking about between 29 and 33.

14 A. Both.

15 Q. Do you have an opinion as to whether Plans A,
16 B, and C score better for geopolitical boundaries than
17 the Enacted Plan?

18 A. On average across districts? In a particular
19 district? I guess I would need a more specific
20 question.

21 Q. Well, let's look at it holistically. If you
22 looked at all of Plan A with regard to deviations from
23 geopolitical boundaries, do you think Plan A would have
24 more deviations or do you think the Enacted Plan would
25 have more deviations based on your analysis, or did you

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
68

1 not do an analysis on that?

2 A. I would have to consult the numbers in my
3 appendix.

4 Q. Okay. You can't tell me that today?

5 A. Correct.

6 Q. Is that something that you're planning on
7 reviewing and giving an opinion on at trial?

8 A. Haven't discussed trial preparation at this
9 point. I have no specific plans to do so.

10 Q. You can't tell me that you're not going to
11 testify about that at trial. Is that correct?

12 A. I plan to testify truthfully to any questions
13 I'm asked at trial. I don't know what those questions
14 will be.

15 Q. Is the same true for Plans B and C? You can't
16 tell me sitting here today whether Plans B or C would
17 fair better on an analysis of deviation from boundaries
18 than the Enacted Plan?

19 A. Not without consulting my appendix, that's
20 right.

21 MS. PRICE: Let's take a five-minute break, if
22 that's okay? I may be close to done.

23 THE COURT REPORTER: I'm off the record.

24 (Recess from 4:09 p.m. to 4:15 p.m.)

25 BY MS. PRICE:

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
69

1 Q. Thank you, Dr. McCartan. I have just a few
2 more questions, if that's okay. You know, bear with me
3 and you will get out of here before 4:30, I hope.

4 Okay. In your report on Page 12 you have --

5 MS. PRICE: Go ahead and pull that up, if you
6 don't mind, Kassie.

7 BY MS. PRICE:

8 Q. You have a section on "Comparison with Other
9 Protected Legislative Districts"?

10 A. That's right.

11 Q. Okay. And it says here you were -- and I
12 think you mentioned this previously in the deposition --
13 that you were "provided by counsel for the Plaintiffs
14 with a list of districts that were designated by the
15 Legislature as protected under the Tier One minority
16 group standards." Is that right?

17 A. That's correct.

18 Q. Okay. And then in Footnote 4 you state that
19 "To avoid a conflict, this list excluded certain
20 districts in South Florida that I've been retained to
21 study in other potential litigation."

22 Is that the litigation that we talked about,
23 the congressional state house district that we talked
24 about earlier in this deposition, or is there different
25 litigation?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
70

1 A. It is that litigation, yes.

2 Q. Okay. Can you tell me what those districts
3 were that were -- did you exclude the districts, or did
4 plaintiffs' counsel exclude the districts?

5 A. Plaintiffs' counsel did.

6 Q. Okay. So do you know what districts were
7 excluded from the list that you were given?

8 A. No, not exactly. And of the ones that I'm
9 studying in the other litigation I actually don't know
10 which are protected and which aren't.

11 Q. You have talked a good bit about some of the
12 constitutional requirements that you followed today.
13 Correct?

14 A. Yes.

15 Q. And I think you referred to them as Tier 1 and
16 Tier 2?

17 A. I'm not sure I have, but I'm familiar with
18 those as well.

19 Q. Okay. Thank you.

20 Can you tell me what the source is of your
21 understanding of those constitutional requirements?

22 A. It would be the Rodrigues memo.

23 Q. Okay. Is there any other source that you've
24 relied upon, whether it's documents or plaintiffs'
25 counsel, for interpretations of those constitutional

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

71

1 requirements?

2 A. Not that comes to mind.

3 Q. And are you planning to offer any opinions as
4 to what the Constitution requires with regard to
5 redistricting?

6 A. I wonder if you can more specific.
7 Specifically are you asking about opinions I may offer
8 about generally what the Constitution requires; or, for
9 instance, in this particular case given the
10 configuration of the geography of the state, the
11 Constitution would require that this district be
12 configured this way?

13 Q. Let's start with both. Are you planning on
14 offering any opinions that in general the Florida
15 Constitution requires?

16 A. Once again, I don't know exactly at all what
17 I'm going to be asked at trial. But beyond restating
18 the constitutional standards as written, I have no
19 specific plans to offer, you know, general opinions
20 about what the Constitution requires beyond anything
21 contained in my written report.

22 Q. Okay. Would you hold yourself out as an
23 expert on what the Florida Constitution requires with
24 regard to redistricting?

25 A. When you say "requires" that's like --

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

72

1 Q. In general. Do you consider yourself a legal
2 expert who's qualified to offer an opinion about what
3 the Florida Constitution requires with regard to
4 redistricting in general?

5 A. I am not a legal expert, no.

6 Q. With regard to your plan -- and we've talked
7 about this a little bit. With regard to your plan do
8 you anticipate offering opinions that the Florida
9 Constitution would require you to draw lines certain
10 ways?

11 A. Again, I don't know what I'll be asked but
12 it's possible that I may have opinions of that nature,
13 you know, explaining as we've talked -- discussed today,
14 choices that were made in drawing my illustrative maps.

15 Q. Would it be more fair to say that your
16 opinions would be that it's your understanding that this
17 is what's required and so that's why you drew the lines
18 this way?

19 A. That sounds accurate, yes.

20 Q. Okay. Thank you. I appreciate that.

21 I know there's a lot in your expert report
22 that we have not touched on today. But is there
23 anything that we have not discussed or that is not in
24 your expert report that you are planning to offer as an
25 opinion at trial?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
73

1 A. No.

2 Q. Is there any additional analysis or work that
3 you are planning to do in addition to the work that
4 you've already done, besides (inaudible), outside the
5 scope of your expert report between now and the trial?

6 A. No.

7 Q. And then have you -- since we're on Zoom I
8 have to ask. Have you been in communication with
9 anybody since this deposition began at 2:30?

10 A. No.

11 MS. PRICE: I think that's all I have, Doctor.
12 Thank you so much. I appreciate your time today.

13 THE WITNESS: Thank you.

14 CROSS-EXAMINATION

15 BY MR. WARREN:

16 Q. Dr. McCartan, a few short questions.

17 Ms. Price asked you about comparisons between
18 your Plans A, B, and C and the Enacted Plan with respect
19 to the utilization of geopolitical boundaries.

20 Do you remember that?

21 A. Yes.

22 Q. Do you know whether your Plans A, B, and C
23 have more, fewer, or the same number of county splits as
24 the Enacted Plan?

25 A. I do know that.

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024

74

1 Q. How can you answer?

2 A. Yeah. My instructions were to remove the
3 portion of 16 in Pinellas County. So that necessarily
4 eliminated a county split. My further addressments did
5 not, you know, account for that change, did not
6 introduce additional county splits. So they would all
7 have one fewer county split than the Enacted Plan.

8 Q. Same question with municipal splits, the
9 splits of incorporated municipalities?

10 A. To the best of my recollection all the
11 adjustments I made after moving 16 for Pinellas County
12 did not introduce new municipality splits. Obviously
13 moving the portion of 16 and the city of St. Petersburg
14 eliminated that municipality split. So the number of
15 municipality splits would have decreased by one in all
16 three maps.

17 MR. WARREN: I think that's all. Thank you.

18 MS. PRICE: I have nothing further to ask.

19 THE COURT REPORTER: Do --

20 MS. PRICE: And we will order.

21 THE COURT REPORTER: Does the witness wish to
22 read the transcript?

23 THE WITNESS: Yes.

24 THE COURT REPORTER: Mr. Warren, did you need
25 a copy?

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
75

1 MR. WARREN: No, thank you.

2 THE COURT REPORTER: I don't know if anyone
3 else on the line needed a copy?

4 MR. RABAN: Randall Raban; again, with
5 Holtzman Vogel. If I could get a copy, that would
6 be great.

7 Thank you.

8 THE COURT REPORTER: Will do.

9 Ms. Price, is ten business days sufficient?
10 That's our normal turnaround.

11 MS. PRICE: That's your normal? Can we do --
12 we might need to do an expedited. A week is great.

13 THE COURT REPORTER: Okay. So that would
14 be -- so the 9th is sufficient, Monday?

15 MS. PRICE: Yes.

16 THE COURT REPORTER: Mr. Raban, did you need
17 your copy expedited, or are you good with regular
18 turnaround on that?

19 MR. RABAN: I need it expedited as well, and I
20 put my email in the chat.

21 THE COURT REPORTER: Okay. Thank you.

22 (The reading and signing of this deposition is
23 not waived, and the taking of this deposition
24 concluded at 4:24 p.m.)
25

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
76

DEPOSITION ERRATA SHEET

Our Assignment No. J12075395

Case Caption: Hodges, et al., vs. Albritton, et al.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the 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____.

CORY MCCARTAN, Ph.D.

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KETO NORD HODGES vs ALBRITTON

December 02, 2024

77

DEPOSITION ERRATA SHEET
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78

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December 02, 2024
79

CERTIFICATE OF REPORTER

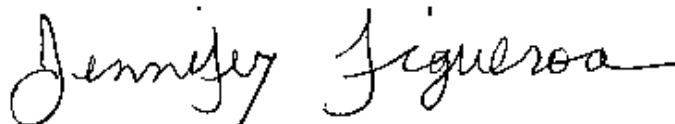
STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, Jennifer Figueroa, Registered Professional Reporter, certify that I was authorized to and did stenographically report the foregoing deposition remotely via videoconference, Pages 1 through 75; and that the transcript is a true record of the testimony given by the witness.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 9th day of December, 2024.



Jennifer Figueroa, RPR

CORY MCCARTAN, PH.D.
KETO NORD HODGES vs ALBRITTON

December 02, 2024
80

CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, Jennifer Figueroa, Registered Professional
Reporter, Notary Public, State of Florida, certify that
CORY McCARTAN, Ph.D., appeared before me remotely via
videoconference on the 2nd day of December, 2024, and
was duly sworn.

WITNESS my hand and official seal this 9th day
of December, 2024.

Identification:

Personally known ☐ or produced identification ☒.

Type of identification produced:

Pennsylvania driver's license.



Jennifer Figueroa, RPR
Notary Public, State of Florida
Commission No.: HH 101741
Commission Expires: 03/08/2025