EXHIBIT D

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ALPHI PHI ALPHA FRATERNITY, INC,,
a nonprofit organization on
behalf of members residing in
Georgia; SIXTH DISTRICT OF THE
AFRICAN METHODIST EPISCOPAL
CHURCH, a Georgia nonprofit
organization; ERIC T. WOODS;
KATIE BAILEY GLENN; PHIL BROWN;
JANICE STEWART,
Plaintiffs,
vs. CASE NO. 1:21-CV-05337-SCJ

BRAD RAFFENSPERGER, in his
official capacity as Secretary
of Georgia,

Defendant.

DEPOSITION of WILLIAM S. COOPER

February 10, 2023

9:00 a.m.

Tayor English Duma, LLP

1600 Parkwood Circle, Suite 200

Atlanta, GA 30339

Lucy C. Rateau, CCR, RPR

Q. And aside from the Quincy case, in every other Section 2 case where you've testified have you found that Gingles prong one was met?

A. Well, I mean if it actually got to the point where I testified, that in all likelihood is true. But I also have been asked to examine the potential for districts and have basically said it just couldn't be done.

Q. Aside from the Quincy case have you ever testified on behalf of a jurisdiction that was defending against a Section 2 case?

A. I cannot think of one that would exactly fit that category. I have worked on behalf of local governments, at least in one instance in Virginia I recall. I was working for the County Board of Supervisors in Sussex County. But that was in state court, so that's different.

Q. So let's turn to your involvement with this particular case, the Alpha Phi Alpha case. Do you recall when you first heard about this case or the potential of this case?

A. It would have been in the summer of 2021.

Q. And it was before the legislature met in special session in November 2021, right?

A. Correct. It was before the census was

1 released.
2 Q. And do you recall who first contacted you
3 about this case in the summer of 2021?
4 A. I think Sophia Lakin and Theresa Lee, two
5 lawyers with the ACLU national office, asked me to
6 look at Georgia.
7 Q. And before you were retained -- so I want
8 to be clear -- before you were retained were you
9 told what you were being hired to do?
10 A. Yes, to look at the Georgia legislature,
11 the General Assembly.
12 MR. SAVITZKY: And I just want to
13 caution the witness that the substance of
14 discussions with attorneys would be privileged.
15 BY MR. TYSON:
16 Q. In moving forward, Mr. Cooper, I want to
17 make sure after you were retained as an expert your
18 conversations with lawyers is different.
19 I'm not asking for the substance for this
20 question, I'm asking for a yes or no. Were you told
21 what the plaintiffs wanted to prove or their
22 position on the issues in the case?
23 A. No.
24 Q. So you've obviously testified as an expert
25 in a lot of cases. If you were to describe in your

determined that it unequivocally is possible.

Q. Are the majority Black districts you've created in the illustrative plans in your December 5th report the highest number of majority Black districts you've created in any draft?

A. Yeah, I did not try to -- in some cases I do hypothetical plans just to make the point that more districts could have been drawn or you could have made it five points higher or something. I don't think I drew -- I believe in the first two plans for the preliminary injunction one or two districts were sort of organically majority Black. So I just had, I believe, one less Senate district that is majority Black in this particular plaintiff's plan than the earlier ones.

Q. So you mentioned drawing hypothetical plans. Do you recall creating any hypothetical plans for Georgia with more majority Black districts above your preliminary injunction plans?

A. No, I didn't do that in this case. I've had enough of drawing plans in Georgia. It's one thing to do hypotheticals for a County Commission or something.

Q. So it's correct then that your preliminary injunction plan contained the most Black districts

of any plans that you drew for the Georgia legislature, right?

A. I think that's probably safe to say. I drew them differently here and there, but I don't think I drew any that had more than seven districts.

Q. And I know you referenced -- and I've been there with you -- drawing 180 House districts is not an easy proposition. Have you ever drawn state-wide legislative plans for Georgia before your involvement in the Alpha Phi Alpha case?

A. Yes.

Q. And what was that?

A. I guess it's okay to divulge. I mean I've worked --

MR. SAVITZKY: I'll just caution the witness that if there's some non-public work that you did for an attorney, you should exercise care.

A. Well, I did a little work for a law firm in Atlanta in the 2011, 2012 period. A lawsuit was not filed. It was a fairly small project, but it did involve House and Senate plans -- or at least certainly House plans. I'm not sure about Senate.

Q. And I believe when we spoke about this in a prior case, that was the Bondurant Mixson and Elmore

from Atlanta to Savannah.

Q. When you began working on your illustrative plans for your December 5th declaration, do you know or did you have the principles that the Georgia legislature drew or used when drawing its plans?

A. Yes. They were posted on the website.

Q. So the last section I would like to get into before we kind of get into the meat of your report, is just to kind of get some terminology pieces down. I know there's a lot of unique terminology for redistricting.

So if I ask you what your definition of a majority Black district is, how would you define that?

A. Well, it could be very different depending on the place and the time. Is it legislative or is it city council. It would be very difficult to make that distinction. One might also look at things like citizen voting age population.

Q. And so for purposes of your report in this case you use the term "majority Black", right?

A. Right.

Q. And what do you mean by the term majority Black in this report in Alpha Phi Alpha?

A. I mean a district which is over 50 percent

any part Black voting age.

Q. And, for reference, we've been calling that the AP Black VAP number?

A. Yes.

Q. Earlier we looked at a report from Gwinnett County where you used the term minority-majority district, right?

A. I would have because that was a lawsuit involving a coalition of plaintiffs, Latino, Black and Asian.

Q. And would it be fair to refer in your definition to a minority-majority district as a majority non-white district?

A. You could. But one must also take into account that a fair percentage of Latinos identify as white, so that's a little problematic maybe to use that term. But as long as it's kind of understood that you're focusing on a minority population and taking into account the differences in how Latinos identify, whether they identify as white or some other race. One can say a majority not white essentially means majority-minority -- or a majority of population which is not non-Hispanic white.

Q. That's helpful. Thank you. So just so I'm

clear then, the term majority-minority in your mind is separate from the term majority Black as referred to districts in a legislative plan, right?

A. Yes, in my mind ultimately the definition would be different.

Q. Do you use the term "minority opportunity district" in your work at all?

A. I have used it. And typically though when I'm using it -- because I'm doing Gingles 1 work -- I would be referring to a district which is majority Black or majority Latino, majority indigenous and not say a 40 percent district.

Q. So an opportunity district as you use the term would refer to a district that has a majority of persons of color in it, right?

A. Well, the plaintiff class. So in this case if I say it's a minority Black opportunity district I'm referring to a district that's majority Black. Majority Black any part voting age population, or I have a couple of senate districts, for example, that are majority Black citizen voting age population but actually less than a majority Black voting age population. So one has to make those distinctions as well.

Q. Do you ever use the term "coalition

1 district" in your work?
2 A. I probably did in Gwinnett County.
3 Q. And how would you define a coalition
4 district when you use that term?
5 A. A coalition of minority plaintiffs, in
6 other words, typically it would be African-Americans
7 and Latinos, but in Gwinnett County it was
8 African-Americans, Latinos and Asian-Americans. In
9 some places out West you would have a coalition of
10 African-Americans, Latinos and native Americans,
11 indigenous population, certainly in Arizona.
12 Q. In your work do you ever use the term
13 "ability to elect districts"?
14 A. I probably have almost never used that term
15 because that's sort of the Gingles 2, Gingles 3
16 expert. But I might have accidentally. If you know
17 of one case where I used that term, I probably
18 should have not used it because that's not my
19 bailiwick.
20 Q. That's helpful. Thank you.
21 So you're aware that race can predominate
22 in the drawing of a redistricting plan, right?
23 A. It could.
24 Q. Do you have a way you would determine in
25 your work if race predominated in a districting

plan?

A. I don't think there's a metric that would necessarily identify that, other than perhaps one could look at a legislative plan and make an assessment that a plan was disproportionately weighted towards one race or another, so perhaps in that sense.

Q. So in your view if the goal of a map drawer is to draw the maximum number of majority black districts on a plan, that plan wouldn't necessarily be drawn predominantly based on race?

MR. SAVITZKY: I'm just going to object to the extent it calls for a legal conclusion. You can answer if you're able to do so.

A. Could you repeat the question?

BY MR. TYSON:

Q. Sure. You talked about the different ways you would see race predominating in a plan, like the ways that you could look at that. And my question was if the map drawer's goal is to draw the maximum number of majority black districts on a plan, in your view would race predominate in the creation of that district plan?

A. Well, not necessarily. I mean that's sort of an open-ended question. I really can't say.

part of my declaration.

Q. And you can also display with labels the racial makeup of particular pieces of geography, right?

A. Well, you can, yes.

Q. And you can also put little graphs on various pieces of geography to show the racial makeup, right?

A. I can. I don't do that, but you could.

Q. And that was going to be my next question. When you were drawing the illustrative plans, at any point did you have a display from Maptitude that showed you the racial makeup of particular precincts on the map?

A. Well, you know, I sometimes utilize little dots to show where the precincts are that are say 30 percent or over Black. So that was sometimes present on the screen as I was drawing a plan.

Q. And when that was present on the screen you were able to know where 30 percent or higher Black population existed in a particular precinct?

A. Not within the precinct, just the precinct itself.

Q. So the whole precinct had a concentration of Black voters greater than 30 percent?

A. Yes.
Q. Did you ever have any features of Maptitude that displayed racial data about census blocks when you were, for example, dividing a precinct when drawing the illustrative plans?
A. I don't specifically recall. I sort of think I did not. I did sometimes go down to block level and look at total population, because Georgia has very tight deviation standards so that you can't go more than plus or minus one percent. And so sometimes that gets a little tricky if you're trying to avoid splitting a county or something and maybe you could look at another option and by examining what the total population is, get a handle on whether or not you could stay within one percent.
Q. But you do not recall ever turning on racial information for census blocks when you were dividing a precinct in drawing the illustrative plans?
A. I don't have a specific recollection, but I probably did at some point. I mean I can't really single out where that happened or when it happened.
Q. So in looking at the way you divided precincts, if they were divided along racial lines, is it possible that you had racial information

1 districts. But then you only describe three
2 additional districts. So can you help me understand
3 why 14 plus 3 seems to equal 18 here?
4 A. Because another district that is not being
5 challenged, an area that is not being challenged, it
6 just sort of organically became majority Black. I
7 think it's the Senate District 41 maybe. Oh, I'm
8 sorry. It's 33.
9 Q. Senate 33?
10 A. Yes.
11 Q. So you're not, in this report, saying that
12 Senate 33 is a majority Black district that could
13 have been drawn and was not drawn by the
14 legislature?
15 A. It could have been drawn, but we're not --
16 that's not being challenged. I suspect that it's a
17 district that may already be electing a minority
18 candidate. I don't remember.
19 Q. So then it's correct that your illustrative
20 Senate plan has four more majority Black districts
21 than the 2021 Senate plan, but your recollection is
22 that for whatever reason Senate District 33 is not
23 being challenged in this lawsuit?
24 A. Correct.
25 Q. Do you recall that in your preliminary

injunction report you said you could create 19 majority Black districts on the Senate plan?

A. Yes, I do recall that.

Q. Can you tell me about the difference in the 19 districts on the preliminary injunction plan versus 18 districts here?

A. Not exactly. I think that's another situation where another district was organically majority Black just based on the end result of the plan, and I think it was probably in Gwinnett County if I'm not mistaken, Gwinnett or Henry County.

Q. And I think you mentioned a district already electing a candidate of choice in a minority community?

A. Well, I can't say whether it's the candidate of choice or not. I'm not the historian or the Gingles 2 or Gingles 3 expert. But I think that that district is probably electing a Black candidate of choice; otherwise, it might have been included as a challenged district.

I don't specifically recall working on District 33. It just formed itself as I was trying to avoid splitting counties and cities and keep as many Senate districts as I possibly could as drawn by the General Assembly. So it just happened.

Q. Are you aware that the three districts or -- let me start over.

Are you aware that the two additional majority Black districts in south metro Atlanta and the additional majority Black district anchored in the eastern portion of Georgia's Black Belt that you reference in this report are currently held by Republican senators?

A. I did not know the partisan makeup of those districts, I don't think, but I knew that they were not African-American.

Q. So you knew the race of the candidate but not the partisan affiliation of the candidate?

A. I don't think I did look at that specifically, but I knew that the elected representative was white.

Q. Do you ever use partisan data or election results in your creation of illustrative plans?

A. No. I'm not a political science. Somebody else would have to opine on that.

Q. Do you have any past political data in your Maptitude databases?

A. I do not. I just have demographic data.

Q. Let's talk next about the House over on page seven. We have 49 majority Black districts on

before.
A. Not in a paper format, but I did review it as a PDF.
Q. And is this the document that's referenced in footnote 10 of your report, Education in Georgia's Black Belt: Policy Solutions to Help Overcome a History of Exclusion.
A. Yes. Both documents have October 2019 publication date.
Q. So it's safe to say then that you relied on this document in preparing your report about the Black Belt, right?
A. Yes, the contemporary Black Belt.
Q. So let's turn to page number five of this report. Could you read the very first sentence at the top of that page?
A. "There is no uniform definition for the Black Belt."
Q. Do you agree that there's no uniform definition for the Black Belt?
A. I think that's a reasonable statement.
Q. And the definition that the Georgia Budget and Policy Institute used was a general description where the majority of people in an area are Black or live in poverty, right?

you selected were just kind of a collection of counties you thought fit. You're not necessarily saying these particular counties in this region are a community of interest, right?

A. No. There is that community of interest, and then there is the community of interest which the Census Bureaus define based on commuting patterns and economic factors. And there are other communities of interest, like the historical community of interest which all Black Americans share. And that relates to the historical Black Belt as well as the contemporary Black Belt, which was identified I think with a good deal of clarity by the GBPI.

Q. You reference the historical community that all Black Americans share. Is it your belief that Black Americans by being Black, wherever they are, have a community of interest together?

A. On a certain level, yes. Don't you agree with that?

Q. Is that something you use in the formation of your illustrative plans for determining there was a community of interest in a majority Black district, for example?

A. I'm aware of U.S. history. Yes.

Q. And so in creating your illustrative plans you rely in part on the history of the experience of Black Americans and the commonality that goes with that as the basis for a community of interest, right?

A. I think that's legitimate, yes.

Q. On your map of regions, you are also aware that the Census Bureau has different statistical areas for Warner Robins and Houston County and for Bibb County, right?

A. Yes. But then they have a new category that they call a consolidated statistical area where they combine them and say they're adjacent. For example, the Athens area is now part of a consolidated statistical area with the Atlanta MSA. So they've got this extra layer of commonality.

Q. And so it's fair to say then for all the different regions in your report that you're just looking for things that they have in common; some based on regional commission, some based on census, some based on historical Black Belt, it just depends on that particular region?

A. Yeah. I mean all that is in the background. When you're drawing a plan there's a lot of -- sort of an amorphous quality to what

ACS data, right?

A. Right. Two years prior. Because of the pandemic the ACS was not imported for 2020 for the one-year survey.

Q. So I want to just compare these two tables to understand. On your preliminary injunction report, Figure 3 shows the 2019 AP Black VAP percentage was 33.8 percent?

A. CVAP.

Q. CVAP. I'm sorry. Let me restate that.

In Exhibit 6, Figure 3 shows the 2019 AP Black CVAP percentage as 33.8 percent. Then Figure 3 in your 12/5 report shows that same percentage as 33.3 percent, right?

A. Right.

Q. And so that number has gone down by half of a point between 2019 and 2021?

A. Well, there is a margin of error. So it may very well be that -- the point estimate has gone down between 2019 and 2021. That could be because of -- what's the breakout for Latinos? Notice how it's jumped to 5.9 percent from 5.0 percent in the 2019 CVAP -- in the 2019 ACS.

Q. And, similarly, Figure 3 in Exhibit 6 shows the 2019 single race, Black, including Black

Hispanic CVAP percentage as 32.9 percent, whereas in your 12/5 report that same number has gone down to 31.4 percent in 2021, right?

A. I'm not sure what table we're looking at now.

Q. I'm still looking at the same table, Figure 3. Looking at the preliminary injunction report, single race Black row, do you see that?

A. Yes.

Q. To Figure 3 on your 12/5 report, which looks like that's gone down by a point and a half for the single race Black number between 2019 and 2021.

A. It does look like that. Again, it's margin of error. It's a one-year survey. So you have to take it with a grain of salt to a certain extent.

Q. So in your 12/5 report, the next -- or a couple of paragraphs down you say the Black CVAP in Georgia is poised to go up this decade. Do you see that?

A. Yes.

Q. And I guess I'm just trying to figure out how are you concluding that the Black CVAP is poised to go up when the census ACS data shows it's gone down between 2019 and 2021?

Q. And the portion of Henry County that's in District 17 is 41.07 percent Black, right?
A. Yes.
Q. And the portion of Rockdale that is in District 17 is 60.15 percent white, correct?
A. Black.
Q. I'm sorry. 60.15 percent Black, right?
A. Right.
Q. And Henry County is the largest county by population in District 17, right?
A. I believe it would be, yes.
Q. And so it's correct then that in your illustrative District 17, the largest county by population is not -- the portion that's in District 17 is not majority Black, correct?
A. That is correct. It's substantially Black but not majority Black.
Q. I'm getting slightly out of order. Let's go to 28 next. And for District 28 Fayette County has the largest number of people in District 28, right?
A. Yes, just barely.
Q. And the only portion of a county that's majority Black in District 28 is Clayton County, right?

A. That would be correct.
Q. And so the portions of Fayette and Spalding that are included are not majority Black portions of those counties, right?
A. They are not. They're significant but not majority Black.
Q. In splitting Fayette County to create District 28, did you have any racial information displayed when you were drawing that district?
A. I doubt if I did because I've worked in cases in Fayette County.
Q. Good point.
A. So it's pretty clear that most of the Black population in Fayette County lives in the eastern part of the county.
Q. And most of the western part of Fayette County is heavy white, right?
A. The area around Peachtree City would be predominantly white, yes.
Q. So like in District 17, the largest county making up District 28 is not majority Black, right?
A. Going back to District 17?
Q. District 17, I think you agreed with me, that the largest county was Henry County and it was not majority Black in District 17. And my question

is that's true of District 28 as well, the largest county is not majority Black, correct?

A. That's correct. I mean it's nothing unusual about that. If you examine your plan you'll find some of the same breakouts that majority Black districts also have some majority white county portions.

Q. So let's stick with the south metro theme for a minute. Set this aside and work our way through the next few pages of your report here about south metro.

You can go to page 40, Figure 16. That's the 2021 enacted Senate District 16, right?

A. Yes.

Q. And none of that district has any part of Clayton County in District 16, correct?

A. That is correct.

Q. So moving to illustrative District 28, paragraph 99 of your report, you say in the last sentence there, in the 2021 Senate plan the BVAP in these two packed districts -- and you're referring to 16 and 34 I believe -- stands at about 70 percent. Do you see that?

A. Yes.

Q. And what methodology did you use to

Black community in Clayton County would approve of the creation of a second district, even though they're going to be shifted into another district as opposed to District 34 that they're currently in.

Q. And what is the basis for your belief that the Black community in Clayton County would be fine being split into another district?

A. Well, I guess we'll hear that from the Plaintiffs. That's my belief, and if I'm wrong, then I apologize.

Q. If the Black community in Clayton County did not want to be included in the district that includes Spalding County, would you still think that tis district showed a geographically compact Black community?

A. Yes. If you can prove the Black community wants nothing to do with the new majority Black district in south metro Atlanta, then it's a factor to consider. I've heard nothing of the sort though.

Q. And in preparing your illustrative plan did you review any of the public testimony from individuals about the Georgia redistricting plans?

A. I did not review that testimony. It's voluminous, right. Lots of different opinions no doubt.

1 though, in the tables. We just kind of reviewed
2 them a moment ago.
3 Q. I believe you testified earlier you are
4 familiar with the demographics of Fayette County,
5 right?
6 A. Well, just generally speaking because of my
7 involvement in the Fayette County lawsuit back in
8 the early part of the decade, the one that stretched
9 into 2014, 2015 actually.
10 Q. On this plan, your illustrative 16 also
11 runs from northern Clayton County down into the very
12 southern part of Spalding County, right?
13 A. It does.
14 Q. Did you identify a community of interest
15 between northern Clayton County and the rural part
16 of Spalding County that you've included in it?
17 A. Again, it is my belief that the
18 African-American community in Clayton County, even
19 though it's somewhat more urbanized, would not mind
20 being in a second majority Black senate district in
21 Clayton, Henry and Griffin County. Henry is
22 suburban, and so it fits well with either one of
23 those two. It's an in-between area.
24 I mean you've got lots of vertical
25 districts in your plan. This is not particularly

vertical, but it does extend from southern Spalding County into Clayton County in the north end.

Q. And you would agree that both District 28 and District 16 on the illustrative plan connect more urban population with more rural population, right?

A. Or ex-urban, yeah. The extreme southern part of Spalding County is getting more rural. That's just going to happen. I mean these are Senate districts.

You've included parts of Fayette County that are high income around Peachtree City with Pike and Lamar Counties that are much more rural in District 16 and very, very different in terms of income, education, workforce participation. So, again, because of that there should not be a problem with my taking one more step and creating a second -- well, in this case it would be a second of three majority Black Senate districts in that part of the state.

Q. Would you categorize the portion of Fayette County that's currently an enacted Senate District 16 as a suburban area of Fayette County?

A. Suburban, ex-urban, yeah. Some rural.

Q. And you would categorize Spalding, Pike and

illustrative Senate District 23 is only 50.21 percent AP Black VAP, right?

A. Right. It might be a little bit higher on CVAP. I'm not really looking at that.

Q. So in looking at illustrative District 23, it includes counties both from your Region B and from Region D, right?

A. That is true.

Q. And it includes counties that are located in the -- I'm sorry. It includes counties that are outside of the central Savannah River area regional commission, correct?

A. Yes. The counties of Wilkinson and Baldwin and Twiggs are in middle Georgia.

Q. So if you were looking at these particular regions, why then does illustrative District 23 cross regions to create this new majority Black district?

A. Well, the regions are informative and instructive, but they're not cast in stone. You can certainly cross regions, as your plan does. As I've mentioned previously, I think, I've got fewer splints of the regional planning districts than in the enacted plan. Very close, but there's a three or four commission difference in terms of the

splits.

Q. But you would agree that District 23 does cross regional commission boundaries, right?

A. It does. But it's also adding in districts that have been identified as part of the Black Belt, Baldwin and Twiggs specifically and probably Wilkinson, too.

Q. So you've separated in this plan Hancock and Warren Counties. Are there differences between those counties that led you to separate them?

A. Well, they're separated, but it's conceivable they could be put in district -- one could be put in 23. It's not dramatically different. So it would fit into District 23. But to do so would have created an issue with one person, one vote, I think. It would also not have been quite as reasonably shaped.

Q. In your division of Wilkes County, I believe you said is along County Commission boundaries; is that right?

A. That's correct. I just followed the boundaries established by Wilkes County as recently as this time last year.

Q. And you would agree that that split divided the city of Washington, Georgia, right?

A. It did. It did, between two different commission districts.

Q. Looking at Figure 19B on page 51 --

A. Let me back up. It does not divide -- the illustrative District 23 follows commission lines except that once it reaches the town of Washington on the southwest side it just follows the town boundaries. So it's not like people aren't going to be able to figure out which district they're in.

Q. And so you didn't follow the commission boundaries on that western side of Washington, but you followed the city boundaries in the split?

A. Yes. They're more permanent probably than commission boundaries -- although annexations are common in Georgia, so that may not hold.

Q. Do you know the racial impact of following the boundary line you followed in the split of the city of Washington?

A. Not off the top of my head, no.

Q. So in looking back at Figure 19A in illustrative Senate District 23, what is the community of interest between Richmond County and Twiggs County?

A. Both counties are part of the Black Belt. Richmond County, of course, is a consolidated city,

right, except for one little extension that is predominantly white, I think, in sort of the mid section of the county; a small town.

But the connection is that this entire area is part of the Black Belt; and although Twiggs is not far from Macon, it's not so distant from Augusta that one could not find commonalities between the Black population in Twiggs and the Black population in Augusta.

Q. And you would agree Twiggs is one county over from the city of Macon, right?

A. That's right.

Q. Do you know what route you would take to drive from Twiggs County to Augusta?

A. I don't have Google Maps up right now, but you could get there one way or another. I think there's a primary road there. I'm sure there is. But you might have to go a little further north towards Baldwin to get to it.

Q. How did you determine that the Black community in Augusta is connected with the Black community in Milledgeville?

A. Again, it's part of the Black Belt. It's in an area that's not that far apart. And so if there is an issue there, I would have been advised

by now by the Plaintiffs and their fellow citizens, I think, would have alerted them to the fact that for whatever reason it would be a bad idea to combine part of Richmond County with Baldwin County.

Q. And so you're relying on them not advising you that was a problem to believe there's a connection?

A. Right. Can you tell me why that's not okay? Senate districts have a lot of people in them, you know. And these are small rural counties. Even parts of Richmond County are rural. So it's not surprising that it covers a larger -- a fairly large geographic area, as do your districts in the enacted plan.

For example, District 23 in your plan -- I'm sorry. I don't want to blame you for anything related to the enacted plan -- not that all of it is bad. But the enacted plan combines Taliaferro -- you taught me how to say that -- it extends from Taliaferro to Screven County -- well, Screven County is in the costal planning district, right. Yeah. So you've crossed a line there. And Emanuel is, I think, also in -- Let me see the regional commission if I could.

MR. SAVITZKY: It's right here, Exhibit

1 looked at municipal splits.
2 Q. Actually, let me do it this way. Aside
3 from county splits, municipal splits, regional
4 commission splits and CBSA splits, did you look at
5 any other jurisdictional splits when you were
6 working on this report?
7 A. Yes. Municipalities.
8 Q. And I was excluding municipalities.
9 A. Oh, I'm sorry. Okay. Well, the VTDs. The
10 illustrative plan has fewer VTDs.
11 Q. Let me ask a better question. Is there any
12 jurisdictional split analysis you conducted
13 comparing the illustrative plan to the enacted plan
14 that you did not include the results of in your
15 report.
16 A. I don't think so, maybe because I couldn't
17 think of another angle to take into consideration.
18 Q. Going to paragraph 121. We're on the home
19 stretch of the Senate plan here.
20 You say that the illustrative plan modifies
21 35 of the 56 districts in the enacted plan.
22 Correct?
23 A. Correct.
24 Q. And that's more than half of all the
25 districts, right?

A. Correct; however, you can still maintain these illustrative districts that I've drawn that are new majority Black districts with fewer modifications to the enacted plan districts. It would, however, result in more splits in some of the other counties involved. So there's a trade-off there. I opted for looking at this in terms of pure traditional redistricting principles, and that would be not to worry so much about core retention and think more about county splits and MSA splits and regional commission splits which are more permanent.

Q. So it's correct that you have not created a plan that includes majority Blacks in Districts 17, 23 and 28 that modifies fewer districts than 35, right?

A. At some point I did, but it also had more county splits. And so I made a decision to reduce the county splits at the expense of maintaining what are often just ephemeral enacted plan districts that you guys changed even in mid decade, like you did in 2015 and 2014. So they are very volatile in terms of their lines, whereas county lines in Georgia and even the regional commission lines are unlikely to change.

Q. In paragraph 122, the illustrative plan has

1 districts, but it's one fewer in metro Atlanta and
2 one more in Macon when looking at the two plans,
3 right?
4 A. Yes. I believe the additional majority
5 Black district in the second illustrative plan that
6 I drew for the PI hearing did have a majority Black
7 House District 111 or maybe 115 that was partly in
8 Gwinnett, partly in Henry or something like that.
9 That was the area that had the additional Black
10 majority district.
11 Q. So while both the PI map and this map are
12 basically plus five on the majority Black districts,
13 only four of the districts between the two plans are
14 in generally the same territory, right?
15 A. That's true, because I added the new House
16 District 145 majority Black, potential new House
17 district that is Macon/Bibb.
18 Q. When you were adding the district in
19 Macon/Bibb did you rely on any racial data to make
20 the determination of if that district could be drawn
21 there?
22 A. Well, I knew that the Senate district had
23 been drawn in that general area. So one-third of a
24 Senate district is basically a House district, so
25 for that reason I thought it could be accomplished.

I've marked as Defendant's Exhibit 16, which is your Exhibit AA2 to your report. Is that the plan components report for your illustrative House plan?

A. Yes.

Q. And page 24 has House District 74. And I think we'll find your memory is almost perfect on the racial makeup of the components of that district. Can you turn there with me?

A. I see it.

Q. So in looking at that same components report, the portion that's in House District 74 in Clayton County is 79.28 percent AP Black VAP, right?

A. Yes.

Q. And the portion in Henry is 47.42 percent AP Black VAP, right?

A. Yes, that's right. It's 50 percent total pop but 47.42 VAP.

Q. And the Spalding portion is 13.48 percent AP Black VAP?

A. Yes.

Q. Let's move next to your House District 117. So in looking at pages 70 and 71, the House District 117, it looks like House District 117, instead of running from Heron Bay and Locust Grove north up to the Newton border now turns south and

goes down into Griffin; is that right?
A. Right, which is a majority Black city.
Q. And in the process, the city of Locust Grove looks like it's divided on the illustrative plan; is that right?
A. Locust Grove is split, right.
Q. Would it be correct to say that you used Black population from enacted District 116 when you extended -- I'm sorry. Hang on.
House District 117 is a new majority Black district, right?
A. What about it?
Q. Is a new majority Black district, right?
A. It is, yes.
Q. What was the basis for connecting part of the city of Locust Grove with part of Griffin?
A. By and large probably one person, one vote. It was a clear -- there was a clear dividing line there at the precinct level I'm pretty sure.
Q. And so the only connection between Locust Grove and Griffin you can identify is one necessary to get one person, one vote?
A. Well, there are -- I mean Locust Grove is a stone's throw from the Spalding County line, metaphorically speaking anyway. So there are

connections, of course.

Q. What are some of those connections?

A. They are ex-urban and in some places rural. I've driven through Locust Grove. It's a pretty town. There are obvious connections. The two towns are very close. Griffin and Locust Grove are not far apart at all.

Q. So the geographic proximity would be the primary basis for connecting them?

A. That would be one basis.

Q. What are others?

A. Others would be the opportunity to create a new majority Black district in an area that is growing in terms of Black population but not seeing a commensurate increase in majority Black districts over the past 15 years.

Q. And District 117 as configured divides the city of Griffin as well, right?

A. Part of Griffin is taken out of House District 117. Again, I think it's probably the precinct level. But basically it's following the main highway there, State Route 16 I think it is.

Q. And in the geography of House Defendant 117 between Locust Grove and Griffin, you would agree there's intervening rural white population, right?

Okay.

Q. And so on the illustrative plan, House District 128 splits four counties, right, Burke, Jefferson, Johnson and Lawrence?

A. Yes, it would split four counties, I believe.

Q. Do you know if that's the most counties any single House district splits on their plan?

A. I think that might be.

Q. And the adjustments to 128 were necessary to create the additional majority Black District 133?

A. There may be ways to reconsider how 128 is drawn. Again, I wanted to avoid pairing incumbents. It's not a traditional redistricting principle per se, but it seems to be so important -- and I don't off the top of my head know exactly where the incumbent lives in 128, but that was a factor I'm sure.

Q. And House District 126 also splits four counties, right, Screven, Burke, Jefferson and Richmond?

A. It does split those counties, right.

Q. And in the enacted plan, in this same area, Screven, Burke, Jefferson, Johnson, Lawrence were

all maintained as whole counties, right?
A. True.
Q. And so your plan adds county splits in service of adding House District 133 as a majority Black district, right?
A. Right.
MR. SAVITZKY: Object to the form. You can answer.
A. Well, the... It is entirely possible that had I not tried to avoid pairing incumbents, that I could have drawn a 128 that was different in shape.
Q. But you don't know sitting here today whether incumbency was the reason for the shape of House District 128?
A. I'm sure it was a factor. What I don't know is whether I could have overcome that with some other configuration.
Q. But on the illustrative plan you're presenting in this report you don't have any other configuration, right?
A. Well, no. It's the illustrative plan. So 133 splits two counties, one of which is Wilkes and the other is Baldwin.
Q. Let's move to southwest Georgia. You call this the western Black Belt Region, right?

of the western division of the historic Dixie Highway recognized by the Southwest Georgia Regional Commission.

A. Yes.

Q. And then you reference a Corridor Management Plan from 2014 in a Footnote 32, right?

A. Right.

(Exhibit 17 marked.)

Q. I'm going to hand you what I've marked as Defendant's 17. Is this the Corridor Management Plan that you referenced in that footnote?

A. I think. There it is, 1.2, Corridor Management Plan.

Q. Do you recall how you located this particular Corridor Management Plan that you cited in your report?

A. I was looking around for information about US Highway 19 and found it.

Q. Was that after you drew the illustrative District 171?

A. In this particular case it probably was.

Q. So after you drew the district you were hunting around looking for information about Highway 19 and what it connected; is that fair to say?

A. I did look at that. I mean I knew that

Highway 19 was, in a sense, a historical highway. US highways of that vintage with a 19 on it go way back in time, so it's not like there haven't been transportation connections between Thomasville and Albany since the 1930s.

Q. So turning to page seven of Exhibit 17, you see there's a heading 1.6, "How to Use the CMP".

A. Yes.

Q. And it says that the CMP should be utilized in conjunction with the associated planning documents, including -- and then it lists a series of five other documents. Do you see that?

A. Yes.

Q. Did you ever review any of those five documents?

A. No, I did not.

Q. And going to 1.7 there is a route description that begins at the Albany Welcome Center and it's almost kind of a metes-and-bounds-like set of bullets of where this route proceeds. Do you see that?

A. Yes.

Q. Have you analyzed whether all the pieces listed in 1.7 of this route description are included in illustrative 117?

A. No, I have not.
Q. So it's --
A. But I do know that US Highway 19 is.
Q. And so it's fair to say you didn't utilize this particular document when you were creating illustrative 117, right?
A. Well, it just shows that there is, present day -- although 2014 is no longer present day, but it's certainly the modern era -- a study and an interest in maintaining the historic route between Albany and Thomasville. It shows there is a connection there between the governments.
Q. We can set that document aside.
Looking back at page 78, Figure 32, on the enacted plan there's one House district that's wholly within Dougherty County, District 153, right?
A. Right.
Q. And on the illustrative plan on page 80, the next page, Figure 33, there's now no longer one district that is wholly within Dougherty County, correct?
A. That is correct; however, the illustrative plan splits Dougherty County three ways, and the enacted plan splits it four ways. So there's that. Why is that, I wonder.

points from the enacted to the illustrative, correct?

A. Roughly, yes.

Q. And then House District 143 is 60.79 percent Black VAP on the enacted plan, right?

A. Right.

Q. And it's lowered by a little bit more than two points to 58.23 percent on illustrative 143, correct?

A. Right.

Q. So kind of getting back to the question I asked before, can you just walk me through how you're unpacking District 143 if it's only going down by two points on the illustrative plan?

A. Well, it's two points. It's a smaller Black percentage in the district.

Q. So just the reduction --

A. I should have used a different choice of words. I was using shorthand, packing, uncracking. It's probably not the best choice of words.

Q. So to create illustrative District 145, which is a new Black district, you first had to free up some Black population in downtown Macon; is that right?

A. That is true. I put part of the downtown

Black population into 145.
Q. And show you extended District 143 further north into Macon -- into Bibb County but also further south into Twiggs County, right?
A. Yes.
Q. And then you extended District 142 south out of Bibb County into north Houston County, correct?
A. Yes.
Q. And then that freed up enough Black population for you to extend 145 out into Monroe County starting in downtown Macon, right?
A. Yes.
Q. And so, unlike the enacted plan which has two districts wholly within Bibb County, the illustrative plan has no districts that are wholly within Bibb County, right?
A. That is true.
Q. And District 145, as you've configured it, is only 50.2 percent AP Black VAP, right?
A. That's correct.
Q. So can you walk me through what downtown Macon has in common with this piece of Forsyth County over towards Upson County in District 145?
A. It's in the Macon/Bibb MSA. And there is

some Black population in that precinct, but I believe it's a majority white precinct. But that was mainly because I had to make sure that the deviation was within plus or minus one percent. Ninety percent plus of the population in 145 under the illustrative plan lives Macon/Bibb.

Q. And you would agree that District 142 extends out of Macon/Bibb County MSA into the Warner Robins MSA, right?

A. Right, which has a significant Black population.

Q. So unlike 145 where it's the same MSA, 142 crosses MSAs?

A. That is true. But it's part of the consolidated Warner Robins, Macon consolidated statistical area, because they're adjacent, right next to one another. Metropolitan Macon -- actually -- I'm looking for the commission map.

Q. This?

A. No.

MR. SAVITZKY: For the record, I'm handing him Exhibit 10.

MR. TYSON: Thank you.

A. So the middle Georgia commission includes Bibb, Houston, Peach, Pulaski, and going further

right?
A. Right. Even though the guidelines established by the General Assembly did not really specify that it was necessary to stay within that range, that's the range that the enacted plan was in so I just stuck to that range.
Q. You would agree that the deviation on the illustrative plan as a whole is higher than the deviation on the House enacted plan?
A. Right, it's slightly higher, like a couple of tenths of a percentage point or so.
Q. But either way, the illustrative plan did increase the total deviation over the enacted plan even if only slightly, right?
A. Well, it's only slightly, so it's a meaningless distinction.
Q. And you note that you have one fewer county split in the enacted plan in Figure 37; is that right?
A. One less split county. And the same number of county splits, because that's a different metric.
Q. So we'll go back to Exhibit Number 9. And if you could turn with me to page 45 of Mr. Morgan's report.
Mr. Cooper, are you with me on page 45 of

more carefully than it. Ben Hill is 38 percent apparently.

Q. So kind of like we did in the other plan, I was looking to see which of those counties you unsplit related to the creation of the five new majority Black districts. And the only ones I could identify that were somewhere close were Lamar, McDuffie and Jones. Were any of these other counties unsplit related to the creation of the five new majority Black districts?

A. Ben Hill perhaps because of the ripple effect. So some of that spills out. I mean even though Ben Hill is not one of the majority Black, potentially a new majority Black district, it's not that far from the area.

Q. Any other counties you can identify?

A. Well, I've not attempted to identify these. Oconee is not split, but it's close to a majority Black Senate district. And House District 133 almost borders on Oconee -- and maybe it does. I need to look at the map. It's very close.

Q. You would agree that Dawson County with one and a half percent Black population is nowhere close to any of the new majority Black districts you created, right?

A. Yes. And so what? Why does that matter? I'm happy to bring Dawson back into a single county.

Q. I guess what I'm trying to get to is you, in paragraphs 189 and 190 talk about having fewer county splits in the enacted plan. But that's only because you unsplit some counties in parts of the state far away from where you added new majority Black districts, right?

A. To a certain extent. But why does that matter? I've produced a plan that splits fewer counties. So if that's an important metric, and it is, then the illustrative plan based on split counties and county splits and VTD splits is basically on par with the enacted plan.

Q. But it's only on par with the enacted plan if counties in north Georgia unrelated to the creation of new majority Black districts are unsplit in the drawing process, right?

A. Well, the thing is, is this ripple effect that does begin to be a factor, along with incumbents. So it was apparent to me that I could avoid splitting a couple of counties up there while protecting incumbents. So, yes, I avoided splitting them. And because of that we have split fewer counties.

the 2021 House plan has 225. So on that score the illustrative plan wins. I don't think I did on the other form of analysis. I'm trying to think of whatever kind of analysis I could have done. That's an interesting question. But I did not perform any in the preparation of this report.

Q. Turning to paragraph 194 of your report, you indicate that you changed about half of the districts in the state, 92 districts, to create the five new majority Black districts, right?

A. Yes.

Q. And the illustrative plan also pairs incumbents in eight districts based on your analysis, in paragraph 195?

A. Based on the unofficial database that was provided to me by the ACLU in like the first couple of days of December of 2022. And I did not -- I drew the plan to protect the incumbents as they existed in January of 2022, not November of 2022; so it is possible that these conflicts can be reduced.

Q. And moving into the next section, the American Community Survey, again you're comparing in this section of your report whole county data, not data specific to particular House and Senate districts, right?