EXHIBIT O

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

ALPHA PHI ALPHA FRATERNITY, INC., a nonprofit organization on behalf of members residing in Georgia, et al.,

Plaintiffs,

CASE NO. 1:21-CV-05337-SCJ

vs.

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

Defendant.

VIDEOTAPED DEPOSITION OF JOHN R. ALFORD, Ph.D.
APPEARING REMOTE FROM
ATLANTA, GEORGIA

FEBRUARY 27, 2023
10:01 A.M. EASTERN

Reported By:
Judith L. Leitz Moran
RPR, RSA, CCR-B-2312
APPEARING REMOTELY

sense of causation is, it's not my area.

But as -- but as an empirical matter, you know, these are correlational studies, no where close to being -- to being actual studies of causation. There's no experimental design, there's no control, there's no manipulation of independent variables.

So we're not going to establish causation here ever.

Q So I just want to make sure I understand this.

So when evaluating voter behavior it's not possible to establish the cause of that voter behavior in your opinion?

MR. JACOUTOT: Object to form.

A It is possible. It's just not possible with the -- with the data and methods that we -- that we have at hand.

So we're dealing with -- not just with correlational analysis, but with correlational analysis at an aggregate level.

So at a minimum we need to be at the individual level, which we're not; and then at the individual level we would have to be able to exercise -- we certainly could do better with maybe

case turns on how to characterize the results of her statistical analysis?

A Yes, largely on how to characterize the results.

Q Okay. So let's see if we can start by finding some common ground and narrowing out some of the things that are in dispute.

So do you agree with Dr. Handley that Black voters in the areas of Georgia that she analyzed vote cohesively in general elections for state-wide offices?

A Yes.

Q Okay. And do you agree with Dr. Handley that white voters in the areas of Georgia she analyzed vote cohesively in general elections for state-wide offices?

A That's mostly true. I think there's some areas where they're -- where they're not voting cohesively, but -- but generally that's true.

Q Okay. And so the pattern of white voter behavior across Georgia in the areas that she's looking at is generally one of cohesion?

A Correct.

Q Okay. And would you say that there's a very high level of cohesion among Black voters in

the areas of Georgia that Dr. Handley looked at?
A Yes.
Q Okay. And with small exception, would you say that there is a very high level of cohesion among white voters in the areas of Georgia that Dr. Handley looked at?
A Yes. And again, that -- that varies a little bit because in some of the areas you've got a higher proportion of white Democratic voters in the areas that are heavily -- more heavily Democratic.
But generally speaking, for most of that analysis, the level of cohesion among white voters is -- is high, yes.
Q Okay. And again, speaking in the general elections for state-wide offices that Dr. Handley analyzed, did white and Black voters support different candidates?
A Yes.
Q Okay. And fair to say that large majorities of Black and white voters supported different candidates?
A That's generally the case, yes.
Q Okay. So she also analyzed state legislative elections in seven areas of Georgia,

right?
A Correct.
Q Okay. And were Dr. Handley's estimates of Black and white voter behavior in state legislative elections generally consistent with her estimates of voter behavior for state-wide general elections?
A Yes.
Q Okay. And so, they show the same pattern of extremely cohesive Black support for a single candidate, right?
A Correct.
Q And they show with minor area exceptions overwhelmingly cohesive white support for a single candidate, right?
A Based on -- unless you're overwhelmingly cohesive means, but I mean --
Q Very high. Let me rephrase that question.
A -- clearly -- so I think by any definition of cohesion, they show cohesive white support for a different candidate than the one that you have the very cohesive Black support for.
So it's -- it is slightly less cohesive, but I felt -- I still think it's in a range that --

that anybody would label as clearly cohesive.
Q Okay. So in the state legislative elections, Black and white voters are voting cohesively, right?
A Correct.
Q And they're voting for different candidates, right?
A Correct.
Q Okay. And looking at the state legislative elections that Dr. Handley analyzed, did the -- the candidate preferred by the majority of white voters generally win state legislative elections in districts without a majority of Black voting age population?
A I -- that, I'm not sure. Her analysis shows what it shows, but that's not an issue. I was not focused on the performance issue. So that may well be the case but I don't know.
Q Okay. Well, so if we took a look at -- okay. So let's take a look at -- sorry, one second. Yeah, let's go to Appendix B in her report.
A Appendix? I'm sorry, which appendix?
Q Appendix B.
A B?

Q -- area?
Sorry.
A Sorry, that was my fault.
Q No, no, go ahead.
A But the answer is, yes, they are supporting different --
MR. JACOUTOT: I'm going to object to form for that. Sorry, I'm a little late but...
MR. MILLER: Okay. Let me -- let me reask it. I may draw the same objection.
MR. JACOUTOT: Okay.
BY MR. MILLER:
Q But in -- in Appendix A2, are Black voters and white voters cohesively supporting different candidates?
MR. JACOUTOT: Object to form.
A Okay. So, yes, here I think, again, by any reasonable definition these are -- both cases are mostly above 90 percent. They're supporting different candidates, they're supporting them cohesively, and as a consequence the voting is polarized.
BY MR. MILLER:
Q Okay. And would you say that the -- how would you describe the degree of polarization in

the elections in Appendix A2?

MR. JACOUTOT: Object to form.

A I'd describe it as polarized.

BY MR. MILLER:

Q Would you say that it is starkly polarized in Appendix A2?

MR. JACOUTOT: Object to form.

A I -- I mean, I don't know. I -- it's -- again, the numbers speak for themselves. It's -- I think it's clearly -- this is clear polarization.

This is what polarization looks like when, you know, 90 percent of a group -- one group goes one way and 90 percent goes the other.

This is what polarization looks like in Congress when 90 percent of the Republicans vote one way and 90 percent of the Democrats vote the other.

It's not perfectly polarized or as sometimes as you know from reporting on Congress if -- if 12 percent of the Republicans in Congress crossed over to vote with the Democrats, some people would label that a bipartisan piece of legislation because it actually drew more than one person from the other side. So there is polarization worse than this and we've seen it.

1 the general election analysis reveals, not cohesive
2 Black voter support for Black candidates and white
3 voter support for white candidates."
4 Right?
5 A Right.
6 Q Okay. So could you just explain what the
7 basis is for your opinion that voter support
8 candidates on the basis of party affiliation rather
9 than on the basis of race?
10 A Well -- well, that's not the conclusion
11 you just read. I don't think that's in there.
12 Q So how is the conclusion that I just read
13 different from a conclusion that voter support
14 candidates on the basis of party affiliation rather
15 than race?
16 A Well, this -- so this is just describing
17 two potential queues for voters. The party queue
18 that's on the -- both widely known and on the
19 ballot. And the racial queue that presumably
20 people recognize in regard to candidates. So those
21 two queues are available.
22 And then the question is what this
23 analysis shows in response to that. It's --
24 there's no -- this is not an analysis of the
25 partisanship of the voters or -- or what the role

voting.

Q And so we earlier talked about how a party label can be a confounding variable in your opinion in general elections. Do primaries eliminate that confounding variable when addressing voter behavior?

A Yes. And again, there -- it's no longer confounded because while it is true that all of the Black candidates in these primaries are -- are running as Democrats, so are all the white candidates in the primaries.

And so, it is no longer the case that -- that Black and Democrat go together, and therefore, make it hard to separate it. The party label is consistent across everyone.

And so what's varying from candidate to candidate are a whole series of factors, one of which is the race of the candidate.

And it's now not perfectly confounded by the party of the candidate, so, yes, you eliminated the confounding factor.

Q Okay. So we're able to isolate the queue provided by the race of the candidate when we look at parties; is that fair to say?

A We're able to -- I wouldn't say you're

MR. JACOUTOT: Object to form.

A I guess -- you know, it's -- it's very difficult to say that something is impossible. But I guess -- I hesitate to say it's impossible, but I would say if -- if that were the fact pattern, I -- I think it would presume extremely difficult fact pattern for -- for -- for making any sort of judgment under Section 2 of the Voting Rights Act.

I mean, what -- so this is jurisdiction where in the -- in -- in the primaries white and Black voters don't care about the race of their candidates.

In the Republican primary, the Republicans don't care, Black, white, doesn't make any difference. Democratic primary, they don't care one way or the other. Makes no difference at all.

And then when they -- when it gets into the general election suddenly they care deeply about and suddenly race is a powerful factor that -- that seems extremely odd.

And -- and one of the things I think that's important and that the -- one of the reasons the court likes to see elections over a period of time, not just a single election, is the idea that

1 this is not just some momentary issue but, rather,
2 is a sustained issue that absent the intervention
3 of the court is going to continue to prevent
4 minorities from being able to elect candidates of
5 choice.
6 And so if this -- if this prejudice in
7 the electorate is one that switches off and on
8 within a single election year, in that fashion -- I
9 mean, I -- it's hard to see what -- I can't quite
10 understand what that would be exactly.
11 But I just -- that seems like you set a
12 -- that's a very uphill battle, I think, for
13 establishing that.
14 I mean, the only way that seems likely to
15 me is if voters in the general election continue
16 not to care about the race or candidates or they've
17 already shown they don't care and just vote on the
18 basis of the party of the candidates.
19 I can't imagine that in the general, that
20 suddenly voters that had -- I mean, the argument
21 would be so the Republicans have just nominated a
22 Black candidate, but they refuse to vote for Black
23 candidates in the general election.
24 I guess it's possible, but that's a very
25 self-defeating kind of behavior, isn't it? It's

1 people have an actual partisan identification in
2 the United States.
3 Q And all of those degrees of support could
4 be influenced by a number of factors, right?
5 A Yes.
6 Q And we talked earlier about how race is
7 one of the reasons that a person might express some
8 degree of support for a political party, right?
9 A Yes.
10 Q Okay. And so, similarly, race could be a
11 reason for participation in one political party's
12 primary, right?
13 MR. JACOUTOT: Object to form.
14 A I think it could be.
15 BY MR. MILLER:
16 Q And then does the absence of racially
17 polarized voting in a primary tell us why the
18 voters who voted in that primary chose to vote in
19 that primary?
20 A The inquiry into why people choose to
21 vote in a primary is a -- is a large and
22 multifaceted inquiry, so I wouldn't think any one
23 thing would tell you the answer to that question.
24 So I -- I would say among a whole lot of
25 other things that doesn't tell you the reason why