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

ALPHA PHI ALPHA FRATERNITY, INC., ET AL., PLAINTIFFS, -VS- BRAD RAFFENSPERGER, DEFENDANT.	DAY 4 - A.M. SESSION DOCKET NO.1:21-CV-05337-SCJ
COAKLEY PENDERGRASS, ET AL., PLAINTIFFS, -VS- BRAD RAFFENSPERGER, ET AL., DEFENDANTS.	DOCKET NO. 1:21-CV-5339-SCJ
ANNIE LOIS GRANT, ET AL., PLAINTIFFS, -VS- BRAD RAFFENSPERGER, ET AL., DEFENDANTS.	DOCKET NO. 1:22-CV-00122-SCJ

TRANSCRIPT OF BENCH TRIAL
BEFORE THE HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE
FRIDAY, SEPTEMBER 8, 2023

STENOGRAPHICALLY RECORDED BY:

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UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

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(PROCEEDING HELD IN OPEN COURT AT 9:17 A.M., ATLANTA, GEORGIA)

THE COURT: Good morning. You-all may be seated. Top of the morning to you-all. It's a great day to be in Georgia.

Bulldogs are ready to play tomorrow, Mr. Tyson.

Ms. Lewis, you're a Bulldog fan; right?

MS. LEWIS: I am, Your Honor. My youngest is now a sophomore at Georgia. Go Dawgs.

THE COURT: She knows what to say.

MR. TYSON: And on behalf of the State, go Dawgs from our side as well, Your Honor.

THE COURT: Boy, you-all are great lawyers.

Anything before we get started, any matters? If not, I think we had Dr. Handley on the stand, ask her to come back and start her cross-examination.

Good morning, Doctor.

THE WITNESS: Good morning.

THE COURT: If you're all ready, you may proceed.

MR. JACOUTOT: Thank you.

CROSS-EXAMINATION

BY MR. JACOUTOT:

Q. Good morning, Dr. Handley.

A. Good morning.

Q. I first want to apologize because I know you were hoping

to get out last night and I certainly wanted to accommodate that. But at the time my cross-examination was running about 45 minutes, so I didn't think there was a way to even pull that off, so we were obviously not going to squeeze that in.

However, as my colleague Mr. Tyson pointed out yesterday, sometimes a break can shorten an examination of a witness, and that's exactly what happened during the last break. So my questions for you are relatively brief, actually, and on the bright side we should be able to get you out of here pretty quickly today.

I just want to turn to your expert report submitted in this case. And it should still be in front of you.

Dr. Handley, you'd agree with me that nothing in this report explains the voting patterns that you analyzed -- excuse me.

You'd agree with me that nothing in this report explains why the voting patterns you analyzed are occurring; right?

A. I didn't hear the last part of the question.

Q. I'll just state the whole question again.

You'd agree with me that nothing in this report explains why the voting patterns you analyzed are occurring; correct?

A. Are current?

Q. Occurring.

A. Occurring, sorry.

That's correct.

Q. And nothing in this report speaks to causation; correct?
A. That's correct.
Q. So I want to look at some of the primaries you examined. Now I want to put it up on the screen here so we can visualize your definition of racial polarization a little better that you spoke about yesterday.
A. Okay.
MR. JACOUTOT: Would the Court like a copy?
BY MR. JACOUTOT:
Q. I'd like to direct your attention to the 2018 Democratic primary for governor. And, Dr. Handley, just to clarify, this is Appendix C6 of your report; correct?
A. Yes. I'm going to be looking here rather than there, because when I turn my head --
Q. Yes. I am sure the Court and court reporter appreciate that.
So in this contest -- in this contest --
A. I'm sorry, which contest?
Q. The 2018 Democratic primary for governor. In this contest, we see Black voters here in your EI RxC metric cohesively supporting Stacey Abrams; correct?
A. Yes.
Q. And white voters are slightly in support of Stacey Evans here according to your EI RxC metric; correct?
A. Correct.

Q. Now, in fact -- so, first, according to your definition of racial polarization, that's a racially polarized contest; correct?

A. That's correct. The Black voters, were they to vote alone, would have elected Stacey Abrams; white voters, Stacey Evans.

Q. Okay. But, in fact, the lower bound -- the lower bound of your EI RxC confidence interval dips below the 50 percent threshold for Stacey Evans; correct? For white voters?

A. That's correct.

Q. And to be clear, the lower bound also dips below 50 percent for Stacey Abrams for white voters; correct?

A. Correct.

Q. But this is what -- an election contest that you would consider racially polarized?

A. Again, because the EI RxC estimates indicate that they would have elected different candidates, I consider this polarized.

Q. Certainly.

Now, the same thing is true if you look down here for commissioner of insurance; correct? Where Black voters are cohesively voting for Janice Laws. And white voters are similarly split on their preferred candidate, but your EI RxC number is above the 50 percent threshold that you consider for racial polarization in your analysis; correct?

A. For the other candidate, Cindy Zeldin, yes.
Q. For Cindy Zeldin. Which, to be clear, is not the same candidate that the Black voters are cohesively preferring; correct?
A. Yes.
Q. Okay. And, again, your confidence interval for the white-preferred candidate dips well below 50 percent here, down to 43.6; is that correct?
A. Yes.
Q. And one more contest to look at. Commissioner of labor, we have Fred Quinn being the Black-preferred candidate with 57 percent of the Black vote according to your EI RxC metric?
A. Correct.
Q. So slightly less cohesion there for the Black voters, but still cohesive in your -- cohesive enough in your analysis to consider him the Black-preferred candidate?
A. I would hesitate to use the word "cohesion" there, that is to say that is not part of my definition. My definition does not rest on cohesion. My definition rests on whether the electoral outcome would be different.
Q. Correct. Understood.
So we don't even have to discuss cohesion because it's over 50 percent and that is enough under your definition of racial polarization?
A. I'm sorry, my definition of racial polarization does not

include cohesion.

Q. Great.

And then if you look over at the white voters EI RxC, very evenly split, but 50.5 percent favoring the other candidate, meaning the candidate of the Black-preferred voters -- or excuse me -- the Black voters did not prefer in that election according to your analysis; correct?

A. Correct.

Q. Okay. So that's three election contests right there.

Now, these elections that we just discussed are included in the portion of your report where you state that 55 percent of Democratic primaries you reviewed were racially polarized; correct?

A. Yes.

MR. JACOUTOT: Let me confer with my co-counsel briefly.

Dr. Handley, that's all I have for you on cross-examination today.

THE COURT: Thank you, sir.

Redirect?

MS. LAKIN: Yes, your Honor.

REDIRECT EXAMINATION

BY MS. LAKIN:

Q. Dr. Handley, good morning.

A. Good morning.

Q. You testified yesterday that based on your analysis in this case, voting in the seven areas of interest is quite racially polarized; isn't that right?

A. That's correct.

Q. And that Black voters were highly cohesive in support of their preferred candidates in the general elections that you analyzed?

A. Correct.

THE COURT: Hold on, hold on. There's an objection.

MR. JACOUTOT: Just want to lodge an objection that this is outside the scope of cross. We didn't discuss general elections at all on cross.

THE COURT: That's true.

MS. LAKIN: Your Honor, with respect to -- he was asking Dr. Handley some questions about her racial polarization and level of cohesion definitions, and I want to clarify.

THE COURT: You can ask her about that, but specific about general elections, he's correct. But I think you can ask your questions without getting into -- I don't know. I said I will not tell you-all what to do. I'm going to sustain the objection.

MR. JACOUTOT: Thank you, Your Honor.

BY MS. LAKIN:

Q. And, Dr. Handley, overall, what was your conclusion regarding Black cohesion in the seven areas that you evaluated for purposes of your *Gingles* 2 and 3 analysis?

A. Black voters were very cohesive in supporting their preferred candidates.

Q. Across the seven areas?

A. In the seven areas.

Q. What about with respect to white voters, were they also cohesive in the seven areas that you evaluated?

THE COURT: Hold on. We have objection.

MR. JACOUTOT: Your Honor, again, this is outside the scope of cross. We're talking about the seven areas of interest and it appears to be referring to the general elections, specifically because we're talking about white voter cohesion, which my cross-examination revealed does not reveal a great deal of cohesion.

THE COURT: Well, you did talk about cohesion.

Let's say we're not taking into consideration general elections, just cohesion. How about that?

I'll sustain your objection according to general election, but you did talk about cohesion, so I'll allow that aspect.

MR. JACOUTOT: Certainly.

BY MS. LAKIN:

Q. And what about white cohesion, what was your overall

conclusion in this case?

A. That white voters were cohesively bloc voting against Black-preferred candidates.

Q. Thank you.

Mr. Jacoutot went over a number of primary elections with you just earlier where there were overlapping confidence intervals in your RxC -- EI RxC estimates; is that right?

A. That's correct.

Q. How did you determine, in situations where there were overlapping confidence intervals, what -- whether the election was racially polarized?

A. I relied on the EI RxC estimate. That's your single best estimate of what the support was for particular candidates.

Q. And did you also have some other data that you relied upon that you looked at to support your conclusions that the elections were polarized?

A. Well, we have the other estimates, there are EI and ER and sometimes HP estimates that you can look at.

Q. And you took those into consideration as well?

A. That's correct.

MS. LAKIN: Give me one minute?

THE COURT: Yeah.

MS. LAKIN: That is all. Thank you.

THE COURT: Recross?

Thank you.

MR. JACOUTOT: No recross, Your Honor.

THE COURT: Can the doctor be excused?

MS. LAKIN: Yes.

MR. JACOUTOT: Yes, Your Honor.

THE COURT: I'm sorry I had to keep you over an extra day, but it's nobody's fault but me.

THE WITNESS: Really? 15 minutes?

THE COURT: I'm sorry. Have a great day and a great weekend.

(Witness excused.)

THE COURT: Call your next witness.

MS. LEWIS: Your Honor, the Pendergrass and Grant plaintiffs call Jason Carter for purposes of the first *Gingles* precondition.

THE COURT: All right. Mr. Carter, come on up.

DEPUTY CLERK: Good morning. Would you raise your right hand, please.

JASON CARTER

a witness herein, being first duly sworn,

was examined and testified as follows:

DEPUTY CLERK: Have a seat. If you can please state and spell your name for the record.

THE WITNESS: My name is Jason Carter, J-A-S-O-N,

C-A-R-T-E-R.

DEPUTY CLERK: Thank you.

THE COURT: Ms. Lewis, you told me a *Gingles* 1 --

MS. LEWIS: The *Gingles* 1 precondition.

THE COURT: Okay. Thank you.

MS. LEWIS: Thank you.

And Mr. Carter is being called in both Pendergrass and Grant, but I will try to flag for the Court when we move from one to the other.

THE COURT: All right. Thanks.

DIRECT EXAMINATION

BY MS. LEWIS:

Q. Good morning, Mr. Carter. Can you please state your name again for the record?

A. Jason Carter.

Q. And where are you from originally, Mr. Carter?

A. I was born at Emory hospital, but I'm originally from Calhoun, Georgia.

Q. Where is Calhoun, Georgia?

A. It's between here and Chattanooga on I-75, just north of Adairsville.

Q. And has your family lived in Georgia for a while?

A. Yes. My family has -- my mother's side of the family moved to Georgia in the 1850s, and my father's side of the family moved to Georgia in the 1760s.

Q. So am I correct that you're a ninth generation Georgian?
A. That's correct. And I have tenth generation ones in my house.
Q. What's your profession?
A. I'm an attorney here in Atlanta. And I do a variety of other community service things.
Q. And where'd you go to law school?
A. I went to law school at the University of Georgia in Athens, Georgia.
Q. I think we might be --
A. Go Dawgs.
THE COURT: See? Before you came in today, both sides pledged their lawyers to the Dawgs.
THE WITNESS: Oh, good. All right. Well, that's just because they're playing Ball State. Let's see what they do in November.
BY MS. LEWIS:
Q. And where do you live currently?
A. I live in Candler Park in the city of Atlanta and DeKalb County.
Q. And how long have you lived in Atlanta?
A. 19 years, since law school. I'm -- I'm -- shocking -- shocked by that number, frankly, but thank you for asking.
Q. Have you ever served in elected office?
A. Yes.

Q. What office?

A. I was in the Georgia State Senate and represented District 42, which is sort of in town, DeKalb County.

Q. Okay. And when were you first elected? What were the circumstances of that election?

A. There was a special election in 2009 and '10, I was elected early in 2010, to finish the seat of my predecessor, Senator David Adelman. Then I was reelected in 2010 and then reelected in 2012. And then I did not run for reelection for the State Senate in 2014.

Q. Can you just briefly tell us what the size of a State Senate district is in Georgia?

A. You mean number of people or physical size?

Q. Yes. Yes.

A. It's -- you know, it's -- I don't know what it is in this census specifically, but it's, you know, three times the size of a State House district at the time. Back in those days, 150,000, 170,000 people.

And it depends, you know, if you're -- on where you are, how big it is physically, obviously.

Q. Is it fair to say that many Senate districts in Georgia will cross or span multiple communities?

A. Yeah, for sure. I mean, certainly absolutely will span multiple communities.

Q. And how long did you serve in the legislature?

A. For five years, four and a half years.

Q. Did you ever run for statewide office?

A. I did. I ran for governor and was the Democratic nominee in the 2014 election.

Q. And would you say that campaigning for statewide office is different from campaigning for State Senate?

A. Yes.

Q. How so?

A. Well, I mean, obviously you're running for the entire state. You have to -- it's a different campaign operation, but it's also a different relationship that you have with the voters. You know, the way you interact with people in a State Senate district is, you know, a lot more in person, a lot more ability to get around to different places and different people. And then statewide it's a different -- you know, you're interactive in a mass way, but you still have to travel the state and you still have to get to know folks and you still have to be able to, you know, relate to communities in ways that you think are going to be effective.

And that's true just to be the nominee in my opinion. And so it's, you know -- it's a -- it's a big state, but it is a collection of communities that are, you know, coherent in their ways.

Q. So fair to say that you had to travel all around Georgia --

A. Yeah.

Q. -- when you were running for the nomination of your party and when you were running for governor?

A. Right. I traveled all around the state, both then and I continue to do that, just in the way that I interact in our politics today. I was just in Valdosta this last Sunday with both of our US senators because of the storm damage that had occurred down there, and so ended up spending 12 hours in the car with Senator Warnock riding down through South Georgia and then back up.

So, I mean, the short answer is yes, I traveled a lot during the run for office. You know, obviously you spend a huge amount of that time in Metro Atlanta, but you spend just as much -- or, I mean, not just as much outside of Metro Atlanta because the huge population is in Atlanta in the suburbs, but I've traveled a lot of the state.

Q. And as you have traveled around the state, have you familiarized yourself with the concerns and the interests of people in different parts of the state as part of your campaign and otherwise?

A. Sure. As part of the campaign, and also in the legislature, in my -- and in talking to the other folks that are in elected office serving different parts and pockets of the state. You know, folks still call me now and we have a lot of discussion about what it is and how it is that we're

addressing various different issues around the state for sure.
Q. And as you've traveled, did you find that people in different parts of the state have different concerns, same concerns, both?
A. I think it's probably mixed. I think some concerns are universal and I think some concerns are unique to the different attributes of the various different communities.
Q. And when you say different communities, are you thinking about urban, suburban?
A. Yeah, I think so. I think urban, suburban, I think you have some of the hub cities outside that have, you know, similar situations, you know, but mostly I think, you know, it is certainly true that in Webster County, Georgia, which is where our -- you know, right next to Sumter County, you know, you've got a county that is shrinking in population that has agriculture as its number one industry and that has a very different set of issues than the booming suburbs of Atlanta or, frankly, even in town Atlanta where I live. So there are different interests in different areas of the state. And then, of course, there's things that every human cares about.
MS. LEWIS: So, Your Honor, with your permission and Mr. Tyson's permission, I would like to hand Mr. Carter a copy of Grant Exhibit 1 and Pendergrass Exhibit 1, both of which have been admitted into evidence.
MR. TYSON: That's fine with us, Your Honor.

THE COURT: That's fine. You may approach.

THE WITNESS: Should I open this?

THE COURT: Yes.

BY MS. LEWIS:

Q. And we're also going to pull up on the screen, but I wanted you to have that --

A. Okay.

Q. -- just in case it's more convenient for you to take a look at.

MS. LEWIS: Mr. Winstead, can we please pull up Figure 6 on page 13 of Grant Exhibit 1.

BY MS. LEWIS:

Q. There's a bigger version for you on the screen there, Mr. Carter.

Have you seen this map before?

A. Yes.

Q. What does that map show?

A. My understanding is that the -- I have seen this map before. I don't have a ton of background with this map. But as I understand it, this is an illustrative plan that has the potential for an additional majority Black district that's in the illustrative plan that's not in the other plan.

Q. Okay.

A. And I may be wrong about that, but that's what --

Q. Right. And that would be --

MS. LEWIS: Actually, I think we can turn the annotation feature off, Ms. Wright.

THE WITNESS: I know I put a dot. I didn't know I was going to put a dot there when I touched the screen.

MS. LEWIS: We'll wait for that to come back up.

BY MS. LEWIS:

Q. Do you recognize that as plaintiffs' illustrative Senate District 25?

A. Yes.

Q. And what counties appear to be included in that illustrative district?

A. Henry and then a small part -- well, a portion of Henry and a portion of Clayton.

Q. And which region would residents of the communities in that illustrative district consider themselves to live in?

A. That's --

MR. TYSON: Your Honor --

THE COURT: Hold on, hold on.

MR. TYSON: I'll just object here to the extent Mr. Carter is going to testify to things people have told him about this region. I think he can testify to his belief about what people would consider, but not what people have reported to him. So that would be a hearsay objection on that.

THE COURT: Okay. All right. Obviously what he knows.

MS. LEWIS: Yes.

BY MS. LEWIS:

Q. Please just testify to your own personal knowledge, Mr. Carter.

A. Yes. So this is South Metro.

Q. South Metro Atlanta?

A. South Metro Atlanta, sure. I mean, that's -- as I understand it, this is Locust Grove, down at the bottom. I-75 runs through here. The Tanger Outlet Mall is there, if I'm right.

Q. Yeah. So you see there's like a little -- there's a little scale there at the -- on the bottom right-hand corner of that map?

A. Yeah.

Q. Would you say it's fair to say that the center of illustrative 25 is 10 to 20 miles from the center of Downtown Atlanta?

A. Yeah. I mean, I can't -- I can't estimate it there, but it is certainly within that Atlanta traffic zone. And, I mean, anybody who's ridden through Eagle's Landing on Jodeco Road would know that. And so -- and this is -- that community is definitely South Atlanta.

Q. Right. And you mentioned --

A. Now. I would say that now, yeah.

Q. And you mentioned highways. Which highways did you say

run through that community?

A. That's -- the part that's on -- toward the east side of that is going to be on that I-75 corridor. And, I mean, if you have an actual map...

The other -- but that's the main I-75 south corridor.

Q. I-675 and I-285 as well?

A. 285 would be, I think, just north. And 675 comes in somewhere in there, but I'd have to see a map to see exactly where it comes in. But, yes, the short answer is that's how you get there from, like, my house, is you take 675 if you're going to a soccer tournament in Locust Grove, which we do sometimes.

Q. And you mentioned Locust Grove. Any other municipalities that you're familiar with there in the Henry County portion?

A. McDonough is -- that looks like the southern part of McDonough.

Q. And what about in the Clayton portion, any municipalities there?

A. It's -- I mean, a geography test, yes. I think this is that south part of Clayton, which it looks to me to be --

Q. Lovejoy?

A. -- Lovejoy. Yeah, that's Lovejoy. But it's that part, that south part of Clayton that borders that same area right in there.

And this is a -- you know, the thing you can tell from

the scale is that if this is ten miles, this is a tiny community that is all within -- you know, certainly within five miles of the center, everybody lives within five miles of that center. Like everybody who lives in that community definitely does their back-to-school shopping at the outlet mall I mentioned.

Q. What's your understanding of the racial composition of that area?

A. I mean, I see from this map that it's a majority Black district. And I -- I suspect that it's diverse. And I also know that that part of the state has been growing significantly and has been getting increasingly diverse racially. But I think the biggest way in which that is -- that demographics have come into play in the way those communities operate is because of the explosive growth over the last, say, 20 years in that part of the state.

Q. What would you characterize that community shown in illustrative District 25 as? Would you characterize it as urban, suburban, rural?

A. I think that's suburban and it's sort of rapidly changing, exurban, if that's a word. I'm not a demographics person, but we would say suburban and exurban. But it is clearly a fast-growing, you know, Atlanta commuter community that has all of the traffic concerns and the concerns of expanding education -- of expanding schools and massive

population boom. And what comes with having an increasingly diverse community that -- that's how I would characterize that.

Q. Would you say that the -- and you mentioned the outlet malls and the shopping. Would you say that the people that are in this illustrative 25 would rely on many of the same systems, resources?

A. Systems, resources. Like they certainly rely, obviously, in this -- in this small area on the same roads. And, you know, the school systems are -- you know, there are going to be two counties there, but the school systems are going to be shared. They're certainly going to -- you know, those school systems are certainly going to play each other in basketball games and things like that.

But you also have -- you know, when you drive through this part of the state and -- you know, you've got giant choices in terms of where to go shop. You've got, you know, lots of grocery stores, you've got lots of different restaurants. And people are going to, you know, geographically orient towards the same types of places to get their goods and services that they -- that they use in their daily lives for sure.

Q. To your knowledge, would residents in that illustrative district rely on the same healthcare systems, hospitals?

A. To my knowledge, yes. I mean, you know, from a -- the

short answer is yes.

Q. And what, if anything, do the Black residents of these areas need from their government officials?

A. Say that again?

Q. What do you think that the Black residents of these areas need from their government officials?

A. You know, I think in my experience, you know, as the -- as a senator in part of a multiracial coalition as a Democratic nominee, which is a giant multiracial coalition, a lot of times the issues are common. And the key is to be able to provide the kind of educational opportunities, the kind of transportation needs, the kind of economic opportunities that everyone has. And, you know, when you watch these communities grow and get more and more diverse, it is important in those communities for people to be able to have representatives and to be able to reflect the community itself.

So I think that -- you know, I think that there is the potential here for -- for a variety of issues to arise as these communities change. And those ones that we've mentioned, transportation, education, healthcare, are ones that folks are going to need people to be responsive to.

Q. You used the word "responsive." What does that mean to you in terms of representation?

A. I think it means that the elected officials believe and understand that the voters in the district matter to their

reelection and that they have to do what they can to respond to their needs and their input. I mean, and I think that's -- that's crucial.

Q. Thank you, Mr. Carter.

A. And you also have to -- well, yeah, that's it.

Q. Please go ahead.

A. No. I was just going to say you also have to -- there has to be enough of a connection to -- between the voters and the elected officials to convince the voters that you would be responsive. Right? It's not only that people complain and you listen, it's that people feel like they can complain or that people feel like they can raise their voices and be heard. And so that relationship between the elected official and the community is just an important one.

Q. Thank you.

MS. LEWIS: Mr. Winstead, can we please pull up Figure 7 on page 14 of Grant Exhibit 1.

BY MS. LEWIS:

Q. Mr. Carter, do you recognize this map?

A. I do.

Q. Can you describe what it shows?

A. As I understand it, this is an additional illustrative majority Black District 28, which is light green on the map.

Q. And that's a Senate district?

A. That is a Senate district in South Fulton, Coweta, the

western part of Clayton and the northern part of Fayette County.

Q. And which region would, in your view, the residents of that -- those communities consider themselves to live in?

A. I mean, I think that's also South Metro at this point. I mean, you can see the other one just across -- on the same map you can see the one we just discussed. This, however, is sort of the I-85 corridor on the southwest side of Atlanta. And that's basically the airport.

Q. And, to your knowledge, are the communities in that illustrative District 28 generally served by the same healthcare systems?

A. Yes, I believe so. And -- yes, I believe so.

Q. And you mentioned the airport. Which airport are you referring to?

A. The Atlanta -- well, I think there's two airports there, but one of them is just in Newnan and the big airport is Hartsfield-Jackson. I don't know if it's -- again, specifically where it is on this map, but it's certainly in that area there on that Clayton/Fulton border.

Q. Why is the airport significant to a community like what's depicted in illustrative Senate District 28?

A. Well, it's just a huge employer. It's a huge economic engine. It's a huge transportation issue. All of those things would affect -- and, again, this is that I-85 corridor,

which means that most of these folks, when they're -- if they're going to work in town, they're going to drive by the airport every day. And a lot of folks, I think, you know, just anecdotally, you know, people -- a lot of folks who live in Fayette County work for airlines and that's true around that area.

Q. Looking at the area depicted in illustrative 28, does that appear to be a cohesive community to you?

A. I think so. I mean, when I was in the -- you know, you see Newnan out here, which is that part of Coweta County, obviously South Fulton, North Fayette and that eastern part of Clayton coming down to Newnan, you know, Newnan is in the same situation that we were talking about with Henry County, because it's grown, whatever, three times in the last -- you know, tripled in size in the last 20 years as the people with the specific details know. But it's booming in that way.

And I do think that you see, you know, those same issues of growth and change and how you confront those educational issues, those transportation issues that come with that kind of explosive suburban and exurban growth there.

Q. And what do you understand to be the racial composition of this area shown in illustrative 28?

A. I mean, again, I know that it is a majority Black district. And -- but I also believe it to be -- it's diverse, I mean, in certain ways, but it's certainly majority Black.

Q. And you described -- when we were looking at the illustrative Senate district that was centered on Henry County, you described some of the interests that you felt like residents in that area would have in common. Would the same apply here for illustrative 28?

A. You know, I think the answer to that is yes. I mean, again, it's such a small geographic area that you're going to have people using the same transportation system. You're going to have people using the same health systems, the same dentists, or, you know, the -- and so you also have education systems. This is more counties than the other one, but you're going to have, again, education systems that are going to be intertwined in certain ways and certainly that are confronting similar issues of growth and of increasing diversity.

And so I think that that is -- that I would say the answer to that is the same as it would be with respect to Henry County. And just to give an example with like the -- I'm going too fast. Same as it was with Henry County with the other district. Excuse me.

And, I'm sorry, I'm turning away. Okay.

Just to give an example, I -- I -- just because we were talking about football, Calvin Johnson was born in Newnan. He was a wide receiver. He went to high school in Sandy Creek. And Sandy Creek is in Fulton County but has a Tyrone address. Right? So, I mean, that -- it is the kind of community that

has folks circulating in it all the time. And, you know, the Fayette County and those South Fulton schools definitely play basketball together, because I had an invitation to this benefit that they -- at Sandy. When Sandy Creek played Fayette they had some big fundraiser, I mean, and I got invited to it. And so you end up with a bunch of folks being together in those contexts.

And, again, like I said, I just happen to know Sandy Creek because Calvin Johnson went there and I know he was born in Newnan. So it's one of those districts that kind of -- there are people who circulate in those areas. Very good football playing ones too, at least one.

Q. Thank you, Mr. Carter.

MS. LEWIS: Mr. Winstead, can we pull up Exhibit 14 on page 26 of Grant Exhibit 1.

BY MS. LEWIS:

Q. And I think I flagged for you, Mr. Carter, those pages that we're discussing.

A. Okay.

Q. If you want to be able to look at those rather than --

A. I'll look at these and talk to the court reporter so that I don't go too fast. This is 64 we're looking at?

Q. Right. Right.

Do you recognize this map? Have you seen it before?

A. I have. And I recognize -- I understand that this is

a -- an illustrative majority Black district from a proposed plan that is District 64 that's in light green on this map.

Q. And that's a House -- a State House district?

A. I understand that's a State House district that would go from that western part of Fulton County through the northeast part of Douglas County over to the far southeast corner of Paulding County.

Q. And what region would residents of those communities in the illustrative District 64 consider themselves to live in?

A. I think that's the west side, the western metro. That's sort of a Six Flags area, right outside of the west side of Atlanta.

Q. Would those communities also rely on the same roadways or transportation systems?

A. Yeah, that's sort of that I-20 corridor that goes west. And, again, I'm not looking at an actual roadmap, but I -- and I -- I actually think that this district misses Six Flags right there, but it's real close. And so a lot of this is that I-20 corridor going west. Austell is in there. Lithia Springs, which -- and that sort of -- that South Cobb area, which looks like it's across the border there. But, yeah, that's an Austell district.

Q. So are the communities in illustrative -- in this illustrative District 64 also served generally by the same systems and infrastructure?

A. Yeah. Look, I mean, I think all of these ones that you're talking about here, the ones in the south side, the ones on that west side, what you're looking at is you're looking at these -- this rim around the center of Metro Atlanta, all of these are really close to that same rim. It's this exurban rim that's experiencing the significant growth over the last 20 years, a significant racial diversification over the last 20 years.

And they're going to be, just because they're also geographically compact, they're going to be served by the same grocery stores, the same transportation centers. You know, they're going to be -- this is three different school districts, but you're still looking at school districts even in that southeast corner of Paulding County, that are going to be growing, that are going to be increasingly diverse and that, you know, are going to be confronting the types of issues that come along with that. And that's true for that real -- that area around Metro Atlanta.

And, you know, and some of the ways that people talk about that, whether it's in Henry County or, frankly, in southeastern part of Paulding, my understanding in general, not because of what someone told me, is, you know, that Atlanta and its growth and expansion has this significant set of impacts on these communities. Right? And they're changing as people move in. They're changing in character. But that

change, that rapid development and that rapid growth, give them a coherent set of issues that they confront.

MS. LEWIS: Mr. Winstead, let's pull up Figure 15 on page 27 of Grant Exhibit 1.

BY MS. LEWIS:

Q. Mr. Carter, do you recognize this map?

A. Yes. I understand this is two House districts that are in the illustrative plan that could be drawn as additional majority Black districts, 117, which is on the right there, exclusively in Henry County as I see it. And then House District 74, which is that southeastern part of Fayette County and a portion of Clayton.

Q. And let's start with 74, which region would residents of the communities in illustrative 74 consider themselves to live in?

A. I think that's South Metro also.

Q. Same question with illustrative 117?

A. That's -- I would say that's South Metro too. I think people would -- you know, that western district, again, it's more sort of toward the airport side, but I think these are -- those are real close together in that southern part of South Metro.

Q. And you've talked a good bit this morning about the things that folks in some of these other communities that we've discussed have in common. What about 74 and 117? Would

you anticipate that there would be similar commonalities for those communities?

A. So both of -- so 117 is -- it looks to me like it's encompassed, essentially, by the other district we were talking about in Henry County, sort of Locust Grove, on that east side of I-75, and so that is the same issues that apply and that would bring together that other part of Henry County, would apply with sort of greater force there, because it's a smaller area.

And then with respect to 74, that district on that east side of Fayette County is, you know, yes, experiencing the same kind of growth, the same issues that come along with that.

Q. Would you perceive there to be a significant difference between the south end of what's depicted in 74 and the north end in terms of the issues that they're confronting?

A. I mean, a significant difference? I think with respect to education, I think with respect to a variety of the issues, they're going to be common. I mean, are the -- you know, are they identical, they're probably not identical, but it's certainly -- you know, again, these districts have to span many different communities. And I think that that particular district there spans some different communities, but at the same time, they are certainly confronting those same sets of issues that they're confronting in the neighboring districts

and also in the ones that we talked about before with respect to Fayette, Henry and the other exurban areas.

Q. And I want to ask you specifically about the Black residents that are -- that are in what is shown as illustrative 74. Would you expect that they are confronting many of the same issues?

A. Yeah. Oh, certainly I think that's true. I think that the -- and I don't know the specific racial demographics in that south part of Fayette County, but -- which is -- which is why I answered that last question the way that I did, but certainly you're talking about a cohesive Black community there in that Clayton, Fayette area that has the exact same issues that I was just describing before.

Q. Anything else that you would like to tell us or any observations you have about these two areas that are shown, illustrative 74 and 117?

A. I don't think so.

MS. LEWIS: At this time, Your Honor, I'd like to move on to ask Mr. Carter questions on behalf of the Pendergrass plaintiffs for purposes of *Gingles* 1.

THE COURT: Okay.

MS. LEWIS: Mr. Winstead, can we please pull up Figure 12 of page 23 of Plaintiffs' Exhibit 1.

BY MS. LEWIS:

Q. Mr. Carter, do you recognize this map?

A. Yes. I understand this is an illustrative congressional map of congressional districts with, I believe, the -- the illustrative potential majority Black district is number 6.

Q. And what counties appear to be included within plaintiffs' illustrative congressional District 6?

A. That is -- looks like it goes from Cobb County down through Douglas County and then into South Fulton County.

Q. So you see a little bit of it in Fayette County?

A. I do see a little bit of it in Fayette County there, on the west side of Fayette County.

Q. And what region would residents of the communities shown in illustrative Congressional District 6 consider themselves to live in?

A. I mean, I think that is the western side of -- the western suburbs of Atlanta and the southern suburbs of Atlanta. So, I mean, it is -- you know, Cobb County is suburban Atlanta. Douglas County is suburban Atlanta. Fulton -- that South Fulton and that bit of North Fayette is suburban Atlanta.

Q. Do those communities rely on the same roadways and transportation systems?

A. Sure. I mean, it's a congressional district, so it's bigger than the House district, but that's no doubt. I mean, that's a -- those are -- 285 is one of the main thoroughfares there. You've got -- you know, that western arc is -- is an

area. And, again, I mentioned before that Austell, Lithia Springs, South Fulton area that's around Six Flags and moves on down is another, you know -- is a part of the community that faces the same issues.

And certainly even if -- you know, obviously that's 75 going north and 85 going south, but the traffic issues, the transportation issues that affect people coming in and around that part of Atlanta, the -- you know, whether and how to deal with those issues is going to be similar, whether it's 75 north or 85 south.

Q. Would you characterize this as a growing area, as a static area?

A. Well, it is clearly still a growing and increasingly diversifying area. In other words, you've got a lot of demographic change that's reflected in the politics of those local areas. And then you've also got, you know, the continued growth of suburban Atlanta throughout that area.

Q. As far -- just looking at the edges of illustrative 6, how far would you say is the farthest point, from a travel time standpoint, from the farthest edge to the center of Downtown Atlanta?

A. The farthest edge that I can see on this map would be maybe that Chattahoochee Hills area in South Fulton. And, you know, that's depending upon traffic, which is one of the things that binds this district together. It's going to take

you not too long to get into Atlanta. You know, 20 minutes.

And then I think that's certainly true when you're coming from Douglas, et cetera. You'll be able to get to Atlanta with no traffic, you know, 30 or 40 minutes, it looks like, to me.

And then Marietta, whatever that -- that spot is there in the middle of Cobb, right at the 575 line, that's -- that's also about the same distance in terms of -- but, again, all of that depends on what time of day.

Q. What about the school districts in illustrative CD6?

A. You know, you have suburban school districts. Douglas County, Fulton County, Cobb County, and Fayette, I mean, that's what those are, they're suburban school districts at this point.

Q. And any other infrastructure-type commonalities that you see for this region that's shown in illustrative 6?

A. I mean, I know we've discussed the airport, you know, that's how people if they're -- to the extent people are going to travel the world, they're all going to go there.

The -- you've also got the -- you know, the -- I keep talking about traffic, but mostly because that affects people every single day. And I do think that, in all of these areas, as I said, you know, months ago in this same place, you know, that the daily traffic reports in Atlanta affect all these people every day in that district.

And so you do have that, you know, growth that's happening. You know, how and when, if it's a congressional map, the federal government is investing in its interstates, those are -- these are clearly, you know, significant economic drivers in those areas, would be those interstates, and how they interact.

And then you've also got, you know, frankly, some other economic things that bind them together with respect to the airports and then the aviation centers in Cobb County from an economic standpoint.

Q. Can you describe what you understand to be the racial composition of the area shown in illustrative CD6?

A. So yeah. So we've talked about some of these areas before when we were talking about the House district. But I understand that this is a majority Black district, obviously, and that in those northern and western parts, in Cobb and Douglas County, that would be, you know, a changing demographic environment.

South Fulton, you know, has been majority Black for longer, but you still have that kind of exurban growth, and you've got increasingly diversifying areas in all of those spots.

Q. What about the healthcare systems in this area?

A. I mean, again, you know, folks are part and parcel of the same systems. I do think, you know, it's a congressional

district, so it's bigger. You know, people are going to go to different hospitals. You know, they're going to go to Kennestone hospital in the north part and they're going to go, you know, to different places in the south part, but the way that those hospitals interact with the federal government and the things that they're all looking for in those areas, it's not like it's a rural healthcare system in any of those places. It's definitely a suburban healthcare system that's going to be similar in those different places.

You know, I -- I think...

Q. So can you tell us what, if anything, you understand Black residents in this illustrative CD6 would be needing from their government officials?

A. Again, I think we've talked about it before, but responsiveness to their specific needs, education, transportation, infrastructure, you know, this has got -- one of the things that I think is important about this district is that Chattahoochee River runs through the whole east side of Cobb County and through the middle of the rest of that district. And, you know, that's one of the amenities that I think people are looking at as an important environmental piece.

I think you've got population growth around that area. I think that as people's land use issues and other things change, you know, you want to make sure that as these places

grow, their government is responsive to what they need and want. And, I mean, I think that's true for that community and I think that it has the ability to bind together on those suburban Atlanta issues.

Q. And would your response that you just gave, would that apply to Black residents from different parts of the illustrative district?

A. Different parts of the illustrative district? Yeah, absolutely. I mean, you know, I think it would.

MS. LEWIS: All right. Give me just a moment.

I think that's all I have for you, Mr. Carter.

THE WITNESS: Thank you.

THE COURT: Thank you, Ms. Lewis.

Mr. Tyson.

You may proceed, Mr. Tyson.

MR. TYSON: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. TYSON:

Q. Mr. Carter, it's always good to see you. I hope you're doing well today.

A. I am. Thank you. And it's good to see you as well.

Q. So, Mr. Carter, I have a few questions about what Ms. Lewis has asked you about today. And I want to begin, you ran for governor, you indicated, in 2014, and you ran as a Democrat; correct?

A. Correct.

Q. And you personally believe that Democrats would do a great job of governing Georgia; right?

A. I think that's true for some Democrats, yes.

Q. Since you're under oath I won't ask you any more --

THE COURT: You know, we've got him here. We can pin him down.

BY MR. TYSON:

Q. Mr. Carter, in your experience in Georgia politics, do majority Black districts generally elect Democratic candidates?

A. In my experience in Georgia politics, majority Black districts, yes, generally elect Democrats.

Q. And so adding more majority Black districts would likely add more Democrats to whatever body was being discussed; right?

A. I think that is likely, but, again, you know, they get to vote when you draw the district. So folks will vote for who they want to vote for, but, yes, that is my belief.

MR. TYSON: Your Honor, that concludes my questions for both Pendergrass and Grant.

THE COURT: All right.

MR. TYSON: I'm going to move next to Pendergrass.

BY MR. TYSON:

Q. I'm going to start where we left off with Congressional

1 District 6, just to make this easier for you, Mr. Carter.
2 And so I'm going to move to page 23, Figure 12 of
3 Pendergrass Exhibit 1. So do you have that in front of you?
4 **A.** Okay. I'm looking at that now, yes.
5 **Q.** Great.
6 So you identified illustrative District 6 as a new
7 majority Black district; is that correct?
8 **A.** That's my understanding.
9 **Q.** How did you come to that understanding?
10 **A.** It -- in preparation for this, it was presented to me and
11 represented to me as a majority Black district, based upon the
12 illustrative plan.
13 **Q.** Do you know if the Cobb portion of illustrative
14 District 6 is majority Black itself?
15 **A.** I don't know. But I do -- I don't know the demographics
16 specifically of that, but I do know that that -- certainly
17 that south part of Cobb has been becoming increasingly diverse
18 and has elected a significant number of African-Americans.
19 And I know that's countywide in Cobb. They've elected a
20 significant number of African-Americans. And my understanding
21 is that's due, in part, to demographic changes in Cobb. But I
22 don't personally know the demographics of that section of
23 Cobb.
24 **Q.** And you referenced traffic interests that residents share
25 in common as a fellow Atlantan. I know we all share that. So

would you agree traffic affects all residents of Atlanta or the Atlanta area regardless of their race; right?

A. Yes.

Q. You also referenced 285 as being something that's a shared interest or in the Congressional District 6 area; is that right?

A. Well, it's an area. I mean, I think that if you're going from Marietta to the airport, you're going to take 285. I think if, you know, you're getting around, it's obviously not -- it's only in the district, as I look at it, in that Cobb County section, from the baseball stadium down to the river.

Q. And in terms of the airport, do you -- can you determine what district the airport is in on the illustrative plan?

A. I just -- only because I know that the airport is in Clayton County, so I can -- it is not in the district, but it is right there on that Fulton line. So I suspect, without looking at a map, that like the parking lots are in Fulton County and the airport itself is in Clayton, but I could be wrong about that. It's certainly close enough to that side of 85 there.

Q. And would it -- do you know if it would be in the 5th Congressional District on the illustrative plan or do you just not know?

A. I can't tell from this map, but it looks like it's in

the -- actually, it looks like it's in the 5th based on where the -- where 285 and 85 connect.

Q. And, Mr. Carter, obviously when you're drawing congressional districts, you have to put portions of population in different places. Is it your view that if a county was a small proportion of the population of a district, that it might not get the same level of representation as an area that's a larger county in the district?

A. I think -- I think that that -- I think when you're talking about county representation -- I don't know how to answer that. But I do think that the folks that are in that, you know -- I don't know how to answer that, I guess, is the best way to say that.

Q. All right.

A. Because I don't know how you represent a -- you know, they're going to represent voters, and the question is who are those voters, but I -- yeah. That's how I would answer that.

Q. Mr. Carter, do you recall testifying at the preliminary injunction proceeding in this case about a portion of a county being included in Congressional District 14 and the relative representation that portion would receive?

A. I don't know -- I don't recall District 14 in particular, but I do recall testifying about what happens when a group of voters with different interests are sort of buried as an appendage in a district that's very different from where they

live, yeah. I do recall that. But I don't -- I have not reviewed that testimony since that time, but...

Q. And looking at the illustrative plan, you see there's a small portion of Cobb County that's included in Congressional District 3; is that right?

A. I do see that.

Q. And would you consider that portion of Cobb County to be similar to counties at the south end of District 3, like Harris and Muscogee and Troup?

A. I don't know exactly what that part is of Cobb, but -- I mean, that part of Cobb I would say definitely has more suburban issues than Harris County.

Q. And you're aware that Hancock County is a majority Black district in East Georgia; right?

A. That Hancock County is a majority Black district?

Q. I'm sorry, a majority Black county.

A. I am, yes.

Q. And in your understanding of different regions in Georgia, does Hancock County have a lot in common with the Northwest -- or Northeast Georgia Mountains?

A. You know, I think that the East Georgia -- you know, say Franklin County, for example. You know, if you go to school in Franklin County, it is a relatively rural county. It has agriculture as some of its fundamental aspects and it's got a school district that, you know, struggles to keep up with

what's going on.

I think Hancock County has some unique attributes, but it is a -- it is a rural county. It does have those issues that the -- it is poorer, it is significantly poorer than Franklin County. And it has issues that go along with being very rural and poor, but it's poorer than Putnam and it's poorer than Greene, too. Right? I mean, so Hancock County is a particularly difficult spot to deal with. It is majority Black. It is poor. And -- but it is rural and does have, you know, some of those things in common, I would say.

Q. And you referenced Putnam and Greene Counties. You were referring to Lake Oconee as a wealthier area, I'm assuming?

A. Sure. And just the economic reality of Putnam which has got Eatonton and those -- those lake communities just drives a level of economic activity that doesn't exist in Hancock County. And, you know -- but, yes, that's the short answer.

Q. And you've testified about different communities and interests in illustrative District 6. I'd like to turn to two pages later, page 25, Figure 13 in Pendergrass Exhibit 1. And this is the -- I'll represent to you this is the 2021 enacted congressional plan.

Do you see that?

A. The 2021 enacted congressional -- yes, I do.

Q. And so you'd agree with me that South Fulton County is included in District 13; is that right?

A. Yes.
Q. And Eastern Douglas County is included in District 13; right?
A. Yes.
Q. And South Cobb -- there's a portion of South Cobb over in the area near 285 and the river is also included in District 13; right?
A. Yes, that's what it looks like to me from this map.
Q. Do you know if District 13 is a majority Black district?
A. I believe that it is. I don't know -- I do know who represents the district, but I don't know the demographics of it today. I assume it's majority Black, though. Based on just looking at it and what I know about that area. In fact, I bet it's a lot, lot majority Black.
Q. And so would you agree --
A. That's a technical term. Sorry about that.
Q. That's all right. Understood.
And do you understand that Congressman David Scott currently represents that district?
A. I do.
Q. You'd agree with me that the interests you described as being included in Congressional -- illustrative District 6 are also included in the area covered by enacted District 13; right?
A. I think that's fair. I mean, I think that the issues

that -- we've talked about all of those areas today.

MR. TYSON: So let me move to your -- the Grant portion of the testimony, Your Honor.

BY MR. TYSON:

Q. And we'll turn to Grant Exhibit 1 and go through those districts as well, Mr. Carter.

Begin with page 13, Figure 6 of the Grant exhibit. Are you there with me?

A. That is this number 25. Yes.

Q. And so just so the record's clear, we're looking at a map of illustrative State Senate District 25; right?

A. That's what I'm looking at, yes.

Q. And in looking at this map, you mentioned McDonough and Lovejoy.

Do you recall that?

A. Yes.

Q. Do you know if either of those jurisdictions are wholly contained in District 25?

A. I would have to see a different map to make sure. I mean, it's -- yeah, so...

And, frankly, I don't know if Locust Grove is wholly contained in it either. I just know that's where those places are.

Q. And you'd agree that there are different school systems in Henry and Clayton Counties; right?

A. Yes.
Q. Are you aware whether the current enacted District 25 is represented by a Republican or a Democrat?
A. I do not know. I'm -- yeah, I do not know.
Q. And looking one district to the east, do you see that district connects South DeKalb all the way down to Butts County in District 10; is that right?
A. I do see that.
Q. Do you consider Butts County and South DeKalb County, Stonecrest area, to be similar?
A. Again, I think -- I think you're talking about a -- an area that is -- that is growing. And I think you're talking about an area that shares those transportation issues and that shares the -- the issues that people are confronting. I think Butts is probably confronting those in the future and sort of thinking and looking at them that are on the way. And, you know, Henry and South DeKalb obviously have been confronting them for more years, but I think that's -- I think those issues are coming for Butts County, for sure.
Q. Today do you consider Butts County to be a rural county?
A. I think it's probably exurban, I think it probably has portions that are still rural, but I don't know, for example, the agricultural aspect of that economy. I mean, my understanding of that area is that, you know, you've still got a lot of service folks and -- I mean, meaning people who work

in a service economy and that are not necessarily out there in row crops and cattle or whatever.

Q. Understood.

Let's move to illustrative Exhibit 28 on Figure 7 on page 14 of Grant Exhibit 1.

A. Okay. I'm now looking at Figure 7, which is a map that includes illustrative District 28.

Q. Thank you.

Do you know if Coweta County is split or whole on the current enacted plan?

A. I don't. I would have to see it.

I know that when I was in the Senate the Coweta County district also included some portion of South Fulton. And so those have been together for a long time.

Q. And so it's your understanding that the enacted plan would have a connection between South Fulton and Coweta County?

A. I don't know. I know that in the -- that when we drew the maps in 2010, Mitch Seabaugh was the chairman of the redistricting committee and represented Coweta County and wanted -- or I'll say and drew a map that included and put part of South Fulton in that Coweta County district. That's what I recall. I'd have to look at the current -- I have not looked at the current enacted map in that regard.

Q. Is it your understanding that during that 2011

redistricting process the legislature considered the boundaries of regional commissions in drawing the maps?

A. I don't have a recollection of that.

Q. Do you recall if the legislature considered keeping cities whole during the 2011 cycle of redistricting?

A. I don't recall that either. I -- I know that if they considered it, they didn't always do it.

Q. Do you recall if the legislature considered keeping counties whole during the 2011 redistricting cycle?

A. I -- I would give the same answer. I don't know if they considered it, but I know that they -- they didn't always do it.

Q. And I believe you testified earlier with Ms. Lewis that District 28 represented a cohesive community. Do I have that right?

A. I mean, I think it's -- it is -- I don't know what I -- if those are the exact words, but I do think that this is a district that, when you look at it, it makes sense from how people move around in that district and where people live.

Q. I know we referenced Calvin Johnson as part of this, but I wanted to ask, is it your belief that residents of the city of Newnan that are included in District 28 are similar to the portion of Clayton County that's included in District 28?

A. I think that it's -- you know, my view -- you know, what I know about Newnan is that Newnan has, over the last

20 years, changed dramatically. And it's experiencing the same kind of explosive or, you know, post-explosive growth that a lot of these other places are experiencing. And so I think that the issues that they confront in Downtown Newnan are similar to the issues that are being confronted in that northern part of Fayette, Tyrone and in that, you know, South Fulton, et cetera, western part -- and certainly that far western part of South Fulton, you know, where the growth is still continuing on.

Q. And those issues you're thinking of would be the same for all the residents of those areas; right?

A. I think that when you are -- I don't know what you mean by all the residents of the area. I think people experience it differently. I think in terms of an education system, for example, that is increasingly diversifying, for example, you have different issues to confront with different aspects of the education system. Right? I mean, I think that diverse populations interact with the education system in different ways from each other, and so you have a set of issues that may be different for people based on that.

Q. Do you know if the Coweta portion of illustrative District 28 that's included is majority Black?

A. I don't know looking at it.

Q. Do you know if the Coweta -- or the boundaries of District 28 split the city of Newnan?

A. Looking at this map, I don't know for sure.
Q. Let's move to page 26 and Figure 14. We're now looking at page 26, Figure 14 of Grant Exhibit 1. Are you there with me?
A. Yes. I'm looking at Figure 14, which is a map that includes the illustrative District 64.
Q. And do you have an understanding of whether the south part of Paulding County that's included in District 64 is a more rural area of the county?
A. A more rural area of the county? I don't -- I do not think it is more rural than other parts of Paulding County. And I think it's probably the least rural part of that county outside of the actual metro areas.
Q. Do you believe that portion of South Paulding included in District 64 is more rural than the portion of Fulton that's included?
A. I would say it is more rural, but I still think it's in that same vicinity where you're talking about, you know, fast growth. It's sort of the Butts County answer that I gave before. Right? I think you're looking at how the world works. Certainly it's a spectrum from Fulton out to Paulding, but it's part of that same -- that same changing environment.
Q. Mr. Carter, during the 2011 redistricting when you served in the State Senate, do you recall districts that included both areas of heavier Black concentrations of voters and

heavier white areas?

A. Do I recall districts that included both? Are you saying both in the same district? I'm sorry.

Q. Yes, let me be a little more specific.

A. Yeah, yeah, yeah.

Q. Do you recall from your service in the 2011 redistricting cycle whether some of the districts included areas that had heavily Black population and then extended to areas in the same district that included heavily white population?

MS. LEWIS: Your Honor, I'm going to object. I've been trying to be indulgent, but Mr. Tyson is going well outside the scope of direct.

MR. TYSON: And, Your Honor, I'm asking if he recalls that. I think he's mentioned his service, mentioned the interest he has in redistricting. I'm about to ask a follow-up question about District 64, if it does the same thing. So I was using this to set the foundation for that.

THE COURT: I'll allow the question.

THE WITNESS: I know that my district, for example, in District 42, had a -- had parts of it where they were demographically majority white and parts of it that were demographically majority Black. So there are districts like that. And there were back then.

BY MR. TYSON:

Q. And are you aware whether District 64 includes that same

area of an area of heavily Black population and a heavily -- more heavily white area in the same boundaries?

A. I'm not aware of the specific demographics, but I do know that this corridor from Fulton out through that northern part of Douglas County is significantly diverse. And I think that it's overall a majority Black district. That's what I know for sure.

Q. So let's move to the next page and Figure 15, back to South Metro Atlanta.

A. Yeah. I'm looking at Figure 15, which is a map that includes illustrative Districts -- House District 74 and illustrative House District 117.

Q. Thank you.

And looking at illustrative District 74.

A. Okay.

Q. Does it appear that includes the city of -- or at least part of the city of Peachtree City?

A. Peachtree City is on that west side of Fayette and so it's possible that it does. I can't tell from looking at the map.

Q. And would you consider the southern portion of Fayette County to be a pretty rural area?

A. I think -- again, I think it's exurban. I mean, I don't -- again, I don't think people plant crops there. I think that, you know, you've got -- my -- my family all grew

up in Peachtree City and went to McIntosh High School and now live outside Peachtree City. And you might have big lots, but I don't think it's rural.

Q. You'd agree with me there's probably more horse farms in South Fayette County than there are in the portion of Clayton that's included in District 74; right?

A. More horse farms, probably. But when my kids did their horseback riding, it was in Ellenwood, South DeKalb. So I think you've got -- I don't think that it makes it rural. You know what I mean? Those are -- to the extent there are horse farms, they're suburban horse farms for people that are doing equestrian riding at their competitions, but -- and it wasn't really horseback riding. It was -- for the record, my children went to this horse camp in South DeKalb, but they did ride horses there and so I think you've got that sort of spread around.

Q. And, Mr. Carter, do you know if the Fayette, the South Fayette portion that's included in District 74 on the illustrative plan is majority Black?

A. I don't know. I would be surprised if that part of Fayette County was majority Black, but I don't know for sure.

Q. And looking at illustrative District 117, I'm assuming your answer would be the same here, but you don't know if the city of Locust Grove is split; right?

A. I cannot tell from looking at this map, but I do know

that that is the Locust Grove area. And, you know, I think -- I think -- and you asked about cities a couple times, and I think it's interesting and important, but, you know, we -- what I would say about cities, to be clear, is, again, I think I mentioned, you know, Sandy Creek High School has a Tyrone address. Right? Like people in DeKalb County will say they live in Decatur and they mean this giant, giant, huge area, and the city limits of Decatur are really small.

So a town like Locust Grove -- and, by the way, Decatur has an independent school district, so when I was in the State Senate, we had three different school districts in my State Senate district, but they all faced similar issues. Right? City of Decatur, slightly different, because it's a small, independent district, but it's going to be, within anything -- I think somewhere like Locust Grove, I think the people who say they're from Locust Grove is way bigger than the people who live in the city limits of Locust Grove. I think that's true for the most part for those towns and, again, in this area.

And I think that you've got -- it is important in the ways that folks may talk about, but I think that the economic and social reality of these areas is not as defined by the city limits of Locust Grove, which is one reason why I don't know it -- where they are on the map.

Q. Understood.

In your experience spending time with Georgia voters, is it -- do people tend to identify themselves outside Metro Atlanta more by their county than by their city?

A. It depends how far you get outside of Metro Atlanta. Right? I think in these areas, like people would tell you, I live in McDonough, I live in Locust Grove, I live in Eagle's Landing. And, you know, towns like -- there's some of the bigger ones like Roswell, but then I think a county like Clayton County, people would -- people pretty much say Clayton County. And so I think it depends on the area. But when you get outside of these types of areas, I think for sure that someone is going tell you they're from Harris County and not some town.

Q. And use the county name, not a city name?

A. Use the county name, yeah.

MR. TYSON: Your Honor, if I can consult with my co-counsel, I think I'm finished.

THE COURT: Yes.

MR. TYSON: Mr. Carter, it's always great to see you. Thank you for your time today in coming down to join us.

THE WITNESS: Thank you, sir.

THE COURT: Thank you, Mr. Tyson.

Redirect, Ms. Lewis?

MS. LEWIS: Yes, Your Honor.

REDIRECT EXAMINATION

BY MS. LEWIS:

Q. Mr. Carter, Mr. Tyson asked you about whether Black residents of these illustrative districts were more likely to vote for Democrats.

Do you remember that?

A. I do.

Q. I'm going to ask you, if a candidate wants to be elected in a majority Black district, are they more or less likely to try to understand the concerns of the Black residents of that district?

A. Sure. I think in order to get elected in a majority Black district, it's a requirement to understand the needs and wants of the -- the Black residents of the district.

Q. And that's true whether that candidate is Republican or a Democrat?

A. Republican, Democrat, Black, white, absolutely. And I think one of the things that I would say is that, in these areas, Black voters have voted for all different kinds of people. But they've only voted I think for people that they supported, so -- and they support them based on a whole bunch of different things. That's my experience.

Q. Including whether or not those people are responsive to their concerns?

A. Correct.

MS. LEWIS: That's all I have, Your Honor.

Thank you, Mr. Carter.

THE COURT: Recross?

RECROSS-EXAMINATION

BY MR. TYSON:

Q. Mr. Carter, just one more question along the line of what Ms. Lewis just asked you.

Are you aware of any situation in Georgia where a majority Black district has elected a Republican?

A. I'm aware of a Republican that currently represents a majority Black district. And so, you know, I don't -- does that mean that -- so I guess the short answer is yes. I -- she did switch parties recently. But I think that that just -- so I don't know how else to answer that. Otherwise, I'm not, in this current political environment.

Q. So just to be clear, the only individual you know of that's a Republican that has been elected from a Black majority -- or is serving a Black majority district wasn't elected from that district as a Republican; is that right?

A. Sure. I guess it depends on how you define Republican, because, you know, the CEO of DeKalb County, which is majority Black, you know, former CEO, is now Republican. You have a number of other African-American Republicans out there who've been in elected office. But I would agree that I don't know of anybody who has been elected as a Republican from that district. But I do think that, you know, there are

Republicans representing majority Black districts now and there are Republicans who have held majority Black seats in the past.

Q. And just to tie up all those pieces. So you would agree that you're not aware of any situation where someone ran as a Republican in a majority Black district and was elected as a Republican in that majority Black district in the general election; right?

A. From a -- I guess my question is this, Georgia itself; right. I don't know -- you know, Georgia has a legislature that's two-thirds Republican. Georgia has a legislature that -- and a statewide set of candidates that you would say it's a majority Republican. And elected a Black senator. And you have Republican nominees that are Black in a variety of different contexts. And so I think there's a lot of choice out there for Black voters and for Republican voters.

But I am not aware of within a district, like a legislative district, someone running as a Republican in a majority Black legislative district and getting elected. But I don't know that that's always going to be true. And I think it probably -- it probably won't be eventually, although, frankly, like I don't -- but the Republican party would have to change, which I think it will.

Q. At least I think we can both agree there's a lot of political opportunities for Black candidates across Georgia;

1 right?
2 **A.** Well, let me say this. I think that that is -- I think
3 that the bottom line is, the only way in these legislative
4 districts that you're going to be able to ensure that folks
5 are responsive to -- given the super racially polarized
6 voting, that you're going to have people be able to ensure
7 that there's responsiveness to the Black community, to ensure
8 that there's responsiveness, is to make sure that that
9 community gets to pick the voters -- gets to pick the elected
10 officials.
11 **Q.** Right.
12 **A.** That's the way districts work, which is what your point
13 was before about electing Republicans. Right? I think the
14 Republican party would have to change, but I think it's
15 possible. I think that being responsive to voters in majority
16 Black districts is a really good way for the Republican party
17 to change. And I think that without making sure that you have
18 that responsiveness, given the racially polarized voting that
19 we have, you're going to end up with less representation for
20 Black people in the legislature.
21 They do have opportunities statewide if you're Raphael
22 Warnock in super unique situations. But I think in general,
23 from the legislative district standpoint, your original point
24 is the -- is true.
25 MR. TYSON: I don't have any further questions, Your

Honor.

Thank you again, Mr. Carter.

THE COURT: Thank you, Mr. Tyson.

Thank you, Mr. Carter. We appreciate having you today.

THE WITNESS: Thank you very much.

(Witness excused.)

THE COURT: Let's take a 15-minute break here. We'll start back at five after 11:00.

(After a recess, the proceedings continued at 11:07 a.m. as follows:)

THE COURT: You-all can be seated.

Who's next?

MR. JONES: Good morning, Your Honor. The Pendergrass and Grant plaintiffs would like to call Erick Allen to the stand to testify to the first *Gingles* precondition in both of those cases.

THE COURT: All right.

Mr. Allen, come on up.

DEPUTY CLERK: Can you raise your right hand, please.

ERICK ALLEN

a witness herein, being first duly sworn,

was examined and testified as follows:

DEPUTY CLERK: You can have a seat. If you can please state and spell your name for the record.

THE WITNESS: Erick Allen. E-R-I-C-K, A-L-L-E-N.

THE COURT: Mr. Jones, is he going to start with *Gingles* 1 State and Senate House and then *Gingles* 2 congressional?

MR. JONES: Yes, Your Honor, that is correct. And we will also proceed in that order.

THE COURT: All right. You may proceed.

DIRECT EXAMINATION

BY MR. JONES:

Q. Good morning, Mr. Allen. How are you?

A. I'm well. How are you?

Q. Great.

Mr. Allen, where are you originally from?

A. Originally from Nashville, Tennessee.

Q. And where do you live now?

A. I live in unincorporated Cobb County, Vinings/Smyrna area.

Q. Has your family lived in Georgia for a while?

A. Over 20 years.

Q. And what is your profession?

A. I'm a telemanagement consultant.

Q. Can you describe what you did professionally before you

became a consultant?

A. Most of my career has been in HR, HR technology. Prior to the company that I'm at now, which is --

THE COURT: Hold on. Slow down a little bit.

THE WITNESS: Slow down. Okay.

THE COURT: Relax.

THE WITNESS: All right.

THE COURT: I understand. The court reporter has to be able to hear things you say so when I have to make a decision, I can make sure I've got what you said correctly.

THE WITNESS: Sure.

THE COURT: Let's take it from the top again.

MR. JONES: Sure. All right.

BY MR. JONES:

Q. Mr. Allen, where are you originally from?

A. Nashville, Tennessee.

Q. And where do you live now?

A. Unincorporated Cobb County, in the Vinings/Smyrna area.

Q. Has your family lived in Georgia for a while?

A. Yes.

Q. About how long?

A. About 20 years, a little over 20.

Q. What is your profession?

A. Telemanagement consultant.

Q. And can you describe what you've done before becoming a

consultant?

A. Prior to being in this role as a consultant with Cornerstone, I've worked with Reed Elsevier as a telemanagement executive. I also worked as the executive director for the Office of Organizational Development for the Georgia Department of Behavioral Health and Developmental Disabilities, as well as Central Parking Corporation prior to that.

Q. And can you please just let us know about the work that you did with the State of Georgia Department of Behavioral Health?

A. Yeah. I actually started on that job as a consultant into the department after they were -- entered into the agreement between the Department of Justice in violations of the Americans with Disabilities Act and CRIPA, which is Civil Rights of Institutionalized Persons Act. Yeah. So worked with them on putting in talent strategies to comply with the settlement, as well as talent strategies on recruiting and retaining current employees in the department.

Q. And in that capacity what was the geographic scope of your work?

A. It was statewide. It's a statewide authority. It's the -- I believe, the third largest department in the state. At the time, we had six mental health hospitals in Atlanta, Columbus, Savannah, Augusta, Milledgeville, and Rome, but the

Rome and Thomasville closed during my tenure.
Q. And in that capacity did you have an occasion to familiarize yourself with the various communities that you just mentioned?
A. I did. I frequented each of the hospitals regularly. Plus we had responsibility providing services to all 159 counties in the state.
Q. Have you served in elected office?
A. Yes.
Q. What office were you elected to?
A. I served in the Georgia House of Representatives, representing House District 40.
Q. And where was that district located at the time in which you served and represented?
A. Primarily Cobb County, in the Smyrna/Vinings area, also Mableton. But it also crossed over into Fulton County with one precinct in North Buckhead.
Q. Just one precinct?
A. One precinct.
Q. When were you first elected?
A. 2018.
Q. And how long did you serve in the legislature?
A. Four years.
Q. Have you ever run for statewide office?
A. Yes.

Q. Which statewide office did you run for?
A. I ran for lieutenant governor in 2022.
Q. How does campaigning for statewide office compare to campaigning for State House?
A. For statewide office, you're looking at different issues across different geographical areas of the state, opposed to in a State House district it's a little more narrow focused on certain issues and not as broad in the way you're campaigning and messaging and the issues you're confronting.
Q. As part of your campaign for lieutenant governor did you have occasion to travel to communities across the state of Georgia?
A. Yes.
Q. And across Metropolitan Atlanta?
A. Yes.
MR. JONES: I'd like to pull up Figure 6 on page 13 of GX 1.
BY MR. JONES:
Q. Mr. Allen, do you recognize this map?
A. I do.
Q. Do you recognize plaintiffs' illustrative Senate District 25?
A. I do.
Q. Can you describe its location?
A. It is in the south, what I would consider South Metro,

comprising various counties in that area.

Q. And you used the term "South Metro." Could you just describe for the Court what you understand that term to mean?

A. Well, it's in the -- the Atlanta Metropolitan area, it's comprised within the counties that make up, if you wanted to be technical, the Atlanta MSA, metropolitan statistical area. So these are what I would consider southern -- southeastern counties in the Metro Atlanta area.

Q. And how do you know that?

A. Like I said, it's part of the Atlanta MSA and quite regularly known to be part of the Metro Atlanta area.

Q. Why would residents of these communities, as you mentioned, sort of generally consider themselves to live in Metro Atlanta? And to be clear, I'm asking for you to tell us about your personal knowledge and not what, you know, any specific conversations that residents of those areas may have -- that you may have had with them.

A. I would say the residents of those -- that district and those counties share similar entertainment districts, hospital networks, transit systems, education systems, those types of -- they have a lot of shared interest, even employment.

Q. And I believe you mentioned transportation systems. So can you elaborate on any roadways or transportation systems that these communities may rely upon?

A. Roadways in this area would be typically your freeway 75, 85, 20 and 285.

Q. And are the transportation-related needs of these communities similar or different?

A. I would say they're very similar.

Q. How so?

A. Very dependent. Being in a suburban area, really depending on those thoroughfares as well as other roads in order to traverse that general area.

Q. And I believe you also mentioned healthcare?

A. Uh-huh (affirmative).

Q. Can you elaborate on some of the healthcare commonalities that may bind together parts of this district?

A. They're typically using some of the same regional health systems for primary services. So in that area, more of a -- I believe Piedmont, Wellstar both have a presence in that area.

Q. And can you describe the racial composition of the area included within this district as you understand it?

A. I would say it's heavily a Black population.

Q. And what do the Black residents of these areas need from their government officials?

A. Adequate representation and advocacy around those issues that I talked about, around education, healthcare, transit, employment, among other things.

Q. And do the Black residents of these areas have that in

common?

A. I would believe so.

MR. JONES: Let's pull up Figure 7 on page 14 of Grant Exhibit 1.

BY MR. JONES:

Q. Mr. Allen, do you recognize this map?

A. I do.

Q. Do you recognize plaintiffs' illustrative Senate District 28?

A. I do.

Q. Can you describe its location?

A. This one is to the west, so I would consider this Southwest Metro Atlanta.

Q. And are the communities in illustrative Senate District 28 all generally considered to be in Metro Atlanta?

A. Yes.

Q. How do you know?

A. Once again, I believe it encompasses -- it's totally confined within the Atlanta MSA and I believe that the residents would also consider themselves in Metro Atlanta.

Q. Are the communities in this illustrative district generally served by any of the same healthcare systems?

A. Yes. I would consider the same two. I also believe that in that area there may also be a presence of Emory, and for trauma services would be Grady.

Q. Do these communities rely upon any of the same roadways or transportation systems?

A. Yes.

Q. And what might some of those be?

A. I think they would be the same. You're looking at 75, 85, 20 and 285.

Q. Can you describe the racial composition of the area included within the illustrative district as you understand it?

A. I would also consider this to be a significantly or -- Black.

Q. And what do the Black residents of these areas need from their government officials?

A. The same things, advocacy around transit, employment, education, healthcare, among others.

Q. And are these needs shared by Black residents from different parts of the illustrative district?

A. Yes.

MR. JONES: Let's pull up Figure 14 on page 26 of Grant Exhibit 1. Let's see. Apparently I have the wrong page, but I am looking for Figure 14.

Thank you, Mr. Winstead.

BY MR. JONES:

Q. Mr. Allen, do you recognize this district?

A. I do.

Q. Is this the plaintiffs' illustrative House District 64?
A. Yes.
Q. Can you describe its location?
A. This one I would consider more West Metro Atlanta. South and southwest.
Q. And why would residents of these communities consider themselves to live in Metro Atlanta?
A. For the same reasons. They're in the Atlanta statistical metropolitan area. Also have a lot of shared interests in entertainment, healthcare, transit, et cetera.
Q. You mentioned transit. Do these communities rely on any of the same roadways or transportation systems?
A. Yes, they do.
Q. What might some of those be?
A. They would be the same, 75, 85, 20, 285.
Q. Is it fair to say that they face some of the same transportation-related challenges?
A. Yes.
Q. And what might those be?
A. Access to transit, congestion, infrastructure, some of the same -- those are some of the things they would all share on those areas.
Q. Are the communities in this illustrative district generally served by the same healthcare systems?
A. Yes.

Q. What might some of those be?
A. Some of the same community hospital systems earlier, Piedmont, Wellstar, Emory. And with trauma, Grady now being the only trauma 1 center in the metro area.
Q. Can you describe the racial composition of the area included within the illustrative district as you understand it?
A. I would assume this to be also significantly Black.
Q. And what do the Black residents of these areas need from their government officials?
A. Advocacy on the same issues. Transit, healthcare, education, employment, yeah, among other things.
Q. And are these needs shared by residents, Black residents specifically, from different parts of the illustrative district or do those needs not apply?
A. I would think they do.
MR. JONES: Let's pull up Figure 15 on page -- well, my page may be incorrect. I think it's on page 27 of Grant Exhibit 1.
BY MR. JONES:
Q. And, Mr. Allen, do you recognize this map?
A. I do.
Q. And does this show the plaintiffs' illustrative House Districts 74 and 117?
A. Yes, it does.

Q. Can you describe the locations of these districts respectively?

A. Once again, South Metro Atlanta to Southeast Metro Atlanta.

Q. Are the communities in these illustrative districts generally served by any of the same healthcare systems?

A. Yes.

Q. And what are some of those?

A. Some of the same as earlier. Primarily in this area Piedmont has a significant footprint. And then trauma services at Grady.

Q. Do these communities rely on any of the roadways or transportation systems?

A. Yes. The -- primarily the same as earlier, 75, 85, 285 and 20.

Q. Do they face any of the same transportation-related challenges?

A. Yes.

Q. What are some of those?

A. Infrastructure, access, congestion.

Q. And when you say "infrastructure," what do you mean?

A. Investment in projects to streamline, whether it be through public transit or on roadways, state and federal.

Q. And is that generally the case for all the districts that we've been discussing so far this morning?

A. Yes.

Q. Mr. Allen, can you describe the racial composition of the areas included within these illustrative districts as you understand it?

A. I would also assume these to be heavily populated by Black voters, Black residents.

Q. And what sort of needs do the Black residents of these areas need from their government officials?

A. The same advocacy of education, transit, healthcare, among other things.

Q. And are these needs shared by Black residents from different parts of the illustrative district, starting with District 74? Or as you look across illustrative House District 74, do the needs of Black residents significantly differ?

A. I would assume them to be very similar.

Q. And moving to illustrative House District 117, are those needs that you mentioned earlier shared by Black residents from across the district or do they differ?

A. I would assume they're shared.

MR. JONES: Thank you.

THE COURT: Your witness.

MR. TYSON: Your Honor, just to clarify, we're not doing any Pendergrass questions? Just Grant only?

MR. JONES: I'm sorry.

MR. TYSON: Sorry. Just wanted to make sure.

MR. JONES: I'm glad I didn't actually say I was finished.

THE COURT: I didn't take it that way.

MR. JONES: Mr. Winstead, if we can pull up Figure 12 on page 23 of Pendergrass Exhibit 1.

BY MR. JONES:

Q. All right. Mr. Allen, do you recognize this map?

A. I do.

Q. Can you describe what it shows?

A. These are congressional districts in the Metro Atlanta area.

Q. Do you recognize the plaintiffs' illustrative Congressional District 6?

A. I do.

Q. Can you describe its location?

A. It is in the West-Southwest Metropolitan Atlanta area.

Q. How would you characterize the portion of Cobb County that's included in the illustrative Congressional District 6?

A. I would consider it one of the more urban areas of Cobb County.

Q. Are the communities in the illustrative Congressional District 6 all generally considered to be in Metro Atlanta?

A. Yes.

Q. How do you know?

A. Once again, they're all part of counties that are in the Atlanta MSA. And I would believe that the residents would also consider themselves to be in Metro Atlanta.

Q. And do these communities rely on any of the same roadways or transportation systems?

A. As a resident of this area, I can say yes. And it's the same transit systems that we discussed earlier, 285, 75, 85 and 20.

Q. And do they face any of the same transportation-related challenges?

A. Yes.

Q. And what are some of those challenges?

A. Access, congestion, infrastructure.

Q. Are folks who live in the communities in this illustrative district likely to attend any of the same places of worship?

A. In this area, yes, there are a couple of what would be considered mega churches that are in that area. On the south side, you would have churches like World Changers, Word of Faith. On the northern side of that, Mount Paran, you know, other churches. So yeah. There would be a couple of main areas of worship within that district.

Q. Are the folks who live in the communities in this illustrative district likely to shop at any of the same places?

A. Yes.
Q. What might some of those be?
A. In the Cobb area would be more of the Cumberland area, all the way down to -- there's malls on the southern side of that as well. So, yes, I think there are major retail centers within that district.
Q. And can you describe the racial composition of the area included within the illustrative district as you understand it?
A. The -- by the whole district?
Q. Yes.
A. To be -- to be a large number of Black residents.
Q. And what sort of needs do the Black residents of this illustrative district have for their government officials?
A. The same advocacy around transit, healthcare, education, employment.
Q. And are those needs in education, in transportation, in employment, are those needs shared by Black residents across the illustrative district?
A. Yes.
MR. JONES: And, Your Honor, at this time I actually am finished with my direct.
THE COURT: All right. Thank you, Mr. Jones.
Mr. Tyson.
MR. TYSON: Are you ready, Your Honor?

THE COURT: Yes, sir. You may proceed.

MR. TYSON: Thank you.

CROSS-EXAMINATION

BY MR. TYSON:

Q. Mr. Allen, it's good to see you this afternoon.

A. Good to see you.

Q. I know we saw each other on Zoom briefly, but I'm Bryan Tyson. I represent the State defendants in this case. I just have a few questions for you.

You've been the chair of the Cobb County Democratic Committee since the end of 2022; right?

A. Yes.

Q. And that role was designed to help get Democrats elected. Would that be fair to say?

A. That's fair.

Q. And personally you would like to see more Democrats elected in Congress, in the State House and State Senate in Georgia; right?

A. I guess that's fair.

Q. And in your experience do majority Black districts traditionally elect Democratic candidates in Georgia?

A. That could be said.

Q. Okay. Are you aware of any situation where someone ran as a Republican and was elected from a majority Black district in Georgia?

A. Not in recent history.

Q. You were first elected to the State House in 2018; correct?

A. Correct.

Q. And that was from House District 40, you said?

A. Correct.

Q. And House District 40 was not a majority Black district when you were elected; right?

A. No.

Q. And today it's not a majority Black district on the 2021 plan; right?

A. No.

Q. I'm sorry, no, it's --

A. It's not --

Q. Is it a majority Black district?

A. It is not.

Q. Okay. Thank you.

And you ran for lieutenant governor in part because you thought you could win that office; right?

A. Correct.

Q. And you served in the State House during the 2021 special session for redistricting; right?

A. Correct.

Q. But you did not attend any of the public hearings that were held before the redistricting session in 2021?

A. I did. They were virtual. I did not attend in person, but some of them were through Zoom and I did attend virtually.

Q. So any hearings that were held virtually you attended, but none that were held only in person?

A. I wouldn't say "any." There were definitely one, maybe two that I attended virtually.

Q. And I believe, as we discussed, you voted against all of the enacted plans, State Senate, State House and Congress; right?

A. Correct.

Q. And it's your belief that the Republican majority had political motives for how they created the districts in congressional State Senate and State House plans; right?

A. I did not agree with the way the maps were drawn.

Q. But did you believe that there -- the majority had political motives for the design of those plans?

A. I don't think the maps were fairly, you know, reflective of the communities of interest that they should have been.

Q. Do you believe the configuration of particular districts was done to counter the Democratic trend in Cobb County, for example?

A. I do believe that.

Q. And the Democratic Caucus offered some alternative plans during the special session, but you didn't take a position on those; right?

A. They were not voted on.

Q. Do you know if they were voted on in committee?

A. They were not even produced -- introduced or presented in committee to my knowledge.

Q. So, Mr. Allen, let's move --

MR. TYSON: Your Honor, that concludes my Grant and Pendergrass portion.

BY MR. TYSON:

Q. I'm going to move first to the Grant portion of your testimony. I'm going to put up the same district maps we looked at previously with Mr. Jones.

And so, Mr. Allen, we'll begin with Grant Exhibit 1, page 13, Figure 6. And this displays Senate District 25; is that right?

A. Yes.

Q. And in response to questions from Mr. Jones, you gave, I believe for each of the districts in the Grant case that you testified about, a list of shared interests of Black voters in those districts.

Do you recall that?

A. I do.

Q. And one of those was education; right?

A. Yes.

Q. And you believe that Black and white voters in Georgia share an interest in education issues; right?

A. Disproportionately, because of the differences within the educational access for the different populations you mentioned, I think generally, yes, they share an interest in education, but it's a different interest.

Q. Okay. How does the interest of Black voters in education differ from the interest of white voters in your estimation in District 25?

A. Traditionally, Black schools have been underfunded. Although there may be balance in the way that schools in general are funded, the decisions that schools make on spending that money is completely different. And some of those schools, specifically where I would say Black residents are and are sending their children, they're trying to decide whether or not they invest in schoolbooks or other things; where, in other parts of -- you know, non-Black areas, they may be trying to figure out if they get new football helmets or artificial turf. So it's a different use of priorities based on the demographic.

Q. Would that be a different set of priorities based on the socioeconomic condition of the individuals involved?

A. I would say that it's mostly in schools that have heavy Black populations, have just been traditionally underfunded.

Q. Would that also be true of socioeconomically depressed white areas that have also been underfunded?

A. I -- I would not know.

Q. You mentioned healthcare as another issue for Black individuals in District 25.

Do you recall that?

A. I do.

Q. And is healthcare an interest that is shared by both Black and white voters?

A. Generally, yes. But I think there's also, once again, a lot of nuance within that question.

Q. And what -- how are the needs of Black voters different in terms of access to healthcare than they are for white voters?

A. Once again, traditionally, Black residents have less access as well as lower outcomes, which I think is statistically proven. You look at maternal mortality. That is an issue right now that is extremely impacting African-American women, which is not a concern of white women, regardless of the area in which they live.

Q. You mentioned employment issues being a concern in District 25.

Do you recall that?

A. I think it's a concern generally, yes.

Q. And it would be a concern shared by both Black and white voters in Georgia; right?

A. Generally, yes.

Q. And you mentioned transportation as well. And I think we

can all sympathize with the congestion issues for traffic. But are the transportation issues you were referring to equally shared by both Black and white voters?

A. Generally, once again, yes.

Q. And would those answers you just gave for education, healthcare, employment and transportation be true for each of the districts that you testified about from the Grant case?

A. I would say so.

Q. So in looking at Senate District 25 as proposed, are you aware if the Henry County portion of the district, if there's a split in any cities?

A. Looking at the map without the city boundaries on it, I can't say.

Q. Okay. And you aren't aware of the racial makeup of the specific counties that are included in Senate District 25; right?

A. Generally, yes.

Q. And what are those racial makeups?

A. In both Henry and Clayton it's a very high concentration of Black residents.

Q. So let's move to Figure 7 for -- on page 14. And this is illustrative District 28.

Do you recall testifying about this district?

A. I do.

Q. And this district includes parts of Coweta County and

parts of Clayton County, in addition to Fulton and Fayette; right?

A. Yes.

Q. And do you know what the racial makeup of the Coweta portion that's included in Senate District 28 is?

A. I can't say definitively. Is it just Coweta portion?

Q. Yes, sir.

A. On the northern side of it, I would say that it would be significantly a Black population.

Q. The northern side of Coweta County?

A. Yes. The southern part of that that's drawn in, I can't say definitively.

Q. And are you aware if the city of Newnan is split on illustrative District 28?

A. Like I said, I can't see city boundaries on this map, so I can't say yes or no on that.

Q. Sure.

And is it your testimony that the city of Newnan shares similarities with the portion of Clayton County that's included in Senate District 28?

A. I would say it shares some similarities.

Q. What would those similarities be?

A. Once again, the same things I've said earlier about access to and infrastructure on transit, healthcare, education, those types of things.

Q. So the same similarities we talked about that applied across all the districts you testified about?

A. Correct.

Q. Let's move to page 26 of Grant Exhibit 1, Figure 14. This is illustrative House District 64; correct?

A. That is correct.

Q. And you'd agree that South Paulding is exurban, if not more rural, and Douglas County is more suburban; right?

A. Generally, yes, I would say that.

Q. And Fulton County would be more urban than both Douglas and Paulding; is that fair?

A. That area of Fulton I wouldn't say is drastically more urban than Douglas.

Q. And you don't recognize a community of interest that connects the portion of Fulton, Douglas and Paulding in District 64, do you?

A. I think there are a lot of shared interests within the boundaries of that district.

Q. Would those be the same shared interests we've discussed already, transportation, education, health and employment?

A. Yes.

Q. Any others that you can think of?

A. Not offhand.

Q. When you were answering questions from Mr. Jones about this district, you mentioned Grady as a possible shared

interest. This district doesn't encompass Grady, does it?

A. There's only one trauma 1 center in Metro Atlanta, and that's Grady.

Q. Certainly.

But that -- you're not testifying that Grady was included in this district; right?

A. No. We're talking about services in similarity and commonality. That would be one.

Q. Mr. Allen, let's look next at Figure 15, the South Metro area, House Districts 74 and 117.

Would you consider the southern part of Fayette County to be more rural than the portion of Clayton County that's included in House District 74?

A. As far -- yes, it would be more rural than the northern part.

Q. And in House District 117, are you aware if there's a split of any cities involved in that district?

A. Once again, I cannot see any city boundaries, so I can't say definitively.

Q. And the shared interest that you can identify for these two districts are the same shared interests we've discussed for the others; right?

A. Yes.

MR. TYSON: And so, Your Honor, at this time I'll move from Grant into the Pendergrass-specific testimony.

THE COURT: Okay.

BY MR. TYSON:

Q. Mr. Allen, you were asked about illustrative District 6 on Figure 12 of Pendergrass Exhibit 1. Are you with me on that?

A. I am.

Q. And it's fair to say that one of the reasons you objected to the 2021 congressional plan was because it split Cobb County into four districts; right?

A. Yes.

Q. And you're aware and can see here that the illustrative plan splits Cobb County into three districts; right?

A. It does.

Q. And you would consider that to be problematic, wouldn't you?

A. Not necessarily because of the way that it's split.

Q. Can you explain that to me.

A. When you look at this map as proposed on District 6, you're keeping some of the western parts of the county within the same district as some of the eastern to 75. One of my major objections was drawing the western part of Cobb into the 14th. And there's obviously very, very little in common with such an urban area with Bartow, Gordon, Floyd, all those, you know, as you go further north. So the issue is not necessarily that it was split into four districts, it's how

it's split that really makes a significant impact.

Q. Understood.

And you would agree that the split here takes a portion of Western Cobb County and places it in a district that runs down to Troup, Meriwether, Harris and on down to Columbus?

A. But that portion, once again, in the north, that's almost Acworth, Kennesaw area, is not as urban as it is when you get closer to The Battery where you've got major entertainment venues, you've got a much bigger need for transit and other services. So it's -- once again, it's not that it's split, it's how you split it and how those communities are being impacted and diminished in being able to advocate for their needs.

Q. So it's your belief that Western Cobb would still be able to advocate for its needs in a District 3 like this one, even though it's included with other districts to the south of it?

A. Once again, the portion of Cobb that's not in 6 is, to me, different in terms of a community of interest than what's in that southern and southwestern portion of the county.

THE COURT: Mr. Tyson, would it be possible to put up 2021 enacted map?

MR. TYSON: I can put that one up, Your Honor. I'm not sure I can do them side by side, but there's the 2021 enacted.

THE COURT: Mr. Allen, will you repeat again what was

your problem with this map? You said it put the western part of Cobb County with Bartow County and Cherokee --

THE WITNESS: Into the 14th District.

THE COURT: The 14th?

THE WITNESS: So that green portion there, that western county kind of bumps into Smyrna. Smyrna is one of the more populated areas in Cobb. It's also close to, as I said, The Battery, Cumberland Mall.

The needs of the residents in that area are far more in common with metro or urban issues than it is the more rural of, like I say, Gordon, Floyd, all the way up north. I think that district goes all the way into Rome as drawn in 2021. So I think it's how you dilute that is what I had objection to.

THE COURT: All right. I see what you're saying now.

BY MR. TYSON:

Q. So, Mr. Allen, staying with Figure 13 on page 25 of Pendergrass Exhibit 1, you'd agree that the area in part of South Cobb is included in Congressional District 13; right?

A. Say that again?

Q. Part of South Cobb is included in Congressional District 13; right?

A. Yes.

Q. And a portion of Douglas is in Congressional District 13; right?

A. Correct.

Q. And a portion of South Fulton is in Congressional District 13; right?

A. Correct.

Q. So when you spoke with Mr. Jones about shared interests between all those areas in the illustrative District 6 -- and I'll just get that back in front of us real quick -- that would apply -- those interests would apply equally to the 2021 enacted plan; correct?

A. I'm not sure I'm following. Can you repeat that?

Q. Sure. So we just looked at areas of South Cobb, Douglas and Fulton that were included in District 13 on the enacted plan; right?

A. Yes.

Q. And District 13 on the enacted plan is a majority Black district; right?

A. I believe that to be true.

Q. And so the areas that you describe as having things in common in illustrative District 6 apply equally to the areas that are included in enacted District 13; right?

A. I would assume so, but I want to be, you know, just -- I also -- I did not support, you know, this map. And part of that also is the areas that we're talking about that are now in 14 were previously -- for the last two redistricting cycles were areas that were in 13. So you took voters in that West Cobb area, primarily Black voters, who were used to being in a

1 district and having representation and advocacy from a
2 representative that understood their issues to someone who was
3 almost antagonistic about their issues. So that's a
4 difference. When you're asking that question, I think it's
5 not as simple and direct as the way you're asking the
6 question.
7 **Q.** Okay. And just so I make sure I'm clear, going back to
8 Figure 13, the 2021 plan, your biggest objection was that
9 basically the green portion of Cobb County that was placed in
10 District 14 was removed from the majority Black District 13.
11 Would that be fair?
12 **A.** That was one objection.
13 **Q.** Were there others specifically about the configuration of
14 that part of Cobb County?
15 **A.** The shifting of the 6th, which was also a district that
16 was heavily African-American, was also redrawn more north. So
17 prior to the 2021 plan, the 6th District did not include those
18 areas of Dawson and Cherokee. I believe it had a little bit
19 of Forsyth but not as much. So there was -- once again, there
20 was a lot of changes that were done to Cobb that impacted
21 Black residents by basically separating their ability to have
22 a significant voice.
23 **Q.** So just so I'm clear, was it your understanding that the
24 prior District 6 was a majority Black district?
25 **A.** No. I don't believe it was a majority Black district,

but I believe it kept communities of interest together that gave Black communities a voice.

Q. And the reconfiguration of District 6 made it into a more Republican district, didn't it?

A. It made it into a district that is -- that is going to be less responsive to the needs of the Black residents in that community. There is no electoral accountability in my opinion, or they're reducing the accountability of Black voters by configuring the map the way they did.

Q. And that's because it's more likely to elect a Republican; right?

A. It's less likely to give those Black voters the voice and the representation that they need.

Q. And in your view, the voice and representation of Black voters in Georgia today is Democratic candidates; right?

A. Currently, that's -- there's only two choices when you're talking about parties and there's one that's obviously not as aligned to the needs and issues of the Black voters.

MR. TYSON: Your Honor, if I can consult just a moment, I may be finished here.

THE COURT: Yes.

BY MR. TYSON:

Q. Mr. Allen, just a couple more questions. I'm sorry.

You mentioned that you believed District 6 was made less responsive to the needs of Black voters.

Do you recall that?

A. I do.

Q. And is there a particular area where Black voters were concentrated in prior District 6 that you can recall that was moved or diluted?

A. There's a significant amount of Black voters in the East Cobb area. It is by no means overwhelmingly Black, but it does have a fair share of Black voters in that area who were now moved out of that district and put into a different district.

Q. So it's your belief that East Cobb was -- is no longer in District 6?

A. Not as much of East Cobb is in District 6. Once again, diluted, not removed.

Q. Where is the rest of East Cobb that is not in District 6 in your estimation?

A. This is --

Q. This is the enacted 2021 plan.

A. I would have to look at the 2012, the previous map, to be specific about what areas. But it -- I don't think it's --

Q. Let me see if I can find that for you real quick. Hang on.

A. Okay.

Q. Exhibit E, just a second. There we go.

That is -- we are now looking at Exhibit E from

Pendergrass Exhibit 1. The second page of that shows a metro zoom of the prior Congressional District 6.

A. So it -- I believe that the district shifted to the east and to the north, taking out the -- what in Cobb County we consider East Cobb, but that eastern area right here, it -- it shifted it east. And as you can see in the previous map further north, because as I said earlier, it didn't include Forsyth north in that map.

Q. So just switching back again to the -- go back to the -- hang on just a second -- to the illustrative plan. I've got to get back to the plan. There we go.

So having now seen both the prior plan and this plan, you still believe that East Cobb was moved out of District 6; is that right?

A. Portion. Again, you keep saying East -- East Cobb as -- a portion of East Cobb was removed, as you can see, in like that, like I said, south -- south and shifted a little bit east.

Q. Into District 11; is that right?

A. Yes. It's now -- those switched from 6 to 11.

MR. TYSON: That's all the questions I have for you, Mr. Allen. Thank you for your time.

Thank you, Your Honor.

THE COURT: Thank you, Mr. Tyson.

Mr. Jones, redirect?

MR. JONES: Yes, Your Honor, briefly.

REDIRECT EXAMINATION

BY MR. JONES:

Q. Mr. Allen, you mentioned that the member of Congress who currently represents the 14th Congressional District is antagonistic, I believe is the way you phrased it, to the needs of the Black residents in that district?

A. The policies that are embraced by that current representative, I believe to be.

Q. And who is that representative?

A. Marjorie Taylor Greene.

Q. Was she the candidate of choice of the Black residents in that district?

THE COURT: Hold on, hold on. I have an objection.

MR. TYSON: I'll object that this calls for expert testimony. We've had a lot of testimony about what a candidate of choice is.

MR. JONES: I can rephrase.

THE COURT: All right. Rephrase. Sustained.

BY MR. JONES:

Q. In your estimation, was she supported by the Black residents who lived in that district during her campaign?

A. No.

Q. You mentioned also that Republicans are less aligned with the needs of Black voters in Georgia?

A. Correct.

Q. Why do you believe that to be the case?

A. I -- serving in the State House, I saw firsthand how there were specific policies that would not move forward that would benefit the Black community. We can tick through a lot of them. I mean, as it relates to healthcare, it is widely known that expansion of Medicaid and getting access to minority and underserved communities was blocked at every turn.

There were opportunities to fund schools in a more robust way, but instead there were vouchers that were created.

I mean, there are many examples of things that just did not benefit the Black residents in certain areas.

Q. And when you say "certain areas," are these policies --

A. Certain policy areas.

Q. Certain policy areas.

And are these policy areas that you mentioned, are these issues of concern for the Black residents of all the districts we've been discussing today?

A. I would say yes.

MR. JONES: No further questions, Your Honor.

THE COURT: Recross?

MR. TYSON: Yes, your Honor.

RECROSS-EXAMINATION

BY MR. TYSON:

Q. Mr. Allen, I wanted to ask you about the policies you just referenced from the General Assembly. You mentioned the expansion of Medicaid as something that was blocked by the Republican majority; right?

A. Correct.

Q. You would agree that there were other healthcare issues that the Republican majority passed, such as expansion of protections for rural hospitals; right?

A. Yes.

Q. And you mentioned funding schools as an issue blocked by the Republican majority, but I'm sure when you referenced vouchers, is that referencing school choice issues and funding of educational options for parents?

A. It is, but it's a very complex issue in the Black community and one that I dealt with quite a bit with my constituency, because it -- once again, the way it's phrased, it seems, you know, innocuous, that it's not really an important issue. However, when you have people who have to attend a local school, they are not a $13,000 voucher away from going to a private school. That would only lift resources out of those schools where Black children will be stuck, to give those that had opportunities to go somewhere else to go there.

So these are very nuanced issues that -- so -- yes, there were things to protect rural hospitals, but they, in my

opinion, overwhelmingly protected a certain population within that rural area. Not necessarily the best things for residents who may look like me.

Q. And when you refer to vouchers, are you also referring to charter schools within that --

A. No. That's a separate policy issue.

MR. TYSON: Thank you. I don't have any further questions, Mr. Allen. Appreciate you being with us today.

Thank you, Your Honor.

THE COURT: Thank you, Mr. Allen. It was nice meeting you.

THE WITNESS: Same here.

THE COURT: Can Mr. Allen be excused?

MR. JONES: Yes, Your Honor, he may.

MR. TYSON: Yes, Your Honor.

THE COURT: Thank you. Have a good weekend, sir.

(Witness excused.)

THE COURT: Call your next witness.

MS. TSAI: The Alpha plaintiffs will call as their next witness Dr. Traci Burch.

THE COURT: Dr. Burch should be testifying in what? *Gingles* 1, 2 or totality?

MS. TSAI: She'll be testifying as to the totality of the circumstances, Your Honor.

TRACI BURCH

a witness herein, being first duly sworn,

was examined and testified as follows:

DEPUTY CLERK: Have a seat. And if you can please state and spell your name for the record.

THE WITNESS: Yes. I am Traci, T-R-A-C-I, Burch, B-U-R-C-H.

MS. TSAI: And, Your Honor, may I approach the witness to --

THE COURT: Yes.

MS. TSAI: Your Honor, I've handed Dr. Burch a binder with her January 13th, 2023, report in this case. It's marked as Alpha's Exhibit 6. I've supplied the other parties with copies as well. I've also passed out a few slides that we'll be using today.

Can I pass up a copy of the slides as well?

THE COURT: Yes.

MS. TSAI: Thank you.

Your Honor, at this time, I'm offering Dr. Burch's January 13th, 2023, report into evidence marked as Alpha's Exhibit 6.

THE COURT: Any objections?

MS. LAROSS: No objection, Your Honor.

THE COURT: All right. It's admitted without

objection.

(APA Exhibit 6 was admitted and marked into evidence.)

DIRECT EXAMINATION

BY MS. TSAI:

Q. Good afternoon, Dr. Burch. How are you doing today?

A. I'm well. Thank you. Good afternoon.

Q. And have you been retained as an expert by the Alpha Phi Alpha plaintiffs in this case?

A. Yes, I have.

Q. Did you prepare a report in this case?

A. I did.

Q. And is that report in the binder that you have in front of you?

A. Yes. This is my report.

Q. Can you please turn to page 59 of Alpha's Exhibit 6 and just tell us what that is.

A. Yes, it's my CV.

Q. So let's discuss your background briefly. What's your educational background?

A. So my educational background, I completed my undergraduate degree at Princeton, where I majored in politics, which is what they call political science, with a minor in African-American studies.

And I did my PhD at Harvard in government, which is what

they call political science there, and social policy, which is a separate field where I had to take different coursework, but my dissertation counted for the same, for both.

Q. And what's your profession, Dr. Burch?

A. I am an associate professor of political science at Northwestern and a research professor at the American Bar Foundation.

Q. And how long have you held those positions?

A. Since 2007.

Q. Would you please describe what your work at the American Bar Foundation involves?

A. So at the American Bar Foundation, I do the same research that I do as a professor at Northwestern, but I also have some service work that I do there, such as serving as the chair of the director search committee or serving as an editor of the in-house journal. We also mentor many of the doctoral fellows and post-doctoral fellows that we bring in from around the country to mentor them for a year.

Q. In general what's the focus of your research?

A. My research focuses on political behavior, which is a pretty broad field. It looks at public opinion, as well as political participation, which is like voting, but also protesting, donating to campaigns, other kinds of activity.

And within political behavior, I focus on participation and barriers to political participation in voting. I also

1 focus on race and ethnic politics, as well as criminal
2 justice.
3 **Q.** And what courses do you teach at Northwestern?
4 **A.** A lot of courses. So I've taught, for undergraduates,
5 intro to American Government. Our introduction to the legal
6 system, which is like kind of a broad survey course. I've
7 taught race and public policy for both undergraduates and PhD
8 students. I've also taught political behavior, again, the
9 broad survey course for PhD students as well. I also teach --
10 taught courses on the American welfare state and the criminal
11 justice system.
12 **Q.** And do you teach any courses -- and you might have
13 covered some already -- relating to voting and political
14 participation?
15 **A.** Yes. I generally cover voting and political
16 participation in all my classes. The political behavior
17 course for PhD students in particular looked at voting,
18 campaigns and elections, public opinion, that sort of thing.
19 **Q.** Have you ever served as a peer reviewer for any scholarly
20 journals?
21 **A.** Yes, I do. Unfortunately, a lot of peer reviewing for
22 the flagship journals in my field, like the American Political
23 Science Review, but also sociology journals like the American
24 Sociological Review, Law & Society Review. I've served as a
25 reviewer for National Science Foundation projects and the

like. So tenure reviews, all of those things, I routinely do.
Q. And have you received any professional awards or recognition for your research?
A. Yes. So I was awarded several national prizes for my book, including -- which was Trading Democracy for Justice, including the Best Book on Race and Ethnic Politics, the Ralph Bunche Award from the American Political Science Association, as well as awards for my dissertation as well. So both my book and my dissertation, on which it was based, received prizes from the law -- the law -- public law section of the American Political Science Association, as well as urban politics section of APSA. And I was also awarded the best dissertation in political science at Harvard back when I was graduating.
Q. And do you have any peer-reviewed publications that relate to political participation?
A. Yes. I cover political participation in I'd say most of my publications, so in my books as well as in my articles.
Q. And focusing on Georgia specifically, do you -- do any of your peer-reviewed publications relate to voting and political participation in Georgia?
A. Yes. So I specifically studied political participation in my articles from 2011 turnout and party registration among criminal offenders in the 2008 general election. My 2012 article, Did Disenfranchisement Laws Help Elect President

Bush. As well as my dissertation and my book Trading Democracy For Justice, I studied participation in Georgia.

Q. And do you have any personal connection to Georgia?

A. Yes. So I was born and raised here in Macon. So I still have family all over Macon, Milledgeville area. My dad still lives there. So I come back quite often.

Q. Welcome back to your home.

So as part of your work do you have any experience performing data analysis?

A. Yes. I do -- for most of my work I do either data analysis on voter registration files, other administrative data, surveys, and also some analyses of geographic data and geostatistics.

Q. And do you have any experience conducting analysis relating to voter turnout?

A. Yes. So in my -- like I said before, several of the articles that I mentioned do look at turnout and voter turnout, as well as other forms of political participation.

So my work also with the research team of Schlozman and Brady and Verba, we study political participation there as well. And in my book with Jennifer Hochschild, Creating a New Racial Order, we look at participation.

My more recent work, I've studied the effects of living around an officer-involved killing on turnout and protest. So, again, throughout my career I've been studying voter

turnout.

Q. And have you ever served as an expert witness before?

A. Yes.

Q. And does your report, that's Exhibit 6 in front of you, describe your experience as an expert as of the date of that report?

A. Yes, it does.

Q. Since the time that you submitted your report in that case have you had any other expert experience?

A. Yes. So since I submitted the report, I have been deposed in a case, NAACP, et al v. Tennessee (sic), and also testified in a case *Pettaway v. Galveston County*.

Q. Could you just describe generally what those two cases are about?

A. So the NAACP, et al v. Lee (sic) case is looking at re-enfranchisement after a felony conviction. And I'm calculating some statistics related to the size of the population that would be affected, as well as looking at the process by which they're re-enfranchised.

In *Pettaway*, in *Galveston*, I was doing work on -- it's a redistricting case and I was doing the analysis for Senate Factors 5 through 9, as well as Arlington Heights.

Q. And in how many cases have you provided expert testimony in court?

THE COURT: Slow down just a tad.

THE WITNESS: Oh, I'm sorry.

THE COURT: It's okay.

THE WITNESS: Sorry. We -- I get to rolling and then I --

THE COURT: I understand.

THE WITNESS: So six.

BY MS. TSAI:

Q. And I'm showing this slide. Does this list all the cases in which you've testified in court as an expert witness?

A. Yes.

Q. Just at a very high level, what subject matter were you asked to opine on in these cases?

A. Yes. So *Robinson v. Ardoin*. I mentioned *Pettaway*. And those -- those cases were an analysis of both -- some of the Senate factors under the Voting Rights Act. As well as for *Florida State Conference of the NAACP, et al v. Lee*, that one also involved Arlington Heights.

People First of Alabama v. Maryland I think was a Section 2 voting rights case.

Community Success Initiative, I was working on calculating voter turnout after a felony conviction.

And *Jones v. DeSantis* was also about re-enfranchisement after a felony conviction.

Q. And were you qualified to serve as an expert in all the cases in which you've testified in court?

A. Yes.
Q. Have you submitted previous versions of your report in this case?
A. I did.
Q. Just at a high level, what changes did you make between your -- the initial versions and the report that's in front of you?
A. Primarily I think the biggest substantive change was that I added data from the 2022 general election. I also updated some table labels and other pieces of the report.
Q. And had you noticed any errors or typos in the report that's in front of you?
A. Yes. So at my deposition on -- I noticed on what is page exhibit -- exhibit -- 16 of the exhibit, I did have a sentence where I said, "The current population survey voting and registration data overestimate voter turnout in Georgia and the problem is worse for white respondents than Black respondents."

I transposed Black and white. So it should be, "the problem is worse for Black respondents than white respondents."
Q. And did that typo affect the substance of your conclusions?
A. No.

MS. TSAI: Your Honor, at this time, the Alpha

plaintiffs offer Dr. Burch as an expert in political science, political participation and behavior and barriers to voting.

THE COURT: Do you wish to voir dire?

MS. LAROSS: Yes, Your Honor.

Good afternoon, Your Honor. Diane LaRoss on behalf of the State defendants.

THE COURT: Good afternoon, Ms. LaRoss.

MS. LAROSS: Thank you.

May I proceed?

THE COURT: Yes, ma'am.

MS. LAROSS: Thank you, sir.

VOIR DIRE EXAMINATION

BY MS. LAROSS:

Q. And I think it's afternoon, so good afternoon, Dr. Burch. It's nice to see you again.

A. Yes.

Q. I will introduce myself again to you. I'm Diane LaRoss and represent the State defendants in this case. I do have a couple of questions for you.

So, Dr. Burch, it's correct that you've done no coursework in redistricting, per se; correct?

A. On the specific topic where that's the course, no.

Q. Okay. And you have no publications regarding just redistricting; correct?

A. No.

Q. And I think in -- sorry -- in 2009 that you wrote a chapter in a book called America at Risk: Threats to Liberal Self-Government in an Age of Uncertainty. And I believe the name of your article was Political Voice in an Age of Inequality; is that correct?

A. Is this the piece with Kay Schlozman?

Q. I believe so, yes, ma'am.

A. Yes.

Q. Okay. And then also in 2009 you authored an article entitled Can the New Commander in Chief Sustain his All-Volunteer Standing Army? And that article concerns research in -- on Georgia elections; correct?

A. Yes.

Q. Okay. And that would have concerned Georgia general elections in 2000 and 2008; is that correct?

A. I believe so.

Q. Okay. And it was particularly pertaining to turnout among criminal offenders. Would that be accurate?

A. The -- I'm not sure that the new commander in chief one and the Schlozman -- the other piece you cited are about that.

Q. Okay. So the -- but the articles did pertain to Georgia general elections?

A. So the -- I'm not -- the 2009 new commander in chief article was an article in which I did research in three sites. Georgia was one of them. But I was looking at interest

groups -- sorry, not interest groups. Let me rephrase that. Nonpartisan groups that were doing -- and political parties that were doing voter turnout. So I'm not sure -- and it was specifically in 2008, so I don't know if I was looking at -- I don't recall if I looked at turnout specifically in that article.

Q. Okay. Fair enough.

And since 2008 have you published any articles relating to Georgia elections specifically?

A. Yes.

Q. And were those articles that you mentioned to counsel earlier?

A. Yes. And the book.

Q. And a book, too, you said?

A. (Nods head.)

Q. Okay. And which book was that?

A. Trading Democracy For Justice.

Q. Okay. And you were first contacted by counsel for the Alpha Phi Alpha plaintiffs in this case before the 2021 special session of the legislature here in Georgia in November of that year; correct?

A. I believe so.

Q. And you did not speak to anyone in Georgia in preparation of your report, no Georgia voters or legislators or elected members of the General Assembly in preparation of your report

in this case; correct?

A. No, not for the preparation of my report.

Q. And in your expert witness report -- or sorry -- in your expert witness work that you've outlined thus far, you have always testified for plaintiffs in voting rights cases; is that correct?

A. That's correct.

Q. And you've never been retained by Georgia or any other State defendant as an expert; correct?

A. That's right. They've never asked me.

Q. And you've never testified on behalf of Republicans; correct?

A. Oh, that's correct. I've never been invited to.

Q. And your expertise in this case would be limited to your background in political science; correct?

A. I don't understand what you mean by that.

Q. Just the areas that you have been asked to testify would draw upon your expertise in political science; is that accurate?

A. I guess -- it's hard for me to disentangle like -- it could be that I know something from my social policy PhD, so it's kind of -- so -- but --

THE COURT: Well, basically the only information you-all have given to the defense deals with political science. Have you-all given them anything else other than

that?

THE WITNESS: I don't think so.

THE COURT: We'll limit it to that.

THE WITNESS: Yeah. I'm sorry. That's one of those questions where as a -- like I'm not a lawyer, so I don't understand what that means.

MS. LAROSS: Very good. Thank you.

I have no other questions, Your Honor.

THE COURT: Any objections if this witness testifies in the areas requested as an expert?

MS. LAROSS: No, Your Honor, no objection.

THE COURT: All right. The witness will be allowed to testify as an expert in the requested areas.

DIRECT EXAMINATION (CONT'D)

BY MS. TSAI:

Q. Now, Dr. Burch, in your work in research as a political scientist, have you ever researched racial disparities and how they affect voter turnout?

A. Yes.

Q. Can you describe generally some of your research on that topic?

A. Yes. So just very quickly going back through my CV, in many of my articles where I'm looking at, for instance, the effects of felony disenfranchisement on voter turnout, or looking at the effects of a particular kind of -- living in a

community that's high incarceration, or even more general ways in which we're calculating voter turnout, I often do so by race and compare turnout across racial groups.

Q. And have you ever researched causal relationships between racial disparities and turnout?

A. Yes. I often do different kinds of causal methods, like regression analysis, but also sometimes, if I can find a good natural experiment, I will deploy those as well.

Q. And I'm just showing you the next slide.

Turning to this case, what topics were you asked to opine on in this case?

A. So for this case, I was asked to do three things. So the first was to look at and analyze turnout and see whether there was a turnout gap between Black and white Georgians.

The second was to do an analysis of Senate Factor 5, which is the extent to which minority groups bear the effects of discrimination in areas such as education, employment, health and the like, which hinder their ability to participate effectively in the political process.

The final aspect was I was asked to do an analysis of Senate Factor 8, which concerns the responsiveness of elected officials to the particularized needs of minority communities.

Q. And can you please describe what materials you reviewed to reach your opinions on these topics?

A. Yes. I reviewed the scholarly literature in political

science and some related disciplines. I also looked at historical data and documents. I was able to conduct my own analyses of census data and some agency reports, both federal and state. I looked at newspaper and some media coverage. I was also able to look at some survey data as well.

Q. And is the review of those materials that you just described typical of what you do as a political scientist?

A. Yes. I've used those kinds of sources almost all the time in my work.

Q. So I'd like to discuss your analysis of voter turnout in Georgia.

What analysis were you asked to do?

A. So I was asked to look at the voter turnout by race for the 2020 general election and the 2022 general election in Georgia.

Q. And for what geographies were you asked to do that analysis?

A. So I was asked to do that statewide, as well as several county clusters that the plaintiffs provided to me.

Q. So I'd like to talk to you about how you calculated voter turnout.

A. Okay.

Q. I'm showing you a slide that's based on page 6 of Alpha Exhibit 6. Can you just please explain what this slide shows?

A. Yes. So I used a pretty straightforward method to

calculate turnout. First I -- to get voter turnout, I really just looked at the number of votes that were cast, which luckily in Georgia the Secretary of State maintains really good data on voting by race. So I used their data as the numerator.

And then for the denominator I looked at the number of potential voters. But for the -- to calculate the number of potential voters I looked at three different kinds of data for the denominator.

The first was pretty straightforward, I looked at the number of registered voters from the Secretary of State's data. But I also calculated the number of potential voters using census data. So either, for 2020, the data directly from the decennial census of the voting age population by race, or I looked at the more recent -- for 2022, a more recent release of redistricting data also of the voting age population.

Q. And for which racial groups did you calculate turnout data?

A. So the Secretary of State asks people and records race based on the categories of Black, white, Asian, Hispanic, I think other. And so the census calculates those slightly differently.

So for voting age population, I looked at both for white people, white alone, not Hispanic, which means they only

marked one race, which was white, and they marked that they were not Hispanic.

For Black people, I calculated it in two ways, that denominator, because I wasn't sure both what the other experts were doing, but also, just for consistency's sake, it's good to be transparent. So I calculated Black alone, non-Hispanic. But also sometimes people mark more than one race, so if they marked Black in some other race or just Black alone, that was another way that I calculated the pool of potential Black voters.

Q. And can you explain again why did you use different methods for calculating turnout?

A. Again, I think that it's -- there are different ways that you can calculate turnout. I actually think that the census voting age population is standard for political scientists. But also I think the more interesting point is that when you look across the three different sets of calculations, you'll see there actually isn't that much difference across the three. So at least it's reassuring that they're kind of all telling you the same thing.

Q. And so turning to your analysis for the 2020 statewide turnout gap, using the three methods that you just talked about, what did you find with respect to Black and white voter turnout in Georgia for 2020 general election?

A. So this slide is showing for the 2020 general election

statewide, the first set of bars -- well, actually, let me back up.

In all the sets of bars here the denominator is the total number of votes cast according to the Secretary of State's office. And then the potential voters kind of varies by each of the ways that they are listed at the bottom.

So if we look at Black alone or in combination as the blue bar in the first leftmost column, you'll see the turnout was 53.7 percent. But looking at white alone, non-Hispanic voting age population, that turnout was 67.4 percentage points. That's a pretty big 13.7 percentage point turnout gap.

If you calculate that denominator differently, either 11.6 percent -- you see -- you still see a sizable gap of 11.6 percentage points if you just use Black alone versus white, non-Hispanic voting age population. And, again, even using just the Secretary of State's data on registered voters, you see a 12.6 percentage point gap in turnout in 2020.

Q. And so for 2020, focusing on the county clusters which you present in your report, what did you find with respect to Black and white voter turnout?

A. So with respect to the county clusters, I saw a pretty sizable turnout gap in 2020 for almost all of the county clusters that I analyzed no matter how I calculated it.

And I think the lowest gap was I think -- in 2020 was

8.9 percentage points. So even with those county clusters it was a sizable gap.

Q. And moving into the 2022 general election, what did you find with respect to a Black and white voter turnout statewide?

A. So 2022, this table replicates that of the table I just showed you and explained for 2020. And in this case, you can still see turnout gaps that are roughly of the -- of similar magnitude. There's a 12 -- there's a 12 percentage point gap between Black and white voters when Black voters are measured as Black alone or in combination non-Hispanic. If you measure it differently, the gaps either range from 11.1 percent to 13.3 percent -- percentage points.

Q. And then for the county clusters in 2022, what did you find with respect to turnout there?

A. Again, in 2022, we still see gaps even in all of the turnout clusters -- in all of the county clusters, Black voters still vote less than white voters in those clusters.

Q. So having calculated voter turnout using each of your methods, did you have any overall conclusion about voter turnout in Georgia in 2022 and 2020?

THE COURT: Can you repeat that question?

MS. TSAI: Yes.

BY MS. TSAI:

Q. So having calculated voter turnout using the methods that

you've described for both the 2020 and the 2022 elections, did you have an overall conclusion?

A. Yes. There is a sizable turnout gap between Black and white voters. And white voters vote more than Black voters in Georgia.

Q. So I'd like to turn now to your analysis under Senate Factor 5. What was your overall conclusion with respect to that factor?

A. My conclusion with respect to Senate Factor 5 is that there are sizable racial disparities in each of the areas of life that I studied between Black and white Georgians and that those racial disparities occur in areas of life that have been shown in the political science literature to affect voting and voter turnout. And also, as I show in my report, those gaps are partly the result of historical and contemporary discrimination.

Q. And can you please describe how you approached your analysis about those topics?

A. Yes. So first I started with a review of the literature. And I discuss in my report the findings with respect to whether the -- whether and which factors affect voter turnout. And so I tried to pay attention to the kinds of factors that have been shown in the literature to affect voter turnout.

Next, I analyzed data and also looked at reports and other scholarly literature to talk about whether there were

1 racial disparities along those dimensions. And I used several
2 indicators of, say, educational attainment or income and
3 poverty.
4 And then, finally, I did research on both historical as
5 well as contemporary data and reports and literature to
6 discuss some of the differences in treatment, both by the
7 State and markets and other kinds of factors that would lead
8 to those kinds of disparities.
9 **Q.** And on page 13 of Alpha's Exhibit A (sic), do you
10 describe a framework for how you approached your analysis?
11 **A.** Yes. So as I'm showing in this slide, I looked at
12 several different areas of -- that have been shown to affect
13 voter -- well, it's not -- so I looked at several different
14 areas in my report that show -- that have been shown to affect
15 voting and voter turnout. And those are the ones that we see
16 here.
17 I start with education and income/poverty and employment
18 because those are -- socioeconomic status is a really
19 important indicator and a really important factor that feeds
20 into voting, but I also look at things like residency, health
21 and the criminal justice system as well.
22 **Q.** And on page 13 of your report in Alpha's Exhibit 6, you
23 mention rational choice theory. Can you just explain briefly
24 what that means?
25 **A.** Yes. So with each of these areas of life, the broader

theory explaining how and when people participate in politics really relies -- or -- in social science really any action that humans take is kind of rational choice theory.

So rational choice theory basically argues something pretty simple: That people undertake actions based on whether they think that the benefit of undertaking the action will outweigh its cost.

And each of these areas tends to affect voter turnout, mainly to the extent that they affect people's ability to bear the costs of voting. The costs of voting, I mean, it might -- for some people the costs of voting seem pretty light, but for others being able to get and stay registered, getting to the polls, paying money to obtain a birth certificate, those kinds of -- staying up to date about candidates and the like, that's affected by things like your educational attainment. It's easier to get informed about voting or get informed by candidates or figure out where you have to go to register if you have a higher education level.

Income and employment and the like, also, those things can affect voting as well.

Q. And so these areas of analysis that you looked at that you were describing, do you view these areas as separate and distinct from one another?

A. No. I think that it's -- they're separate and distinct and they do have separate effects on turnout, but they also

affect each other.

So if you think about it, someone's educational attainment can directly affect their voting versus -- you know, how easy -- like I said, how easy it is for them to get information, but it also could be that your -- people with higher educational attainment also have higher -- tend to have higher incomes and lower poverty rates.

Similar to that, I show in various points in the report where you live. So racial residential segregation can affect health.

So those kinds of -- there is some kind of interplay among all of these factors. And they're not just direct effect, but they also can combine in ways that exacerbate the -- that -- the whole can be more than the sum of its parts.

Q. And you've already discussed a bit about how education or income can affect the -- can affect political participation. With respect to health, can you please explain how that indicator could affect political participation and voting?

A. Sure. So there have been quite a few studies that show both general health and also disability status. Those can make it difficult for people to vote for a number of reasons. And depending on what kind of illness it is, people may have mobility issues, they may have difficulty with cognitive functioning. They may also have issues, for instance, if

they're like paying for a lot of medication or unable to work, again, that pathway could be operating through making their income less, so they have less money to spend on defraying the costs of voting.

Q. And you've talked earlier today about research you've done regarding the criminal justice system. How does contact with the criminal justice system affect political participation in voting?

A. Right. So contact with the criminal justice system, we're learning more and more about this, and I've been one of the people who has done this research. And it basically affects people in a couple of different ways.

The first one, of course, is obvious. So for people convicted of felonies, Georgia has a felony disenfranchisement law which prevents people from voting while they're serving a felony conviction.

But there's also issues with respect to the criminal justice system along many points of contact. So traffic stops or arrests or your experience in court can also lead to stigma or financial burdens and considerations that make it more difficult for people to participate in politics.

Q. And in addition to assessing how these various indicators of life and well-being affect voting participation, did you look at whether there are differences in these indicators that Black versus white Georgians experience?

A. I did. And there are differences between -- in outcomes along all of these dimensions.

Q. And did you come to any conclusion about why these differences in outcomes along these dimensions exist for Black and white Georgians?

A. Yes. As I discuss in my report, for each of these dimensions there are aspects of both historical and contemporary discrimination at play that can affect these disparities.

Q. So let's focus a bit on education, income and employment, which in your report you describe as socioeconomic indicators.

Can you explain if there are differences between Black and white Georgians in these areas?

A. Yes. So there are several differences. So with respect to education, I show in my report that educational attainment is much higher for white Georgians than Black Georgians. So I have -- in Figure 8 I show that white Georgians -- a higher percentage of white Georgians have a bachelor's degree than Black Georgians. And it's also the issue that a higher percentage of Black Georgians have not graduated from high school. So educational attainment for white Georgians is much higher.

There are also disparities among current students. For instance, there's a test score gap in reading and math between Black and white students in Georgia.

I also talk about other issues with respect to income and inequality and poverty. So Black poverty is more than twice that of white poverty rate -- the white poverty rate in Georgia. And the median household income for Black Georgia households is about $25,000 less than the median household income for white Georgians. And median income just basically means that half the people are below and half the people are above.

(Clarification by the court reporter.)

THE WITNESS: Sorry. Median income means that about half the people are below that number and about half of the group is above that number.

BY MS. TSAI:

Q. And what's your opinion on why there are these racial differences you've described?

A. So with respect to income, I -- and education and socioeconomic status, I first discuss the fact that there is -- Georgia does have a history of separate and unequal education.

My parents graduated from a segregated high school in the 1970s. So I think that that definitely has an effect on even the current electorate to the extent that there are still people in the electorate who were educated under that segregated, separate and not equal system.

But there's also, like I said before, contemporary

discrimination. So, again, there's still evidence of school segregation in Georgia today. And there are also, like I said, issues where Black students are not performing as well on tests and also have difficulties with -- and disparities with respect to school discipline and disparities with respect to, I think I believed -- I said test scores.

So even -- but even with respect to income and employment, we also see some evidence that there's employment discrimination. So I analyzed data from the CDC that looks at perceptions of discrimination. And Black Georgians are much more likely to report that they experienced employment discrimination because of their race at work than white Georgians. And there are also -- I also discuss that there are thousands of filings for racial employment discrimination with the EEOC.

Q. And focusing a bit specifically more on education, on page 16 of Alpha's Exhibit 6, do you discuss education, race and turnout?

A. I do.

Q. So I'm just showing a slide that is zooming in on Table 1 from your report.

A. Uh-huh (affirmative).

Q. In Table 1 do you show the voter turnout for white and Black Georgians for different levels for educational attainment?

A. I do.

Q. And so what does this table show about whether Black or white Georgians have higher turnout for each of these levels of educational attainment?

A. So what's -- I think what's interesting about this table is that it's really a way of controlling for educational attainment. And so when we look at the overall turnout at the bottom of the table, you'll see that there's still a gap between white and Black Georgians where white Georgians are expected to outvote Black Georgians.

But once we control for education and we take it into account and we look just at each racial group -- each -- we look at the disparities between the racial groups at each educational level, you can see that sometimes white Georgians actually vote less than Black Georgians. So among like the less than high school group, for instance, you see that.

But I think the two things that you've got to take away from this table -- because it's actually confusing that you see that Black Georgians are outvoting white Georgians at all of these educational levels and yet you still see this large gap between Black and white Georgians.

The reason for that gap is because if you look at this table for each group, people who have less than high school education vote less than people who graduated from high school who vote less than people who went -- have some college, who

vote less than people with bachelor and graduate degrees.

The reason for that persistent gap at the bottom of the table is because there are more Black people concentrated in those lower education, low turnout groups. There's like a higher proportion of the population that's voting at like the 52.8 percent less than high school. And so that is what accounts for the gap.

The gap isn't what people are doing at each educational level. It's because Black people have -- in Georgia have been -- more of the population has been confined to these lower educational groups that's accounting for that turnout gap. And so that is why, again, I talk about the fact that -- that is definitely partly due to historical and contemporary discrimination.

Q. And you mentioned the total turnout gap at the bottom of this table. Does that match what you calculated for voter turnout earlier for 2020?

A. No, it does not.

Q. Why not?

A. So for this table, because -- like I said, the Secretary of State's data are really good, but they actually don't have data on the educational attainment of voters. So in this case we have to use survey data in order to calculate educational attainment and learn more about how educational attainment and race interact and operate together in order to affect voter

turnout.

Q. And did you use that -- what survey data did you use for this table?

A. Oh, for this I used the 2020 current population survey voting supplement.

Q. Do you rely on that source of data for any of your other analyses for voter turnout?

A. No, I don't.

Q. Why not?

A. Because, as I explain in my report, the current population survey does suffer from some issues related to overreporting of voting. And the most up-to-date research that I've read and studied recommends and actually uses Secretary of State data to calculate turnout as a higher quality, more accurate survey.

Q. Now, turning back to the indicators of life that you've been discussing, and turning specifically to health now, did you find whether there are differences between Black and white Georgians along this dimension?

A. Yes, I did.

Q. Could you describe a bit about what you found there?

A. Yes. So with respect to health we can think about both specific kinds of disease indicators, and Black Georgians do have higher rates of high blood pressure, obesity and diabetes, but also overall indicators of like quality of life,

infant mortality and life expectancy. Again, Black Georgians have worse outcomes on those dimensions.

Even infant mortality is more than twice as high for Black Georgians than white Georgians. And life expectancy, white women are expected to live 1.7 years longer than Black women. And white men are expected to live about three years longer than Black men.

Q. And what is your conclusion about why there are these racial disparities in health between Black and white Georgians?

A. So there are several factors that are operating today that lead to those disparities. And one is lack of access to healthcare. And so more Black Georgians say that they don't see a doctor when they need to because of cost than white Georgians. Also Black Georgians have higher rates of lacking health insurance than white Georgians.

But there's also issues with discrimination. There have been several long-term research studies that show that the experience of discrimination itself is associated with poor health in rural counties in Georgia. And there's also been issues with respect -- that research has shown related to access to primary care and other physicians and lack of access to those doctors in certain communities of Black -- in certain Black communities.

Q. And turning now to the area of the criminal justice

system, can you explain why there are differences between Black and white Georgians in that area?

A. Yes. So there are definitely issues with respect -- and disparities with respect to arrests. So Black Georgians are more -- disproportionately more likely to be arrested than white Georgians and also make up a disproportionate share of people being supervised by the Georgia Department of Corrections, either in prison or on probation or parole in the community.

Q. And what is your opinion on why these differences exist with respect to Black and white Georgians' contacts with the criminal justice system?

A. So there are definitely research that -- there's definitely research that shows the impact of racial and ethnic discrimination on outcomes in the criminal justice system. And I review that here. And in my own work, where I looked at sentencing practices in Georgia, I found that I was unable to explain the gap between -- fully the gap between Black and white Georgians using legally relevant factors, like how -- the person's past criminal history or what they'd actually done, like their crime type. You -- it really is that there's this gap left over, even after you account for all that stuff, that I argue in my article was due to discrimination.

Q. And so do you have a view on whether the various disparities that you've analyzed along these indicators in

your report are a result of historical discrimination or the result of something that persists today?

A. I think it's both. As I said before, and as I outline in my report, there are very clear indicators that the past still operates among us. So, again, there are still people in the electorate who were educated under this separate but unequal system who are voting today.

When you look at these 1934 maps that I've included of Augusta, the same neighborhoods that are marked as hazardous because of race in the 1930s are -- still have high social vulnerability today.

Likewise, many of the same areas that have trouble with health are still -- in the past are still lagging today.

But I also talk about, again, many of the contemporary issues that Black Georgians are facing that can contribute to these disparities.

Unequal education is measured by test score gaps and issues with school discipline.

Also, persistence of racial residential segregation in Georgia.

Persistence of disparities in criminal justice.

So all of these things I believe I've pointed to that kind of show that both kinds of historical and contemporary factors are at play here.

Q. And as a political scientist who studied the field of

race and political behavior, have you come across the term "Black Belt" before?

A. Yes, I have.

THE COURT: Before we get into that, let's stop right here. We'll take the lunch break and we'll start back at 2:00.

MS. TSAI: Thank you, Your Honor.

THE COURT: Thank you, all.

(Recess taken at 12:50 P.M.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

I do hereby certify that the foregoing pages are a true and correct transcript of the proceedings taken down by me in the case aforesaid.

This the 8th Day of September, 2023.

PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER

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