

EXHIBIT E

Grant, Annie Lois, et al.v. Raffensperger, Brad, E

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 ANNIE LOIS-GRANT et al.,)
5)
6 Plaintiffs,)
7)
8 vs.) CIVIL ACTION FILE
9) NO. 1:22-CV-00122-SCJ
10 BRAD RAFFENSPERGER, in his)
11 official capacity as the)
12 Georgia Secretary of State,)
13 et al.,)
14)
15 Defendants.)
16 _____)

17 Deposition of Blakeman Esselstyn
18 (Signature is reserved.)
19 February 16, 2023
20 9:00 a.m.

21 Remote via Zoom technology
22

23 Reported by: Carla J. Hopson, RPR, CCR-1816
24
25

1 (Recess.)

2 Q (By Mr. Tyson) All right.

3 A I remember one question that I had meant
4 to ask at the beginning. I'm just curious. It his
5 being recorded other than the -- by the court
6 reporter.

7 (Off-record discussion.)

8 Q (By Mr. Tyson) All right, Mr. Esselstyn,
9 let's turn from your background into your work on
10 this case. So I wanted to ask you first, how first
11 hear about the Grant case?

12 A I don't -- I'm not sure honestly. I'm
13 not -- I'm not sure.

14 Q Do you recall who first reached out to
15 you about participating in this case?

16 A Counsel.

17 Q Mr. Hawley or somebody else?

18 A I think the first contact may have been
19 from somebody else.

20 Q Okay. And do you recall who that was?

21 A Olivia, I believe, is her first name.

22 Q And do you recall --

23 A I should -- I should remember her last
24 name. But I'm sorry. I -- I'm blanking on the last
25 name. Sedgwick. Sedgwick? Something like that. I

1 think Olivia Sedgwick.

2 Q Do you recall approximately when Ms.
3 Sedgwick reached out to you?

4 A The fall of 2021, I think.

5 Q Do you know if it was before or after
6 the General Assembly had completed drawing its
7 redistricting plans for the State House and State
8 Senate?

9 A I believe it was before.

10 Q And do you recall when you were
11 officially retained to serve as an expert in this
12 case?

13 A I think also in the fall of 2021.

14 Q Was it shortly after Ms. Sedgwick
15 reached out to you?

16 A I'm -- so I'm not -- I'm not sure. I --
17 I think -- I don't know if this is -- I had had
18 conversations with Ms. Sedgwick about other cases,
19 and so I think the time between our talking about
20 this case and my having been retained may be --

21 When you say -- your question was
22 relatively short time?

23 Q Yes.

24 A Yeah. Less than a month.

25 Q If you were just to put into your own

1 enacted plans.

2 A Yes.

3 Q Now, the -- just also to kind of cabin
4 where we are, as I count you've drawn two
5 illustrative State House plans and two illustrative
6 State Senate plans. One House and Senate plan each
7 were included with your PI report, and then one each
8 of the illustrative plans for House and Senate were
9 included with your December 5th report, is that
10 right?

11 A Yes.

12 Q In terms of the maps that you've drawn
13 for this case, is it fair to say that your goal for
14 all of the plans you draw was to increase the name
15 of majority Black districts over the number drawn by
16 the General Assembly in Georgia?

17 A I would say I would not characterize it
18 that way.

19 Q Okay. What would you characterize as
20 your goal then in drawing the illustrative plans in
21 this case?

22 A I would say it was to ascertain
23 whether additional majority Black districts could be
24 drawn while also keeping -- complying with the
25 traditional redistricting guidelines, principles,

1 criterial.

2 Q Were the three additional State Senate
3 districts that are majority Black on the
4 illustrative plan the most additional majority Black
5 districts you drew for Georgia State Senate plans?

6 MR. HAWLEY: Objection to the extent
7 that this implicates protected draft maps and
8 draft reports. Mr. Esselstyn, you can respond
9 to the extent that it doesn't implicate any
10 draft reports or maps you prepared in this
11 litigation.

12 A The answer is no.

13 Q And you have not submitted any plans in
14 this case that draws more than three additional
15 majority Black districts for the State Senate in
16 Georgia, right?

17 A Correct.

18 Q And so the same caveat Mr. Hawley
19 mentioned for State House. Have you drawn any plans
20 for the State House in Georgia that have more than
21 five additional majority Black districts over that
22 enacted by the General Assembly?

23 A No.

24 Q And in this case you have not submitted
25 any plans that draw more majority Black districts on

1 the State House than five, correct?

2 A Correct.

3 Q Prior to your work in this case, had you
4 ever drawn statewide legislative plans for any
5 state?

6 A Probably not.

7 Q You don't recall today?

8 A Not that I recall. No, I don't think
9 so.

10 Q So just a few more things before we get
11 into some maps, which I know is the main reason why
12 we're here today. I just wanted to get some
13 additional terminology down. You've used the term
14 majority Black district in your work in
15 redistricting, right?

16 A (Nodding.)

17 Q Is that a yes?

18 A I'm sorry. Yes. Yes.

19 Q And what is the definition that you use
20 of a majority Black district?

21 A I'm going to reference my report because
22 I believe it's spelled out in either the text of the
23 body of the report or in footnotes. There are kind
24 of two pieces of it, and one is -- I'm looking at
25 Page 8.

1 to for majority black. So majority Black on total
2 population, majority Black on voting age population,
3 majority black on non-Hispanic black population or
4 any part black population. Do you recall that?

5 A Yes.

6 Q But in all of those cases the black
7 population being referenced, whichever particular
8 field it is, is over 50 percent, right?

9 A If I were referring to a majority black
10 instance.

11 Q What about the term -- I'm sorry.

12 A I -- I would say yes in -- if there were
13 a majority black instance, I agree.

14 Q And so next I want to ask you about the
15 term majority minority district. Is that a term
16 that you use in your redistricting work?

17 A I imagine that I have. I -- I, you
18 know, earlier today it was in one of the blog posts
19 that we looked at.

20 Q So is my majority minority district the
21 same definition in your mind as a majority black
22 district?

23 A No.

24 Q And what is the -- what is a majority
25 minority district in your usage then?

1 A Typically I would say it is taking count
2 of the population that does not identify as single
3 race, non-Hispanic white and classifying those
4 persons as minority.

5 And so a majority minority district
6 or administrative region, census region,
7 whatever collection of people that I might be
8 characterizing as majority minority would be over 50
9 percent coming from that group I described earlier.

10 Q So it would be fair to say that a
11 majority minority district in your reference would
12 be a district where the single race non-Hispanic
13 white number is 50 percent, is that right?

14 A Yes. And now that we've talked about
15 this a little more, I know there -- because of the
16 different ways that the Census Bureau classifies
17 folks and the way that some software works or just
18 the way that some clients, some audiences think more
19 about race than ethnicity, and historically
20 ethnicity wasn't consider as much of this picture,
21 there are some times when is it just considering
22 race and not ethnicity.

23 So that would be a slightly
24 different take on a similar situation.

25 Q And I understand what you mean by that,

1 drawing a plan, right?

2 A I would say at some level, yes.

3 Q When you're drawing redistricting plans
4 for jurisdictions like the 16 North Carolina
5 earlier, do you use the features of the software
6 that you referenced to display racial information
7 while you're drawing those maps.

8 A I'm literally thinking back to my
9 process. Not certainly. Not always. I can think
10 of some where I did not or at least -- yeah, at
11 least one where I didn't. The -- and there's sort
12 of a distinction that -- in the software I was
13 using.

14 The columns you specify at the beginning
15 of the process are going to be the columns that get
16 exported when you provide a table -- a summary table
17 of the demographics.

18 So -- but I -- I am quite certain that
19 there are multiple cases where I was not looking at
20 race when I was drawing the redistricting plans.

21 Q And when you were drawing the
22 illustrative plans in this case, at any point did
23 you display racial information of the underlying
24 geography on your screen?

25 A Yes.

1 Q And what kind of racial information
2 would you display while you were drawing the
3 illustrative plans?

4 A For the underlying geography, I would --
5 it would be the black percentage of the population
6 meaning the -- any part black voting age percent.

7 Q And did you use a theme or a shading of
8 precincts or counties to look at that any part black
9 population while you were drawing?

10 A I think so. I think that I -- I think
11 that I may have. I'm not a hundred percent sure,
12 but I think that I may have, yes.

13 Q And did you utilize that display of
14 racial information about the underlying geography
15 while you were drawing the illustrative plans for
16 House and Senate?

17 A The shading?

18 Q Yes.

19 A I'm not totally sure.

20 Q Did you utilize any of the racial
21 information that you displayed on the screen while
22 you were drawing the illustrative plans to inform
23 the decisions you made about which parts of
24 districts went in and out of a particular districts?

25 A Yes.

1 Q Did you turn on racial shading or
2 features to determine where black voters were
3 located as part of your initial process of deciding
4 where to begin?

5 A I don't recall. Maybe.

6 Q I'm assuming you focused on areas where
7 were higher concentrations of black voters in terms
8 of looking for where new districts could be drawn,
9 right?

10 A Yes.

11 Q So at the end of Paragraph 13 you have
12 this phrase, in accordance with traditional
13 redistricting principles. What does that phrase
14 mean in the context of Paragraph 13?

15 A That phrase is mostly referencing the
16 other guidelines that were adopted by the two
17 chambers in the General Assembly. And I would say
18 that the guidelines that the chambers adopted are
19 fairly typical of the types of guidelines that are
20 used traditionally in other jurisdictions.

21 Q So when you're using the phrase
22 traditional redistricting principles there, you're
23 referring to the principles outlined in the Georgia
24 General Assembly's guidelines involving
25 redistricting?

1 example, in Paragraph 15 -- yes. Yes. I think the
2 answer to your question is yes.

3 Q Okay. And in Footnote 4 of the last
4 part of that you say that you -- it is your
5 understanding that the alone or in combination
6 designation is the appropriate measure for most
7 Voting Rights Act Section 2 consideration. Do you
8 see that?

9 A Yes.

10 Q What is the basis for that understanding
11 that you have?

12 A Conversations with attorneys over the
13 years and probably sessions at conferences and
14 things like that and stuff I read just -- things
15 I've learned, as I said, either from conversations,
16 presentations, reading. I can't point to
17 one specific source.

18 Q Great. And in Paragraph 17 you note
19 that the any part black voting age population in
20 Georgia went up by 2 percentage points from 2010 to
21 2020, right?

22 A Could you repeat the question, please?

23 Q Yes. In Paragraph 17 --

24 A Yep.

25 Q -- you note that the black voting age

1 population in Georgia increased by 2 points between
2 2010 and 2020, right?

3 A The percentage, yes. The proportion of
4 the population, yes.

5 Q So moving to the next section. You talk
6 about the geographic distribution of the black
7 population in Georgia. And the way I -- the way I
8 read this, and I want to make sure I have this right
9 is, it sounds like you're saying that are generally
10 two primary location for black individuals in
11 Georgia. One is metro Atlanta and the other is the,
12 as you call it, the so-called Black Belt, right?

13 A Correct.

14 Q So why do you have so-called in front of
15 Black Belt in Paragraph 19?

16 A That's a good question. I'm
17 just re-reading the sentence with those two words or
18 that hyphenated expression removed.

19 I guess I just used that modifier to
20 indicate that this is a term that people use. It
21 may not be familiar to every reader of the document
22 and sort of to say that this is a -- I think it has
23 been given a name that is sort of fairly common in
24 people talking about geography or demography of the
25 state.

1 A And, yeah, if you can just be able to
2 refer back to that wording as we -- as we go to
3 another exhibit because, again, I just wanted to
4 make sure I understand the just kind of mathematical
5 relationship you're describing.

6 Q Certainly. We're going to look at a
7 chart.

8 A Okay.

9 Q I just introduced Exhibit Number 9,
10 which is Mr. Morgan's report in this case.

11 A Yep.

12 Q And I'd like for us to go to Page number
13 17. Let me know when you're there.

14 A 17, yes.

15 Q And I believe you said you reviewed Mr.
16 Morgan's report as part of your preparation for this
17 deposition.

18 A Yes.

19 Q So on page 17 there's a chart for --
20 that has each of the five-county split with a
21 portion in District 23 and outside of District 23.
22 Do you see that?

23 A Yes.

24 Q And in each case the portion of the
25 county in District Senate 23 has a higher AP Black

1 VAP percentage in the portion outside of Senate
2 District 23 on the illustrative plan, right?

3 A Yes.

4 Q And were you aware that -- I think you
5 said you weren't -- that every county split you made
6 in Senate District 23 had this type of racial
7 differentiation on the population?

8 A Okay. I misunderstood your question. I
9 thought you were talking about the -- you said
10 something about the highest concentration, and I
11 thought you were saying that I had somehow selected
12 the highest concentration possible in isolating one
13 section of a county from the other section.

14 You used that superlative term highest,
15 and I thought you were saying that I had taken --
16 like if I was taking precincts, that there's no
17 other combination of precincts that I could have
18 taken that would have been higher than what I took.

19 So that's what I understood. And that's
20 why I wanted to maybe refer back to the way you had
21 asked the question.

22 So, yes, I have looked at this chart.
23 There is something that I don't agree with in terms
24 of Mr. Morgan's characterization here. In the
25 preceding paragraph he says that I took the lion's

1 illustrative plan, is that right?

2 A The discussion of the communities in
3 Columbia County that were largely inhabited by
4 people with a connection to Fort Gordon is something
5 I partially learned from the public comment from
6 the -- I believe it was actually in Columbia County.
7 That hearing was held in Columbia County, I think.
8 If not, it was northern Richmond County.

9 That's more to do, I guess you could
10 say, with the configuration of District 22 than 23.
11 So I did learn about some of the concerns in that
12 area, but I did not -- I don't remember hearing a
13 comment that specifically would have, you know, been
14 consistent with the choice I made in drawing Senate
15 District 23.

16 And you -- the other one you said was
17 17?

18 Q Yes.

19 A Yeah. I don't remember one related to
20 17 as well. I'm just looking at it on Figure 5 now
21 to see if jobs my memory.

22 I'm sorry. That was a no, I don't.

23 Q And again, you didn't watch videos of
24 public comment or read transcripts of it -- of those
25 comments until you had drawn the illustrative plan,

1 is that right?

2 A So -- after I'd drawn the first
3 illustrative plan. So the area in Bibb County did
4 not change from the PI plan to the December '22
5 plan. Baldwin County did change a little bit. So
6 my review of the comments and such was in late 2022.

7 Q Thank you. We've been going about an
8 hour and half and I'm going to move to District 25.
9 Do you want to take a break at this point, Mr.
10 Esselstyn?

11 A Sure. Sounds good.

12 MR. TYSON: We can go off the record.

13 (Recess.)

14 Q (By Mr. Tyson) All right, Mr. Esselstyn.
15 I want to turn next to Senate District 25, which is
16 on Figure 6, Page 13 of your report. Do you see
17 that?

18 A Yes.

19 Q And looking at Senate District 25 as
20 drawn on the illustrative plan, it includes portions
21 of Clayton County and portions of Henry County,
22 right?

23 A That's correct.

24 Q So in terms of the decision to connect
25 this part of Clayton with Henry County, can you tell

1 me what factors went into putting those two counties
2 together in District 25?

3 A I'm trying to recall. Again, this is
4 one that I did not -- I altered part of Fayette
5 County for the December 2022 plan but did not change
6 the orientation or the alignment of District 25.

7 Let me look back at what it looked like
8 under the enacted plan.

9 Yeah, I don't recall specific reasons
10 other than the kind of trial and error, as I
11 mentioned, that a lot of this is kind of iterative
12 in. I would have maybe looked at different
13 possibilities, and this one seemed to be the best
14 combination.

15 Q Okay. And creating District 25 where
16 you have -- I know we talked earlier about District
17 10 that runs down that eastern side of Henry County
18 to Butts County.

19 A Yes.

20 Q Do you see that? Are you aware of the
21 racial makeup of the components of Districts 10, the
22 different counties that you included in District 10?

23 A I'm sorry. Could you ask the -- repeat
24 the question? And I aware --

25 Q Sure.

1 what the plan components report is for Maptitude?

2 A Yes. So this goes district by district,
3 and for each district it provides the portions of,
4 in this case, counties that comprise that district
5 and some statistics related to that.

6 Q So if we go down to Page 24. That's the
7 beginning at the bottom of the page there, District
8 10 onto Page 25. Do you see that?

9 A Yes.

10 Q And looking at the voting age -- the
11 black voting age population percentage of the
12 portion of each county included in Districts 10,
13 you'd agree that on Black voting age population only
14 DeKalb County is a majority black voting population
15 for the portion in Districts 10, right?

16 A I'm just -- so this column says AP black
17 which I presume means any part black. And it's not
18 clear whether it is the --

19 Oh, I see. You've got -- and then -- my
20 bad. The voting age population is indicated there.
21 So I need to look at that part.

22 Yes. So Rockdale -- the total
23 population is majority any part black but not a
24 voting age population.

25 Q And so you'd agree that the only county

1 portion on this report with a majority black voting
2 age population is DeKalb County in District 10,
3 right?

4 A Yes.

5 Q And from our conversation earlier,
6 you're not able to identify any communities of
7 interest between south DeKalb County and Butts
8 County in Districts 10, right?

9 A Correct.

10 Q Let's move on your report over to
11 District 28. And that's on Page 14 of your report.
12 And this is an additional district in southwestern
13 metro Atlanta that you included as a new majority
14 black district, correct?

15 A I'm just getting there. Yes. Correct.

16 Q And this district connects parts of
17 Clayton County with north Fayette, south Fulton and
18 Coweta County down into Newnan, right?

19 A Yes.

20 Q Would you consider Coweta County to be a
21 more rural or a more urban county?

22 A More -- it's more rural than the other
23 three counties that you mentioned.

24 Q And Clayton County is a fairly urban
25 county, isn't it?

1 A I believe so.

2 Q So can you tell me about anything the
3 geography encompassed on this Senate District 28 has
4 in common besides the racial makeup of the people in
5 it?

6 A So again, when I'm looking at
7 communities of interest and the communities of
8 interest principle, I'm not trying to make sure that
9 every piece of a district has some unifying factor.
10 So I will say I remember, for example, that the
11 shape of the part that goes down into Coweta is
12 trying to keep most of -- it's either Newton or
13 Newman.

14 Q Newnan, yes.

15 A Newnan. Thank you.

16 -- keep most of that in one district.
17 So that was an example. That's kind of the -- in
18 thinking about communities of interest trying not
19 to, you know, cut that community in half. So that
20 was a consideration.

21 But as far as trying to ensure that
22 every -- every corner has something in common with
23 every other corner, that was not part of my
24 calculus.

25 Q And you'd agree that Newnan was whole on

1 the enacted Senate plan in 28 as well, right,
2 because Coweta was whole as a county?

3 A I think that's right. Just let me
4 quickly check Figure 3.

5 Yes. But I think that Douglas County
6 was divided. I may be getting this confused with
7 the House plan. But I believe that Douglas County
8 was divided in the enacted plan but is made whole in
9 the illustrative plan.

10 Q Which one? Douglas County?

11 A I think so.

12 Q Okay. And in the illustrative plan,
13 District 35 you know makes Douglas whole but it also
14 connects portions of Fulton County with parts of
15 south Paulding County, right?

16 A Right.

17 Q Do you know the racial makeup of that
18 part of south Paulding County?

19 A No. I mean do I know? I don't know it
20 off the top of my head. There are -- probably one
21 of the exhibits we could look at would give me a
22 clue but -- or a better informed answer.

23 Q Okay. Were you aware of any connections
24 between Paulding County and Fulton County when you
25 configured illustrative District 35 this way?

1 A I believe that some of the definitions
2 of metro Atlanta include Paulding County. And so in
3 that sense they would be considered generally part
4 of metro Atlanta. I think there was one of the
5 witnesses at the PI stage kind of testified about
6 how, you know, parts of southwest metro Atlanta or
7 western metro Atlanta would have shared concerns, be
8 they about traffic or development or that kind of
9 thing.

10 That is reasonable to think of that as
11 being a community -- the metro Atlanta community
12 and, you know, some slice of the metro Atlanta
13 community.

14 Q Let's move to the comparative
15 characteristics for the Senate plan. I know we've
16 talked about some of this already. What I want to
17 do is go through a little bit more detail on some of
18 these specifically. So first on the population
19 equality number.

20 A Yes.

21 Q You would agree with me that the
22 deviation range on the illustrative plan -- or
23 rather I should say the total deviation on the
24 illustrative plan is almost double the deviation
25 range used on the enacted Senate plan, right?

1 A I would want to look at the numbers. I
2 don't --

3 Q Okay.

4 A Go ahead.

5 Q I believe if we go back to your
6 appendices you have the deviation ranges broken out,
7 is that right?

8 A Yep. If you get to the page number
9 before I do, that might speed up.

10 Q All I have is Attachment H. I'm using
11 paper, so I don't have the pdf pages numbers.

12 A Oh, okay. G. Here we go. H.

13 Q And so the enacted plan total deviation
14 is 2.01 from minus 1.03 to plus 0.98 and the
15 illustrative plan deviation, total deviation is 3.57
16 from minus 1.67 to a plus 1.9. Is that right?

17 A Yes.

18 Q And you didn't report that increase in
19 total deviation in your written report, did you?

20 A I did not. Getting back to your earlier
21 question, almost double. I mean, it's -- it's less
22 than 1.8 times. So almost double? I'm not sure I
23 agree with that.

24 Q Okay.

25 A That's a fuzzy description.

1 Q But you would agree it's 1.56 points
2 higher on total deviation, right?

3 A Yes.

4 Q And even though it's a higher total
5 deviation on the illustrative plan versus the
6 enacted plan, you determined that it still complied
7 with the traditional principles of population
8 equality, it being the illustrative plan?

9 A Yes.

10 Q In Paragraph 36, to go back to where
11 were on Page 15 --

12 A Just for the record, that was Page 77,
13 if we're going back to look at something like that.

14 Q Okay.

15 A You said now Page 15?

16 Q Right. It's the downside of one of us
17 using paper and one uses electronic, I suppose.

18 A Okay. I'm on page 15.

19 Q Okay. So this is the discussion of
20 compactness and the reporting of compactness
21 metrics, correct?

22 A Yes.

23 Q And you report the average compactness
24 scores for the enacted and the illustrative plans,
25 but this includes -- the average score includes all

1 56 districts, not just the ones that were changed,
2 right?

3 A Right.

4 Q And you didn't run a compactness score
5 report only for the districts that were changed to
6 compare those with the enacted plan; correct?

7 A Correct.

8 Q Do you know if the districts that you
9 changed on the illustrative plan from the enacted
10 plan are more or less compact as a whole than the
11 enacted plan?

12 A So compactness depends on which metric
13 you just. You know, some -- some districts can be
14 more compact based on one metric and less compact on
15 another. So, again, repeating the question was
16 whether I know whether the districts I changed were
17 on the whole more compact or less compact?

18 Q Yes.

19 A I don't -- I don't know. I can guess,
20 but I don't think I can say with certainty.

21 Q So let's look at Figure 8. Can you just
22 explain to me what Figure 8 shows?

23 A Yes. So Figure 8 is a series of sorted
24 bar charts basically, and for the four measures,
25 compactness measures, that can be applied to

1 individual districts, the four that I reference in
2 the previous page, Reock, Schwartzberg,
3 Polsby-Popper and Area/Convex Hull, what it does is
4 take the compactness scores for the enacted plan and
5 put them in order from most compact to least
6 compact, left to right.

7 And then specifically for the districts
8 that are additional majority black districts in the
9 illustrative plan, it places those basically within
10 this sorted order so that you can see how the
11 compactness -- the various compactness stores for
12 those three districts kind of compares to the
13 distribution of compactness scores for the entirety
14 of the enacted plan.

15 Q So the only illustrative plan districts
16 that are included on Figure 8 are the colored lines,
17 the white or the grayish lines are enacted plan
18 districts, is that right?

19 A That's write.

20 Q So you didn't score, for example, Senate
21 Districts 20 or Senate District 17 on the
22 illustrative plan as part of Figure 8, right?

23 A Right.

24 Q Let's like next at Paragraph 39, county
25 splits. And you'd agree that the illustrative plan

1 splits more counties than the enacted plan; correct?

2 A Correct.

3 Q And it splits more precincts than the
4 enacted plan, right?

5 A Correct. Yes.

6 Q And so how did you determine the
7 illustrative plan complies with the legislative
8 principle about boundaries of counties and precincts
9 it splits more counties and VTDs than the enacted
10 plan?

11 A So the -- so the language of the
12 guideline adopted in this case by the Senate is not
13 explicit. It just says that the boundaries of
14 counties and precincts should be considered. And I
15 mentioned that in the first sentence of Paragraph
16 39. The following sentence says that typically
17 that's taken to mean that counties should be kept
18 intact to the extent possible.

19 Another consideration that I have seen
20 and sometimes one of the -- one of the reports that
21 you can generate in Maptitude shows not only the
22 county divisions but the number of people in each
23 portion of the county in a split county.

24 So one thing -- and this came up, I
25 think, during our conversation in the PI phase was

1 offering any opinions about whether these particular
2 districts will elect candidates of choice in the
3 black community. You're just drawing the districts
4 as majority black districts; right?

5 A Correct.

6 Q And looking at District 77 and District
7 86 on Table 5, those districts are 76.13 percent and
8 75.05 percent black VAP respectively. Do you
9 consider those districts to be packed districts with
10 Black voters?

11 A Again, you know, I probably spend a
12 couple of minutes answering the question when you
13 asked a similar question about one of the Senate
14 districts in the metro Atlanta area.

15 And again, I'll say that in my -- the
16 way that I would typically define packed has to do
17 with trying to disadvantage a group or focusing on
18 one aspect of the demographics or the political
19 makeup while ignoring other considerations.

20 That was not my -- how I was operating.
21 So I hesitate to characterize these as packed. If
22 someone wanted to say that they were accidentally
23 configured so as to have high concentrations of the
24 black voting age population, yeah. They're just --
25 packed is a loaded term.

1 Q And not to keep beating a dead horse on
2 this one, but when you say packed is a loaded term,
3 what do you mean, loaded term? I'm not sure I've
4 heard you use that up to this point.

5 A It's often used in conjunction with maps
6 that have been found to be gerrymandering, racial
7 gerrymandering or partisan gerrymandering.

8 So I hesitate to characterize districts
9 in a plan that I drew as packed because, as I said,
10 that often has associations with plans that were
11 drawn to disadvantage a group or to focus
12 exclusively or primarily on, you know, one -- one
13 factor at the expense of others.

14 Q So looking back at Figure 13, the
15 locations of the new majority black districts you've
16 drawn --

17 A Yeah.

18 Q -- you didn't draw any new majority
19 black districts in southwest Georgia, right?

20 A That's right.

21 Q And you didn't draw any new majority
22 black districts for the House plan over in east
23 Georgia toward Augusta, right?

24 A That's right.

25 Q So in terms of where these districts are

1 A Yeah.

2 Q And in the House plan here Douglas
3 County is divided to allow District 64 to connect
4 these pieces of Fulton and south Paulding, right?

5 A Yeah. I mean, if we were to look back
6 at how it was -- it's hard to see in Figure 12. But
7 I might say that there is a portion of Douglas
8 County included in the district which serves as a
9 connection between Fulton and Paulding Counties, the
10 portions in Fulton and Paulding Counties.

11 And this is an example of -- the smaller
12 population size of these districts means that I
13 don't think I could have kept Douglas County whole
14 because, as I recall, its population is around
15 145,000 people and these districts are 60,000, so --

16 Q And aside from being in the Atlanta
17 metro area, as you identified, for connecting parts
18 of Fulton and Paulding in the Senate plan, is there
19 anything else you can identify -- a community that's
20 kept whole in Senate District -- I mean, House
21 District 64?

22 A Not that I can recall. There -- not
23 that I can recall.

24 Q So let's move over to south Metro,
25 Paragraph 50. And here we have two districts.

1 First District 74 that connects portions of Clayton
2 with portions of Fayette, is that right?

3 A Yes.

4 Q Do you know if the portion of Fayette in
5 that district is majority black?

6 A I don't.

7 Q Would it surprise you if it was 16.01 AP
8 black VAP in Fayette County in District 74?

9 A That's lower than I would expect. But I
10 -- I don't know that it wouldn't surprise me.

11 Q Do you consider the south part of
12 Fayette County to be a rural area?

13 A I don't have an opinion on that.

14 Q Okay. And so can you identify any
15 communities that are kept whole in House District
16 74?

17 A None that I can recall there. I think
18 -- is this the one where we talked about Irondale?
19 I -- I believe there were -- in the area in Clayton
20 County, I believe it was a census-designated place,
21 maybe not an incorporated one, but I have a, again,
22 somewhat hazy recollection that there is a community
23 that this was drawn to keep mostly intact.

24 Q Okay. Do you recall if that
25 census-designated place was in Clayton or Fayette

1 County?

2 A Not with certainty.

3 Q Are you aware of any other reason to
4 connect Clayton and Fayette Counties the way
5 District 74 does on the illustrative plan?

6 A I'm just seeing if looking at the
7 enacted arrangement will jog my memory. Yeah, it's
8 been -- it's been a while since I -- this is not one
9 of the areas that I changed for the December 2022
10 plan, so it's far enough back that I don't have a
11 recollection.

12 Q Okay. And moving over, you also changed
13 House District 78 on the way to 116 and 117, right?

14 A Are you just saying on the way to 116
15 and 117 as a -- just sort of a geographic --

16 Q I'm sorry. I'm moving from west to
17 east. So the next district to the east is District
18 78, is that right?

19 A Yes, and 78 changed. I just wasn't sure
20 if you were saying that I changed it on the way, if
21 it -- if "on the way" was modifying my action of
22 changing it.

23 Okay. I'm -- yes, I'm pretty certain
24 that 78 was changed as well.

25 Q Okay. And do you have an opinion about

1 whether the part of 78 that's in Spalding County is
2 a rural of Georgia?

3 A I would have to look to say with any
4 kind of confidence. I -- and there's no one
5 definition of rural, but -- so I'm -- I don't have
6 an opinion.

7 Q And it appears from the boundaries here
8 that the city of Griffin is not in District 78. Do
9 you recall whether you included the city of Griffin
10 in that district or not?

11 A I don't recall.

12 Q And District 117 -- or actually, I'm
13 sorry. Let's do District 116, the next district to
14 the east. And it crosses over the interstate. Do
15 you recall the conversation we had at the PI hearing
16 about 116 crossing the interstate?

17 A I do, yes. Not super clearly, but I do
18 remember that was a topic of conversation.

19 Q And District 116 includes a small
20 portion of Clayton County in that district, right?

21 A Yes.

22 Q And then one more district to the west,
23 District 117, the new district and you've identified
24 as whole in Henry County, right?

25 A That's right.

1 Q And you don't know because you didn't
2 look at political data if Districts 117 and 74
3 currently have Republican incumbents?

4 A I did not.

5 Q Is there any community you can identify
6 in District 117 that is being kept whole in its
7 configuration on the illustrative plan?

8 A Not with the information I have in front
9 of me or based on memory, but there may be some. I
10 just -- I don't have -- as I said, not based on what
11 I have in my mind or in front of me.

12 Q Who would you need to have to determine
13 that?

14 A Maps of things like incorporated areas
15 or census-designated places, other campus-type
16 things, whether they are educational institutions
17 or military facilities, that sort of thing, other
18 parks, those -- those kinds of communities of
19 interest that have clearly defined boundaries as
20 opposed to the kind that --

21 Well, that would be a layer, if they
22 were also a layer of kind of community -- defined
23 communities, that would be another thing I could
24 look at and specify.

25 Perhaps minority groups, if -- sometimes

1 there might be a smaller pocket of one of the less
2 populous minority groups, for example, major
3 employers. There are a lot of things that people
4 consider communities of interest.

5 Q But you didn't list any communities that
6 you considered to keep whole in District 117 in your
7 report, right?

8 A That's correct.

9 Q Let move down to Macon and take a look
10 at this area.

11 A Okay.

12 Q So in Paragraph 51 you reference a
13 comment from Ms. Wright, the director of the General
14 Assembly's reapportionment office -- excuse me --
15 about this area being a community of interest. Do
16 you see that?

17 A Yes.

18 Q And specifically were you referring to
19 the connection between Macon-Bibb and counties
20 surrounding it or Macon-Bibb and Twiggs and
21 Wilkinson particularly?

22 A The -- Twiggs and Wilkinson Counties are
23 what she identified as a -- constituting a single
24 community of interest.

25 Q And that was in reference to the way

1 Q And was this also a public comment that
2 you located after you drawn Districts 145 and 149 in
3 at least the PI plan in 2021?

4 A Yes.

5 Q You say in the language --

6 A Again, I'm sorry -- yes, that particular
7 comment was identified after -- afterwards, yes.

8 Q In Paragraph 51 you also state the
9 orientation of Districts 142 and 143 ensures that
10 the northern portions of Macon-Bibb County stay in a
11 Macon-Bibb County district with portions of Macon
12 rather than being put in a district with a more
13 rural neighboring county like McGriff, right?

14 A Yes.

15 Q And District 149, as you've configured
16 it, puts portions of south Macon into a district
17 within more rural neighboring counties like Twiggs
18 and Wilkinson, right?

19 A Yes.

20 Q What was the basis for choosing to push
21 south Macon districts into more rural neighboring
22 counties while -- and not placing northern Macon
23 districts into more rural neighboring counties?

24 A Can you say the final part of your
25 question again? What was the decision? What was

1 the --

2 Q What was the reason for why you followed
3 this public comment that you've cited for Districts
4 142 and 143 but not for District 149?

5 A So the public, as I recall, was
6 specifically about northern Macon-Bibb County and
7 specifically mentioned, I believe, Monroe County.
8 So that -- in that sense, this person was
9 specifically talking about that portion of
10 Macon-Bibb County.

11 And then -- so you could say that it
12 didn't really apply to south Macon-Bibb County.
13 That's -- that's not what the commenter was talking
14 about.

15 And then as far as the reason, I think I
16 gave a similar answer before and it's -- I don't
17 feel comfortable specifying a reason for any
18 decision. There are a multitude of reasons, and
19 it's a part of this multi-layered puzzle with lots
20 of considerations and so on.

21 Q And just so I understand, I mean,
22 these -- you'd agree all these districts centered on
23 Macon are all very close to 50 percent majority
24 black, right?

25 A They're all close to 50 percent, yes.

1 adjust the split in Baldwin County, is that right?

2 A I apologize. But if you could repeat
3 the question.

4 Q Sure. Looking at Figure 13 of your PI
5 report, which had District 149 --

6 A Yeah.

7 Q -- and comparing that to Figure 16 of
8 your 12/5 report, it appears to pierce me the only
9 change in this area was adjusting the split of
10 Baldwin County in District 149 in the 12/5 plan. I
11 that correct?

12 A There's actually a tiny change or two
13 changes really between Districts 145 and 147. So
14 when you say "in this area," the area shown in
15 Figure 13 does include a small change between 145
16 and 147, which was done to prevent the pairing of
17 incumbents.

18 Q Okay. But you agree that you changed
19 the split of Baldwin County between the PI plan and
20 the 12/5 report in District 149, right?

21 A Yes. Yes. Yes. But it's not the
22 only -- yeah. And just to be clear, there were --
23 when you say "the split," there are three districts
24 that were affected. One in a very tiny way. It was
25 a change of five people, but it actually meant that

1 the -- I think that's District 128 to the northeast
2 of 149 -- was not changed.

3 So -- well, when I say was not changed,
4 it was changed from my PI plan to my December 2022
5 plan in such a way that the district in the December
6 2022 plan is identical to the way it is in the
7 enacted plan.

8 I probably could have described that
9 more succinctly. But -- and that would be very hard
10 to see in Figure 13 or comparing Figure 13 in the
11 older document versus the Figure 16.

12 Q And you identify the connection between
13 Milledgeville and Macon as -- or, actually, I'm
14 sorry. You identify District 149 as generally
15 following the orientation of the Georgia fall line
16 geological feature, is that right? In paragraph 52.

17 A So I'm going back. That sounds right.
18 I just want to see it before agreeing.

19 Yes.

20 Q You'd agree that Augusta is also part of
21 the Georgia fall line, right?

22 A Yes.

23 Q And the Columbus is also on the fall
24 line?

25 A Yes.

1 division, that -- those relationships, if you will.

2 Q Looking at District 145, did you make
3 any changes aside from the change to -- between 145
4 and 147 between the PI plan and the December 5th
5 report?

6 A I did not.

7 Q So let's move to the comparative
8 characteristics of the House plan. And you'd agree
9 that the total deviation of the illustrative House
10 plan is higher than the total deviation on the
11 enacted House plan, is that right?

12 A So the total deviation I would need to
13 look at the -- I'm pretty sure it's the case, but I
14 don't want to reply with certainty.

15 Q Attachment L?

16 A Okay. Thank you.

17 Q I think it's Page 134.

18 A Yes. Okay. Total deviation, yes.

19 Q So you'd agree the illustrative plan
20 total deviation is higher than the enacted plan?

21 A Yes.

22 Q And it's more than a point higher from
23 2.74 to 3.85, right?

24 A That's right.

25 Q And you didn't include that total

1 deviation number in your written report, just in the
2 exhibits, right?

3 A That's right.

4 Q Is the way that you determined that the
5 illustrative plan complied with the traditional
6 principle of population equality for the House the
7 same as the methods you used for making that
8 determination for the Senate illustrative plan?

9 A I think generally, yes.

10 Q In paragraph 57 you talk about
11 compactness. And we, again, have the average scores
12 for four of the five metrics and then a cut edge
13 score. Would you expect average compaction scores
14 to be the same if 155 of the 180 districts on a plan
15 are the same?

16 A No. I mean, it could be. But --

17 Q Okay.

18 A -- that's saying that --

19 Q Okay. So you didn't break out the
20 compactness scores for the 25 districts that you
21 changed. You only reported here in Table 6 the
22 average for all 180 districts for four of those five
23 measures, and then over on Table 7 the scores for
24 just the new majority black districts, right?

25 A That's right. In the text of the

1 report. But the -- the attachments include
2 compactness scores for all the districts in both
3 enacted and illustrative as well as other summary
4 and metrics.

5 Q And was your method of determining that
6 the plan complied with the traditional principle of
7 compactness generally the same process for the House
8 illustrative plan as for the Senate Illustrative
9 plan?

10 A Yes.

11 Q And for Figure 17, like the Senate,
12 these charts -- the only districts on these four
13 charts that are from the illustrative plan are the
14 colored lines. And the gray lines are districts on
15 the enacted plan, right?

16 A That's right.

17 I'm sorry. If you -- if you wouldn't
18 mind repeating that question again. I just tuned
19 out for a moment.

20 Q Sure. In Figure 17, the --

21 A Yes.

22 Q -- in all four charts the only districts
23 from the illustrative plan on those charts are the
24 colored lines. The gray lines refer or are
25 districts on the enacted plan, right?

1 A That's right.

2 Q And in Table 7 when you reported the
3 various compactness scores for the new majority
4 black districts, you didn't show the compactness
5 scores for the enacted plan districts that
6 correspond to those districts, right?

7 A That's right.

8 Q And in Paragraph 59, Table 8, you'd
9 agree that the illustrative plan -- I'm sorry.

10 A Just a second. When you say the
11 districts that correspond, meaning the districts
12 that have the same number?

13 Q Either the districts that have the same
14 number or that are in the same general geographic
15 area. You didn't report either of those compactness
16 scores, right?

17 A Yes. Right.

18 Q In Paragraph 59, Table 8, you'd agree
19 that the illustrative plan splits one more county
20 and one more VTD in the enacted plan, right?

21 A Yes.

22 Q Then in Paragraph 60 we get to
23 communities of interest, and I see again a reference
24 to the two campuses of Georgia College and the
25 central community of Milledgeville. Are there are

1 A No.

2 Q Were you ever instructed to maximize the
3 number of majority black districts in either the
4 State Senate or House map?

5 A I was not.

6 Q And is it your opinion that you
7 illustrative maps that you have submitted along with
8 your December 5th report are complete and finalized
9 enough that they could be adopted and implemented by
10 the State of Georgia in future elections?

11 A Yes.

12 MR. HAWLEY: All right. Thank you, Mr.
13 Esselstyn. That's all I have, Mr. Tyson,
14 unless you have anything.

15 Yes? It looks like a yes.

16 MR. TYSON: Just a few more, Mr.
17 Esselstyn.

18 FURTHER EXAMINATION

19 Q (By Mr. Tyson) Mr. Hawley was asking you
20 about shading information on racial data and various
21 questions on that. Do you recall those questions?

22 A I do.

23 Q And just to confirm, you only had census
24 data, not any political data available to you when
25 you were drawing your illustrative plans, right?

1 A That's correct.

2 Q And did you -- I'm sorry?

3 A When I say available, I mean, I could
4 have downloaded it. It's not like it's unavailable
5 data. I did not use it. I didn't have it installed
6 on my computer. I didn't consider it at all.

7 Q Thank you. Did you ever use Maptitude
8 features or labels that would display racial data
9 about different levels of geography in Georgia when
10 you were working on your illustrative plans?

11 A Yes.

12 Q Mr. Hawley asked you about sacrificing
13 traditional redistricting principles for packing.
14 Do you recall those questions?

15 A Yes.

16 Q What -- what do you mean by packing
17 would involve sacrificing traditional redistricting
18 principles. I'm not sure I followed that
19 conversation.

20 A Okay. And I think I said something
21 about typically or generally. A lot of the famous
22 examples of packed districts or cracked districts --
23 so we talked about North Carolina 12 before. That
24 was not a compact district. It split all kinds of
25 political subdivisions.