EXHIBIT H

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

GEORGIA STATE CONFERENCE OF NAACP, et al.,	)	No. 1:21-CV-5338-ELB-SCJ-SDG
Plaintiff,	)	
vs.	)	
STATE OF GEORGIA, et al.,	)	
Defendant.	)	

VIDEOTAPED 30(b)(6) and 30(b)(1) DEPOSITION OF
SENATE REDISTRICTING & REAPPORTIONMENT COMMITTEE
(MR. JOHN F. KENNEDY)
January 20, 2023
9:03 a.m.
18 Capitol Square SW
Atlanta, Georgia

Reported by: Marcella Daughtry, RPR, RMR
CA CSR 14315
GA No. 6595-1471-3597-5424

data that she had, but I -- I can't tell you the software she was using or, you know, that level of detail of what she -- what she sourced her information from.

Q Okay. Was it -- did you tell Gina Wright that it was important that she try to protect incumbents in the first draft of the congressional map?

A We certainly may have. I'm just trying to recall. I don't recall the specifics of any conversation about -- about that issue. I don't think anybody got drawn out of their district, so to speak, though, so that's why I'm telling you that, yeah.

Q Did you tell Gina Wright that she should consider demographic data when drafting the first congressional map?

A What do you mean "demographic data"?

Q Let's start with racial demographic data.

A Again, your -- your question presupposes. It kind of puts the cart before the horse in the sense of as though I walked in and said, here's what I want you to do and here is the consideration. She was the expert. She knew that. She -- she was steeped in the requirements of what one would have to do to do this correctly, legally, and be compliant going forward.

And I would say it was something that was just inherent in her process as she went forward. She knew

Q Were the Senate Committee guidelines approved on August 30, 2021?

A I don't remember the date, but that sounds about right.

Q What role did you have in creating the redistricting guidelines?

A If I remember correctly, these are the same principles that were utilized in the last redistricting cycle. So I would have lifted them, if you will, from that and utilized them and placed them with our materials for presentation to the committee for consideration of what the plans, or the principles for drafting plans should be for our current cycle.

Q What is your understanding of -- sorry, could you read the principle number 3, please?

A "All plans adopted by the Committee will comply with Section 2 of the Voting Rights Act of 1965, as amended."

Q And what is your understanding of this principle?

A I would have relied upon counsel to advise us as to what, one, we should do to make sure we're in compliance.

Q How did you ensure the Senate Committee complied with this principle?

you provide any input on S.B. 2EX?

A Not that I can recall.

Q Can we return back to tab 8, which we marked as Exhibit 8.

How would you -- so I'll represent that the map on the left is a map of prior congressional District 6 boundaries and the map on the right is a map of the S.B. 2EX congressional district boundaries.

Do you have any reason to believe that that is inaccurate?

A No, sir. I assume you're -- I don't have a memory that informs me that it's accurate, but I will assume that you are being truthful with me.

Q How would you characterize the difference between the prior boundaries and S.B. 2EX boundaries?

A The boundary of S.B. 2EX takes the district further north and encompasses part of Cherokee and Forsyth and Dawson counties, which if I am reading where the county line between Fulton and Forsyth would be, if I am looking at that correctly, don't exist in the prior.

Q Are you aware that approximately 360,000 people were added to District 6 in S.B. 2EX that weren't in the district in the prior boundaries?

A Not that number, but I thought you said earlier it was just a much smaller number. Did you not?

Q So --
A That was not the figure you gave me earlier.
Q So --
A Hold on a minute, please.
Q Okay.
A That was not the figure you gave me earlier when you embedded it in your question, when we were doing -- we were trying to compare the two.
Q So what I said earlier was that the district, the prior district boundaries did not have to change based on the Census results. So the prior district with the Census data was almost identical to a -- to the number -- amount of population it needed to be.
Does that make sense?
A Maybe I'm just confused. I thought you just told me that the new 6 had to add 300 and something thousand to get to the right number.
Q What I was saying -- what I was --
A How can they both be true?
Q My question was, was the -- did the District 6 add people and subtract people, not whether it was required to to comply with equal population.
A Are you saying did it add different people?
Q Correct.
A Or different numbers?

Q It added people and subtracted people. So it -- it was close to the population it needed to, and then added approximately 360,000 people and subtracted 360,000 people that used to be in the district. So the net-net was essentially bringing it back to population equality, which it would have been if no changes were made.

Does that make sense?

A I think I follow you.

Q How does the S.B. 2EX District 6 boundaries respect communities of interest?

A Well, again, specifically, Gina Wright and counsel would have advised on this, but you can look and see, if I'm reading this correctly, S.B. 2EX includes the county of Dawson as a whole, which in some ways I think is recognized as a community of interest. It appears to have all or most of Forsyth County, which would be, I think a community of interest. Maybe I'm not looking at this correctly, but it appears to have a substantial portion of the core of North Fulton, which was there previously. I don't know if North Fulton would be deemed a community of interest. But it, I think, also would have respected it, in that S.B. 2EX put DeKalb County back as a whole county, which it was split on the old map, so there again, respecting the community of interest

driven by county lines.

Q Do you believe there are similar -- similarities between the residents of Dawson County and the residents of East Cobb?

A I'm sure there are.

Q Do you believe they have similar policy interests?

A I'm sure they do in some regards.

Q Can you name any similar policy interests that the residents of Dawson County and the residents of East Cobb have?

A I don't think on the level you're looking for, no. I don't have that level of expertise or specificity.

Q If you turn to tab 9.

MR. GENBERG: And mark that as Exhibit 9.

THE WITNESS: Okay.

MR. JAUGSTETTER: You already marked Exhibit 9 to be tab 13.

MR. GENBERG: Oh, can we mark it -- sorry. Thank you. Can we mark it as Exhibit 10.

(Deposition Exhibit 10 was marked for identification.)

THE WITNESS: So tab 9 is Exhibit 10?

MR. GENBERG: Yes.

THE WITNESS: Okay.

Q BY MR. GENBERG: What does this appear to be?
A It's a document turned side landscape that has a map on the left, a partial map on the left entitled "Prior Congressional District 13 Boundaries." And then on the right, a partial map that says, "S.B. 2EX Congressional District 13 Boundaries."
Q Looking at the S.B. 2EX boundaries on the right, which counties would you say are included in the District 13 boundaries?
A The one on the right?
Q Yes.
A It looks like parts of Douglas, parts of Fulton. It appears to go in parts of Cobb, parts of Clayton, Henry, and Fayette.
Q Does this district appear to contain any whole counties?
A It -- I don't think so. It doesn't look like either one did.
Q Does the prior boundaries appear to include all of Douglas County?
A I can't answer that. I can't see enough of Douglas County to know if that's all of Douglas or not.
Q Did the committee prioritize preserving whole counties in the creation of District 13 in S.B. 2EX?
A We prioritized it -- I don't want to use the

word "prioritize" as in made it the sole or most important issue of all the considerations. It was an important -- as I have said earlier, an important consideration of what we were doing, as seen in the application of the importance of that to all the districts, all 14 of the districts that were formed.

Q Which criteria were prioritized for District 13?

A I think I just said that the criteria that we talked about were -- I don't want to use the word "prioritize." They were all deemed to be important in the work the committee was doing. When you say prioritize, that suggests to me that there's one that was placed above all others.

Q Do you believe that the residents of Cobb County share a community of interest?

A Yes, I would think they do. Some do in some ways.

Q Do you believe that the residents of Henry County share a community of interest?

A I would think some do in some ways.

Q If we can turn to tab 10.

MR. GENBERG: Mark it as Exhibit 11, please.

(Deposition Exhibit 11 was marked for identification.)

THE WITNESS: Okay.

Q BY MR. GENBERG: What does Exhibit 11 appear to be?

A It is identified or entitled "Prior Congressional District 14 Boundaries," and a partial map on the left, and then on the right half of the page is "S.B. 2EX Congressional District 14 Boundaries," and a partial map below it.

Q Does this appear to -- to you to be the prior congressional District 14 boundaries on the left and the S.B. 2EX congressional district boundaries on the right?

A I don't remember what the prior congressional District 14 looked like. And I'm assuming you have accurately copied the current, or the 2EX District 14 on the right.

Q How would you characterize District 14? How would you characterize --

A One above 13, I mean.

Q Yeah. How would you --

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

Q How would you characterize the race of the citizens in District 14?

A I don't know if you've got some numbers for me to look at. I'm happy to. I would -- I don't know the actual numbers.

Q Would it surprise you if I told you it was predominantly white?

A No, that would not surprise me.

Q Are you aware of the primary industries of the residents of District 14?

A The "primary industries of the residents"?

Q Yes.

A Are you asking me what kind of jobs they work at? What do you mean "primary industries"? I don't understand that.

Q Yes, the jobs.

A Well, I-75 comes down through here somewhere, so you've got things that would be related to the transportation aspect of that. And there are -- and you also have a large carpet mill industry in Northwest Georgia that is something we're proud of to have. I think some of the largest flooring manufacturers in the country that are located in Northwest Georgia.

Q How would you --

A Among other industries. I don't want to -- but that's the one that we're probably just commonly most known for for Northwest Georgia.

Q How about agriculture?

A Maybe, but I don't -- I can't give you any details of that.

Q How would you compare the prior District 14 boundaries and the S.B. 2EX boundaries of District 14?

A Well, I guess first what jumps out at me is the comment I made earlier that was sourced from a town hall meeting, that there were residents of Pickens County, Georgia that asked that their little county not be split and divided. You remember those comments? That is -- it is that to which I was referring.

And I think you see that on this map, that we chose to keep Pickens whole. And it's in the -- whatever the district to the right is. I guess the 9th? Yes. And it looks like there is a little bit of Cobb added to it.

Unless I am missing something, it looks like those may be the only two differences from the old 14th District to the new 14th District.

Q Are you aware that that portion of Cobb that was added to District 14 is a heavily black population area?

A No.

Q Would you have been aware of that at the time of the enactment of S.B. 2EX?

A I don't know if I would have or not.

Q Would you say that that section of Cobb County, which I will represent includes the cities of Austell and

Powder Springs, if that portion of Cobb County shares a community of interest with any area within congressional District 14 boundaries?

A Are you asking if I think the portion of Cobb that's in the D 14 shares communities of interest with other areas of 14?

Q Yes.

A I really don't have specific information or knowledge about that area of Cobb or, for that matter, Cobb County in general. It's not where I live, but it's contiguous to and immediately next to Paulding County. I would think there would be some similarities of the people that are right -- or the geographic area that's right adjacent to it.

Q Can we return to tab 4 --

A Okay.

Q -- which will be Exhibit 4, and to page -- I think it's 5 of your binder, which is entitled "Draft - Georgia Congressional Districts." It's the --

A Is it this (indicating)?

Q Oh, I think you are on -- no, it's the page before that. Yes.

A Okay.

Q And this is the September 27th plan, correct?

A Okay. I don't know. I can't look at it.

I'll -- this is your exhibit binder, so I'm going to assume when you make a statement like that, Counselor, that I'm going to rely upon you and that you are being truthful with me and accurate, so I will go forward with that assumption.

Q Okay. You know what, actually, let's -- let's just go to Exhibit 3, sorry, because this one is kind of hard to read.

A Okay.

Q So looking at Exhibit 3.

A Okay. Is that the same one we were just looking at?

Q It is the same September 27th map but in color.

A Okay. Okay. Thank you.

Q Does District 14 in the September 27th map include part of Cobb County?

A No.

Q Does District 14 in the September 27 plan include part of Bartow County?

A Yes.

Q And then going back again to tab 4, Exhibit 4, again, refer you to the words that say "District 14: Add population from Bartow to balance out."

A Okay.

Q Do you have an understanding of why a portion

of Cobb County was added to District 14 in the enacted S.B. 2EX plan as opposed to a portion of Bartow County or any portion of Bartow County?

A Is tab 7, Exhibit 7, the --

Q Tab 7.

A -- congressional map --

Q That's --

A -- that was passed? 2EX --

Q It is.

A -- that is passed?

Q Yes.

A Okay. So I think in answering your question, I would answer it by saying what was passed kept Bartow County whole and intact, as opposed to what was being -- as what -- as opposed to what's in the September 27 draft, which is behind tab 3 for CD 14.

Q If you compare -- strike that.

Well, actually, how many county splits -- how many times has Cobb County split in S.B. 2EX, the Exhibit 7?

A And that's behind tab 3, right?

No, behind tab 7. Sorry.

It looks like four.

Q How many times has Cobb County split in that September 27th plan on tab 3?

A It looks like three.
Q Would you say it's better to have fewer county splits than more?
A I can't answer that in a vacuum. If you can do that without impacting other counties, fewer splits are better; but if more splits in one county enable you to keep other counties or more counties intact, then there's a benefit to doing that.
Q If we can return to tab 9, which is Exhibit 10.
A Okay. Got it.
Q Before the redistricting process in 2021, was the black population in District 13 able to elect candidates of choice in District 13?
A I don't know what the boundaries looked like back then, but I would further answer by saying, every voter is free to go to the polls and elect whomever they -- vote for whomever they want to.
Q Okay. So do you know if District 13 usually elected the black candidate of choice?
A I don't know.
Q Would you have known that at the time of redistricting?
A This is CD 13?
Q Yes. So on the left is the old boundaries.
A No, I would have not -- I don't think I would

Q Okay. Let's -- I'm going to ask you a little bit about -- if we could look at the topic -- at the document that ends with 8454.

A Is that one of the previous exhibits?

Q No, that's something Lily has.

A Okay.

Q And while she's grabbing it, can I ask you if you know who represented SD 48 before the redistricting?

A Your question is who represented SD 48 before the redistricting?

Q Yeah.

A No, I'm -- I'm trying to call from memory which of my --

Q Well --

A -- colleagues had -- had 48.

Q -- are you familiar with Senator Michelle Oh -- Au?

A Michelle Au, yes.

Q Au?

A Yes.

Q Is she an Asian woman?

A Yes.

Q Is it your understanding that she was the candidate of choice among people of color in her district?

A I wouldn't know who the candidate of choice were -- was of that district.

MS. LIU: Okay. We're going to take a quick break, if you don't mind. Just a quick --

THE WITNESS: Okay.

MS. LIU: -- break.

THE VIDEOGRAPHER: The time is 6:07 p.m. We are now off the record.

(The deposition was at recess from 6:07 p.m. to 6:16 p.m.)

THE VIDEOGRAPHER: The time is 6:16 p.m. We are back on the record.

EXAMINATION

BY MR. DAVIS:

Q Thank you, Senator Kennedy. I am Alex Davis from the Lawyers' Committee. I know it's been a long day. I'm the last face you want to see at the end of a long day, so I will try to keep this short.

I think we have one more video clip. We have a video clip to play you.

Lily, is that ready?

MS. HSU: Yes.

MR. DAVIS: This is from the same November 4th Senate Committee hearing.

A Again, you're -- you're asking me for a legal opinion and how that opinion would have been deployed through the process that we went through. And again, that would have been guided -- we would have been guided and were guided by counsel.

You're -- as I understand the question, Mr. Davis, you are specifically setting forth two principles and saying what happens when those compete, and what is the legal outcome of which prevails and in what way and in -- you know, and that's the kind of thing you need good lawyers for to help guide you down that process to make sure, A, you are doing the job correctly and properly as you are doing it, and B, you wind up substantively with a good work product that is legal and proper and appropriate.

Q Okay. I'm -- I'm gonna move on. I had a few questions about Senate District 17. Are you aware that the final map reduced the black voting age population in Senate District 17 by approximately 10 percent?

A As I sit here today, I don't -- I don't have those numbers, you know, at hand, if you will.

Q Would you have any basis to dispute that the black voting age population in District 17 was reduced by approximately 10 percent sitting here today?

A You know, Mr. Davis, since I don't have those

numbers or any data or any information in front of me, I wouldn't -- I wouldn't be able to comment one way or the other. Assuming -- I assume that if we are talking about something that's purely factual, that you would not represent that information to me.

Q Okay. So then, is it also true that you -- you wouldn't have any knowledge sitting here today about why that was done?

A When you say "why that was done," that your question is couched in a way seemingly to imply that that was the sole reason that that district was drawn, and that's -- that's not the case. I think -- I know you all are tired of hearing me talk and explain that this is a complex process that involves lots of moving parts, lots of variables in the equation, from population to geographies, all those other reasons that go into what is ultimately seen as a formed district that has a number on it.

Q Sitting here today, do you remember any reason why the black voting age population in Senate District 17 wasn't used?

A No, except to say that anytime you take any district and ask why it looks the way it does for any purpose or for any data point you want, you -- I don't mean you, sir, but anyone that wants to describe or

discuss it, you cannot do it in a vacuum without consideration of and recognizing the districts that are around it and why were the -- you know, the simple approach, why were the contiguous districts around it formed the way they were and what were the drivers? Because that naturally and inexplicably impacts what the district you are looking at wound up looking like.

Q But you don't remember anything specific about Senate District 17 and why black population had to be reduced?

A No. When you -- when you said the question why it had to be reduced, no, I don't remember.

Q Let me rephrase that.

A Thank you.

Q Do you remember any reason, specific reason sitting here today, why the black voting age population in Senate District 17 was reduced?

A No, other than 17 is a product of all those around it, just like 18 is a product of all those around it. 19 is a product of all those around it.

Q Do you know Senator Brian Strickland?

A Yes, sir, I do.

Q Did you ever speak to Senator Strickland about his district?

A Probably so. And I'm -- I'm thinking, because

as I had testified earlier, I had offered to meet with all 55 other senators, some of whom took me up on it. I -- I think Mr. Strickland and I did meet, yes, sir.

Q Did he request any change to his district?

MR. JAUGSTETTER: I'm going to object to that question on the basis of legislative privilege. Senator Strickland has not waived his privilege. The question you are asking necessarily requires Senator Kennedy to do so, and I will instruct him not to answer.

Q BY MR. DAVIS: Okay. I'm going to move on. I just have one more question.

Are you aware of a history of voting-related discrimination in Georgia?

A I think I would say yes. You mean just from a macro historical perspective?

Q Yes, let me clarify. Are you aware of a history of voting-related discrimination in Georgia against black voters?

A Yes.

Q What about Hispanic voters?

A I don't consider myself an expert in history, and this is not my area, so, you know, I think I'll say yes to the -- to black voters. I can't give you any details really beyond that.

Q Actually, just to go back to -- to the Senate