

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

COAKLEY PENDERGRASS, *et al.*,

*Plaintiffs,*

v.

BRAD RAFFENSPERGER, *et al.*,

*Defendants.*

CIVIL ACTION

FILE NO. 1:21-CV-05339-SCJ

**DEFENDANTS’ STATEMENT OF ADDITIONAL MATERIAL FACTS  
WHICH PRESENT A GENUINE ISSUE FOR TRIAL**

Defendants Brad Raffensperger, in his official capacity as Secretary of State; and State Election Board Members William S. Duffey, Sara Tindall Ghazal, Janice Johnston, Edward Lindsey, and Matthew Mashburn, also in their official capacities (collectively, “Defendants”), pursuant to Local Civil Rule 56.1(B)(2)(b), provide their Statement of Additional Material Facts Which Present a Genuine Issue for Trial, showing the Court the following:

1. Five of Georgia’s fourteen members of Congress are Black individuals. Deposition of William Cooper [Doc. 167] (“Cooper Dep.”) 19:19-21.
2. Plaintiffs’ expert set out to draw an additional majority-Black district beyond those drawn by the state plan. Cooper Dep. 14:15-15:2.

3. Mr. Cooper set out to draw a new majority-Black district in this case in Atlanta despite opining in a 2018 case that a new majority-Black congressional district should have been drawn in east Georgia, combining Macon, Augusta, and Savannah in the same district. Cooper Dep. 41:22-42:23.

4. Mr. Cooper could not explain why he chose a different approach here apart from population-growth numbers and a different Census. Cooper Dep. 43:4-13.

5. Map-drawers distinguish “majority-minority” from “majority-Black.” Majority-minority districts have a majority of non-white and Latino voters, while majority-Black districts are districts where Black voters as a single racial category constitute a majority of a district. Cooper Dep. 16:14-20.

6. In illustrative District 6, Mr. Cooper united a Black community in Fulton County with non-majority-Black portions of surrounding counties to create a new majority-Black district. Cooper Dep. 77:12-17.

7. The only portion of a county in illustrative District 6 that is majority-Black is Fulton County. Cooper Dep. 77:12-17.

8. Without the portion of Fulton County that Mr. Cooper moved out of District 13 into illustrative District 6, the remaining components of the district would not allow it to be majority-Black. Cooper Dep. 78:6-11.

9. Mr. Cooper connected urban areas in North Fulton with rural areas in Bartow County. Cooper Dep. 59:6-60:1.

10. Mr. Cooper connected Cobb County with rural parts of Georgia all the way to Columbus, Georgia, in District 3. Cooper Dep. 63:15-24, 64:17-65:4; Cooper Report, Ex. I-2.

11. The only connection Mr. Cooper could identify to this similar configuration of enacted District 14 was that Heard and Troup counties were closer to Atlanta. Cooper Dep. 65:20-66:2.

12. Mr. Cooper agreed that his illustrative District 13 connected urban (and heavily Black) parts of Clayton County with rural areas out to Jasper County. Cooper Dep. 73:13-17.

13. When asked why he connected majority-Black Hancock County (from the Black Belt, according to his testimony in other cases) to the North Carolina border, Mr. Cooper could only point to population equality. Cooper Dep. 68:6-69:2, 70:16-22; 86:5-8; Cooper Report, Ex. I-2.

14. Mr. Cooper could not explain why he included Athens/Clarke County in the same district as Hancock County and Rabun County. Cooper Dep. 71:21-72:11.

15. In drawing the illustrative plan, Mr. Cooper did not alter several districts that current elect Black Democratic members of congress. Cooper Dep. 36:5-14.

16. Plaintiffs' sole statistical expert, Dr. Palmer, declined to examine primary contests in his report. Deposition of Maxwell Palmer [Doc. 168] ("Palmer Dep.") 59:23-60:1.

17. Without those primary contests which would remove partisanship from the calculation, Dr. Palmer found highly polarized general-election contests. Palmer Dep. 59:23-60:1.

18. Dr. Palmer only examined general election contests in the focus areas within the timeframes considered by his report. Palmer Dep. 59:23-60:1.

19. Dr. Alford opined that "one of the ways that you can recognize the limited nature of the general election fact pattern from what we care about in this case is to look at some elections where that party signal is not going to be such a strong driver..." Deposition of John Alford [Doc. 158] ("Alford Dep.") 156:1-5.

20. In Dr. Alford's view, the way to do that is by "looking at primaries." Alford Dep. 156:6.

21. Mr. Cooper could not explain many features of his plan, including why he looked at Atlanta instead of east Georgia, as he did in 2018, to draw a new majority-Black congressional district. Cooper Dep. 42:10-23.

22. In 2018, Mr. Cooper analyzed a 71-county area in east Georgia for the creation of a new majority-Black congressional district. Cooper Dep. 41:25-43:3.

23. In 2018, Mr. Cooper drew an additional majority-Black congressional district in east Georgia by joining Black communities in Macon, Augusta, and Savannah. Cooper Dep. 42:19-23.

24. Mr. Cooper did not consider any other area of the state to draw an additional majority-Black congressional district besides metro Atlanta in this case. Cooper Dep. 43:4-13.

25. Mr. Cooper's illustrative plan connects the same types of communities he criticized the enacted plan for connecting, placing parts of Cobb County with rural parts of west Georgia stretching all the way down to Columbus. Cooper Dep. 63:15-24, 64:17-65:4, 73:13-17.

26. Mr. Cooper could not explain his own approach to map-drawing beyond drawing a majority-Black district with a focus on population in other districts. Cooper Dep. 68:6-69:2, 70:16-22; 86:5-8.

27. The prior congressional district 6 was electing a Black candidate to Congress with a 14.6% Black VAP. Cooper Dep. 45:19-22.

28. The 2021 enacted plan lowered the Black VAP percentage in District 6 by almost five points to 9.9%. Cooper Dep. 45:23-46:1.

29. The 2021 enacted plan Black VAP population for congressional district 4 is 54.52%. Cooper Report, Ex. K-1.

30. On the illustrative plan, District 13 is below 50% Black on the DOJ Black number. Cooper Dep. 57:21-25.

31. The illustrative plan lowers the Black population in district 14 by nine points compared to the enacted plan. Cooper Dep. 58:1-8.

32. Mr. Cooper could not identify a process to determine the geographic compactness of the Black community in Atlanta—he just drew a district and concluded there was geographic compactness as a result. Cooper Dep. 22:13-23:17.

33. Mr. Cooper added an additional split of Cobb County in the illustrative plan over the plan he presented at the preliminary injunction hearing. Cooper Dep. 51:3-6.

34. The only portion of District 6 as drawn by Mr. Cooper that is majority-Black is one county out of four. Cooper Dep. 77:12-17; 78:6-11.

35. The portion of Fulton County that is in illustrative district 6 is 88.29% Black VAP. Cooper Dep. 77:12-17.

36. The portion of Cobb County that is in illustrative district 6 is 37.4% Black VAP. Cooper Dep. 76:22-25.

37. The portion of Douglas County that is in illustrative district 6 is below 50% Black VAP. Cooper Dep. 77:2-5.

38. The portion of Fayette County that is in illustrative district 6 is 21.73% Black VAP. Cooper Dep. 77:6-11.

39. Without the portion of Fulton County Mr. Cooper included, illustrative District 6 would not be a majority-Black district. Cooper Dep. 78:6-11.

40. The lack of data related to primary elections (which take party out of the equation) leaves no way to determine the meaning of polarization. Alford Dep. 29:12-14.

41. Dr. Alford opined that “one of the ways that you can recognize the limited nature of the general election fact pattern from what we care about in this case is to look at some elections where that party signal is not going to be such a strong driver...” Alford Dep. 156:1-5.

42. In Dr. Alford's view, the way to do that is by "looking at primaries." Alford Dep. at 156:6.

43. Dr. Alford conducted an analysis of the statewide primary election for United States Senate, in which Herschel Walker prevailed. Alford Dep. at 157:5-7.

44. Dr. Alford noted that "the evidence here suggests that white voters in the Republican primary did support Black candidates." Alford Dep. at 157:5-7.

45. Plaintiffs do not discuss the 2011 congressional plan, which was precleared by the U.S. Department of Justice under Section 5 of the VRA on the first attempt. Deposition of Orville Burton [Doc. 185] ("Burton Dep.") 63:18-25.

46. The challenge to House Districts 105 and 111 in 2015 was dismissed after Democrats won those seats. Burton Dep. 73:19-24.

47. The 2015 Georgia House redistricting plan was never found to be illegal by any court. Burton Dep. 73:25-74:2.

48. The Any-Part Black VAP for Georgia as a whole is 31.73%. Cooper Report, ¶ 18.

49. Dr. Loren Collingwood was not asked by Plaintiffs to look at the role of partisanship in the voting patterns of Black and White voters in



Georgia. Deposition of Loren Collingwood [Doc. 186] (“Collingwood Dep.”) 32:15-18.

50. Socioeconomic disparities affect political participation, regardless of the race of the voters involved. Collingwood Dep. 58:24-59:7.

51. Voter motivation can affect voter turnout for different groups of voters. Collingwood Dep. 64:1-14.

52. Dr. Collingwood admitted that the narrowest gap in voter turnout between Black and White Georgia voters from 2010-22 was in 2012, the year that President Obama ran for re-election, and that it was a “pretty plausible hypothesis” that Black Georgia voters were turning out in greater numbers in 2012 than in 2010 to vote for Mr. Obama. Collingwood Dep. 64:1-25.

53. Dr. Collingwood also testified that motivation may have increased Black voter turnout in 2018, when Stacy Abrams, who is African-American, ran as the Democratic nominee for Governor, and the gap in voter turnout between Black and White Georgia voters narrowed from 11.6% in 2016 to 8.3% in 2018. Collingwood Dep. 71:16-72:17; Report of Loren Collingwood [Doc. 174-6] (“Collingwood Report”) at 8, 12.

54. Dr. Collingwood opined that for Black voters, voter turnout goes down as the percentage of Black voters without a high-school education goes

up, but he does not know whether the same is true for White voters with and without a high-school education. Collingwood Dep. 84:3-8.

55. Dr. Collingwood did not and would not offer an opinion that racism, rather than other factors, has caused lower turnout for Black voters compared to White voters in Georgia. Collingwood Dep. 86:22-87:13.

56. Dr. Collingwood did not have an opinion on whether the 2021 Georgia redistricting (or prior redistricting since 2010) may have caused the lower levels of Black voting participation compared to White voting participation that he found in Georgia. Collingwood Dep. 87:21-88:1.

57. Dr. Collingwood testified that the data taken from the 2020 Cooperative Election Study (“CES”) in Table 10 of his Report, “Did a candidate or political campaign organization contact you during the 2020 election?”, are “statistically indistinguishable” for Black voters and White voters. Collingwood Dep. 92:1-4; Collingwood Report at 37.

58. Dr. Collingwood testified that the data taken from the 2020 CES in Table 11 of his Report, “Have you ever run for elective office at any level of government (local, state or federal)?”, are “statistically indistinguishable” for Black voters and White voters. Collingwood Dep. 92:5-6; Collingwood Report at 38.

59. Congressman Jody Hice lost the 2022 primary election. Burton Dep. 127:14-18.

60. Senator Butch Miller lost the 2022 primary election. Burton Dep. 127:19-23.

61. Mr. Cooper is unable to determine how much of the change in Black voters residing in majority-Black districts on the illustrative plan was due to the reconfiguration of District 6. Cooper Dep. 90:13-92:4.

Respectfully submitted this 19th day of April, 2023.

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**CERTIFICATE OF COMPLIANCE**

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Statement has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson

Bryan P. Tyson