

EXHIBIT A

Pendergrass, Coakley, et al. v. Raffensperger, Brad, Et Al.

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION
4

5 COAKLEY PENDERGRASS, ET AL.,)
6 PLAINTIFFS,) CIVIL ACTION NO.
7 v.) 1:21-CV-05339-SCJ
8 BRAD RAFFENSPERGER, ET AL.,)
9 DEFENDANTS.)

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13 DEPOSITION OF WILLIAM S. COOPER
14 (TAKEN by DEFENDANTS)
15 ATTENDING VIA ZOOM IN BRISTOL, VIRGINIA
16 FEBRUARY 14, 2023
17
18
19

20 REPORTED BY: Meredith R. Schramek
21 Registered Professional Reporter
22 Notary Public
23 (Via Zoom in Mecklenburg County,
24 North Carolina)
25

1 Q So if a plan split fewer counties than your
2 illustrative plan, you wouldn't say that your
3 illustrative plan was inconsistent with the principle
4 of keeping jurisdictions whole?

5 A No. Because you're constantly balancing
6 things.

7 Q And so there's -- for Georgia, there's no
8 objective number of county splits that makes a plan
9 consistent with the traditional principle of keeping
10 counties whole; is that right?

11 A Well, ultimately, there would be. But I --
12 you know, it's difficult to give you a number because
13 there are some very small counties and some large
14 counties and so it could vary. And -- so I'm unable to
15 tell you exactly what the threshold would be.

16 I've -- in the latest plan, the plan that's
17 part of my November 2020 -- December 2022 declaration,
18 I've split one fewer county -- or one less county. And
19 there are, I think, 18 county splits total compared to
20 21 in the state plan.

21 So I assume that's sufficient since I've
22 been -- done better than the State did in that respect.

23 Q But you wouldn't say that the State's plan
24 was inconsistent with the traditional principle of
25 keeping counties whole just because your plan splits

1 one fewer, would you?

2 A No.

3 Q On that --

4 A Just looking at -- from the perspective of
5 splits of political subdivisions, no.

6 Q Okay. You mentioned the compactness scores
7 and the compactness of the districts.

8 How do you determine that a plan is
9 consistent with the traditional redistricting principle
10 of compactness?

11 A Well, that's very tricky because states and
12 towns and precincts can have odd shapes and so that
13 would vary from state to state and district to
14 district. A coastal district, for example, might score
15 very low on Polsby-Popper because of all the ins and
16 outs of a coastline or a river.

17 So it's a very -- it seems to be an objective
18 score, but it ends up being so much subjective in terms
19 of how you interpret it. But I don't think there's any
20 question that the illustrative plan I've drawn is
21 acceptable in terms of compactness based on the Reock
22 and Polsby-Popper scores.

23 Q Is there a range for the Reock and
24 Polsby-Popper scores that is unacceptable for
25 compactness?

1 A There is not necessarily. I do think that at
2 some point, at least in terms of drawing districts that
3 are not affected by a coastline or a municipal boundary
4 or some other potential subdivision like a precinct,
5 that once you get into the low single digits, become
6 somewhat problematic.

7 But you can have situations like, say, the
8 infamous "snake on the lake" in Ohio that stretches --
9 it was the old snake on the lake that went from
10 downtown Cleveland all the way to Toledo, a narrow
11 strip of land along the lake. It actually had a very
12 high Polsby-Popper score, and that was, of course, very
13 misleading and that was because it had precincts that
14 extended out into Lake Erie because a couple of those
15 islands in the lake are populated. So that "snake on
16 the lake" congressional district had a reasonably high
17 compactness score even though it was not at all
18 compact.

19 Q Do you use or display the Reock and
20 Polsby-Popper scores on the screen as you're drawing a
21 plan, or do you just check them once the plan is
22 complete?

23 A I will look at them occasionally, but I don't
24 routinely check them. The latest version of Maptitude
25 does allow you to do that from the data view, but I

1 basically just ignore that until I'm interested.

2 Q So within Maptitude, you don't use the
3 display of the compactness score as you're drawing?
4 You have to stop and run a report to see that
5 information?

6 A Well, it's there. But normally I would just
7 run the report because I use just visual assessments
8 basically as I'm drawing a plan so that I would
9 hopefully check it if I thought the plan was starting
10 to look a little strange. So needless to say, with
11 respect to this congressional plan, I never checked it
12 because it looks good from the start.

13 Q And I believe we discussed the traditional
14 redistricting principle of incumbency doesn't really
15 apply on a congressional plan because incumbents can
16 live anywhere in the state; right?

17 A That's my understanding.

18 Q And so when you say in paragraph 10 that this
19 district is "consistent with traditional redistricting
20 principles," the new district, are you saying anything
21 beyond it splits a similar number of counties, it has a
22 similar compactness score, and its equal population to
23 other districts in the state?

24 A Well, as I've mentioned, one must factor
25 in -- I mean, again, this is very subjective --

1 cultural and historical information and, above all, of
2 course, one must take into account minority voting
3 strengths and whether or not the plan is, you know, not
4 protecting minorities under Section 2.

5 Q Okay. So you referenced historical and
6 cultural connections. Do I have that right?

7 A Yes, generally speaking.

8 Q Okay. How do you determine if a plan is
9 consistent with the traditional principle of historical
10 and cultural connections?

11 A It's subjective. I mean, it's a community of
12 interest, which is entirely subjective. I think I've
13 likened it to pinning Jell-O to a wall because everyone
14 can have a different definition.

15 Q So your determination that your plan complies
16 with the traditional principle of maintaining
17 historical and cultural connections is just your view
18 and there's not a specific definition for how that
19 complies?

20 A I don't think there would be a specific
21 definition, no. It's very general. And different
22 people can come to different conclusions, obviously.

23 Q You also referenced minority voting strength
24 as a traditional redistricting principle.

25 How do you go about determining that the

1 illustrative plan complies with the traditional
2 principle of maintaining minority voting strength?

3 A Or not diluting minority voting strengths?

4 Q Or not diluting.

5 A Well, to a large degree, I would rely on the
6 attorneys' interpretation of the statistical work done
7 by the individual who's working on the Gingles 2 and
8 Gingles 3 analysis, expert analysis.

9 Q So as a map drawer, are there any steps you
10 take apart from reliance on the attorneys for
11 maintaining the traditional principle of not diluting
12 minority voting strength?

13 A Well, I mean, just my general background
14 depending on the circumstances. I mean, in Georgia I
15 know, for example, that there are two districts that
16 are actually slightly under 50 percent black voting age
17 population, District 2 and District 5. So it would
18 appear in Metro Atlanta, a district that is around
19 50 percent black is a competitive district that could
20 be a so-called minority opportunity district. That
21 might not be the case in the delta of Mississippi, but
22 it just depends.

23 Q And specifically for District 6 -- again, not
24 asking for anything that you relied on the lawyers for
25 in this case, but as a map drawer, did you determine

1 that the dilution of minority voting strength was met
2 as a traditional principle because District 6 was over
3 50 percent?

4 A Well, yes. It's over 50 percent. And so for
5 that reason, along with evidence that minorities have
6 been elected even in districts that are under
7 50 percent, I reached that conclusion, which was
8 confirmed, I suppose, in the Gingles 2 and Gingles 3
9 analysis in this case.

10 Q So, again, kind of getting back to your
11 conclusion that the new CD 6 is drawn consistent with
12 traditional redistricting principles, what you mean by
13 the phrase "consistent with traditional redistricting
14 principles" is that it meets population equality by
15 being plus or minus zero, it splits a number of
16 counties and precincts similar to the enacted plan, the
17 compactness scores are similar to the enacted plan, in
18 your opinion, historical and cultural connections are
19 maintained, and the district is over 50 percent black
20 VAP.

21 Is there anything else that is included in
22 the phrase "consistent with traditional redistricting
23 principles" in paragraph 10?

24 A Well, reasonably shaped and compact. I don't
25 think you mentioned that. And the district should be

1 contiguous unless the jurisdiction in question is not
2 contiguous. So those are other factors that I took
3 into consideration.

4 Q On any other factors that you took into
5 consideration that we've not talked about that are
6 included in that phrase "consistent with traditional
7 redistricting principles"?

8 A I think we've covered them, but I reserve the
9 right to interject another one if I suddenly think that
10 maybe we didn't.

11 Q Understood. But as of right now, you can't
12 think of another one; is that right?

13 A As of right now, I don't have any other one
14 top of mind.

15 Q Let's go next to paragraph 11 of your report.
16 And you reference that you don't change districts -- 6
17 of the 14 districts on the enacted 2021 plan; correct?

18 A Correct.

19 Q And so in order to draw the new majority
20 black Congressional District 6, you've had to change,
21 on the illustrative plan, 8 of the 14 districts from
22 the enacted plan; right?

23 A I don't know if I had to change eight, but --
24 I suppose it's possible I could have changed fewer than
25 eight. I don't know.

1 A I think it's synonymous.

2 Q Synonymous? So it's the same thing?

3 A Yes.

4 Q And then I know we talked about communities
5 of interest a little while ago.

6 Looking at illustrative District 6 in
7 Figure 10 there on page 20, what are the communities of
8 interest that you can identify located in illustrative
9 District 6?

10 A Well, illustrative District 6 is largely
11 suburban/exurban Atlanta. So it's part of the Atlanta
12 core counties, the 11 core counties, which are also
13 part of the Atlanta MSA. So there are economic and
14 transportation commonalities there, lots of small
15 cities. It can get sort of rural once you get out into
16 western Douglas County, for example. I took a little
17 spin around the district in -- on Saturday after our
18 deposition on Friday of last week and visited parts of
19 Douglas and extended all the way -- drove actually
20 almost halfway to Villa Rica.

21 I guess you say it differently though, don't
22 you? How do you say that?

23 Q We say "Villa Rica." That's where my Tysons
24 are from actually, is in Villa Rica.

25 A Pardon?

1 Hancock and other counties, Taliaferro in eastern
2 Georgia being part of a new majority black state senate
3 district that you created in one of the other cases;
4 right?

5 A We have discussed that in the other case.

6 Q So can you tell me what the community of
7 interest is between majority black Hancock County and
8 the Appalachian Mountains and Rabun and Towns County on
9 the North Carolina border?

10 A Well, again, the connection is not very
11 strong, but one has to balance out the populations so
12 that you have 14 districts that are roughly 765,000
13 people. So, again, there would be other ways to draw
14 it.

15 Q So, Mr. Cooper, when you talked about, in
16 paragraph 48, the illustrative plan adhering to
17 traditional principles and you listed the various
18 principles, it sounds like what you're saying is
19 population equality is really the most important
20 principle even more so than being able to explain where
21 there's communities of interest between different parts
22 of districts.

23 Do I have that right?

24 A Well, actually I think you do. It's a
25 nonstarter. If it doesn't meet population equality or

1 something very close to plus or minus one, then it's a
2 nonstarter. Right?

3 Q And so then after population equality, what
4 other traditional redistricting principles explain the
5 configuration of District 10 on the illustrative plan?

6 A I was following county boundaries. I think
7 there's a split of Wilkes County. And I believe
8 Lumpkin County, but there are no other county splits I
9 believe, unless -- maybe Hall County is split.

10 But I was attempting to draw a plan that was
11 reasonably compact, reasonably shaped that -- I had the
12 information about the incumbents, I think, at maybe the
13 latter stage of drawing the plan. So I was probably
14 attempting to avoid placing a couple of incumbents who
15 live very close to one another in the Jackson County
16 area, I think. I was attempting to put them, maybe, in
17 different districts even though I understand they don't
18 have to be, I believe. I'm not looking at the
19 incumbents right now and haven't done so since
20 December.

21 Q So, Mr. Cooper, in paragraph 48, I didn't see
22 where you listed incumbents as a traditional principle
23 as part of the illustrative plan, and thought that we
24 had talked about earlier that incumbency wasn't as
25 important.

1 Did you use incumbency data in the drawing of
2 the illustrative plan?

3 A I was sort of aware of where I thought the
4 incumbents lived. It's always in the background. So
5 that was in the background.

6 Q So beyond incumbency and keeping counties
7 whole minus Hall, Lumpkin, and Wilkes Counties, and
8 population equality, are there any other traditional
9 redistricting principles that went into the districting
10 of District 10?

11 A Well, I had to make the plan reasonably
12 compact. I tried to follow county boundaries. The
13 district's contiguous. It looks as compact as the
14 districts that have been drawn in the enacted plan.
15 But it could be drawn differently.

16 Q But you'd agree that there's not a community
17 of interest between majority black Hancock County and
18 Rabun County in extreme northwest Georgia, wouldn't
19 you?

20 A They are different. They are different. And
21 so I am open to other suggestions for how one might
22 draw District 10.

23 Q And I understand they're different. My
24 question was: You'd agree there's not a community of
25 interest between Hancock and Rabun counties; right?

1 A Well, not entirely. Because most counties
2 are quite poor. And in Rabun County, you'd be talking
3 about poor whites. And in Hancock County, a fairly
4 significant black population that is not experiencing
5 prosperity. So there are connections there. There are
6 connections in that regard.

7 Q So you believe a community of interest in
8 illustrative District 10 would be poor white voters in
9 the Rabun and similar socioeconomic status black voters
10 in Hancock County?

11 A Could be. Could be. On certain
12 socioeconomic issues.

13 Q Was that the community of interest you
14 considered when you drew illustrative District 10?

15 A When I was drawing District 10, I was mainly
16 trying to avoid splitting counties and meet one person,
17 one vote requirements. And I was aware that there are
18 different areas in the sense that Rabun County is
19 Appalachian and that parts of the southern end of
20 District 10 are in the historic black belt.

21 Q And you'd agree that Athens and Clark County
22 is included in District 10 on the illustrative plan;
23 right?

24 A That's right. There's a university there.

25 Q And --

1 District 13 in Clayton County begins near the Atlanta
2 airport as you've drawn it?

3 A Yes.

4 Q And you'd agree that Butts and Jasper
5 Counties on the eastern side of District 13 as drawn
6 are rural counties; right?

7 A They are rural, but still part of Metro
8 Atlanta. In other words, the Census Bureau has
9 determined that there's a 29-county area where there
10 are commuting and transportation ties that are
11 significant enough to put those counties into Metro
12 Atlanta.

13 Q But you agree that District 13 as drawn
14 connects urban areas in Clayton County with rural areas
15 in Fayette, Spalding, Butts, and Jasper Counties;
16 right?

17 A Yes.

18 Q Are you aware that the only majority black
19 portions of any county in District 13 as drawn is the
20 portions in Clayton and Newton Counties?

21 A Well, there's obviously black population and
22 significant black population in some of the other
23 counties. Henry County is almost majority black. It's
24 50/50. And the black population is growing. Fayette
25 County has a significant black population that is

1 growing.

2 So I'm not -- I'm just not that focused on
3 the pieces of a particular county in terms of the
4 actual percentages involved, but I do know there's
5 significant black population in the area that comprises
6 District 13, including South Metro counties like
7 Spalding and, of course, Fayette and Henry.

8 Q Okay. Let's take a look at that. Exhibit
9 Number I-3 of your declaration, this is the plan
10 components report for the illustrative plan; right?

11 A Right.

12 Q And this shows, for the portion of each
13 county located in a district, what the population and
14 racial breakdown of the portions of those counties in
15 that district is; right?

16 A Right. And I'll stress that this was
17 reported after the plan had been completed. In other
18 words, I was focusing on what the component parts were
19 as I was drawing the plan.

20 Q And so looking at District 13, do you agree
21 that the portion of Butts County in District 13 is
22 27.80 percent AP black VAP; right?

23 A Right. It's a significant black population.

24 Q Right. And Clayton, the portion in Clayton
25 is 71.9 percent AP black VAP?