

# EXHIBIT 40

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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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12  
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 expert report submitted on December 5th; is that right?

2 A Yes.

3 Q When you were drawing both the illustrative  
4 plan for the preliminary injunction hearing and the  
5 illustrative plan in your 12/5 report, it would be fair  
6 to say your goal was to add a majority black  
7 congressional district above the number drawn by the  
8 General Assembly; is that right?

9 A No, that was not my goal. My goal was to  
10 determine whether it was possible while, at the same  
11 time, to include traditional redistricting principles.

12 Q Did you attempt to draw more than one  
13 additional congressional map? I mean -- I'm sorry.  
14 Let me start that over again.

15 Did you attempt to draw more than one  
16 additional majority black district as part of your  
17 analysis of Georgia's congressional plan?

18 MS. KHANNA: I'm going to object to the  
19 extent that this calls for discussion of any draft  
20 reports or draft maps which are protected under the  
21 federal rules.

22 So, Bill, I'll instruct you not to answer to  
23 the extent it would discuss any of the draft reports or  
24 draft maps, but you can answer otherwise if you can.

25 THE WITNESS: Okay. Well, I did not attempt

1 South Georgia; right?

2 A That is my recollection, that that litigation  
3 and that district was focused on that area.

4 Q And in this case, you didn't consider any  
5 other areas of the state for an additional majority  
6 black district besides Metro Atlanta as indicated in  
7 your report; right?

8 A Well, that's true. Remember, in the Dwight  
9 case, I was relying on 2010 census data. So even  
10 though I was aware that there had been significant  
11 black population growth based on census estimates in  
12 2018, I was still stuck using the 2010 data for Metro  
13 Atlanta.

14 Q And do you recall -- well, I guess do you  
15 recall reviewing the growth in black population in  
16 Metro Atlanta as part of the Dwight case? And I know  
17 that was a long time ago so that may not be something  
18 you remember.

19 MS. KHANNA: I'm also going to object to the  
20 extent that this calls for any draft analyses in that  
21 case.

22 I know we're going even farther back in your  
23 memory, but you can answer if you can. But be careful  
24 about disclosing anything about your draft reports or  
25 draft analyses.

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 into Columbus?

2 A Well, the 2021 plan goes as far north as the  
3 Douglas County line. And then when you get to Paulding  
4 County, it becomes part of District 14. So Paulding is  
5 exurban, part of Metro Atlanta. And so I have included  
6 Paulding County and a bit of Cobb County, which is a  
7 good fit because Paulding is clearly a growing county  
8 that is closely linked with the Metro Atlanta area, and  
9 it may not be as closely related to Columbus. But at  
10 some point, one does have to join areas that are not  
11 necessarily next-door neighbors just to find 765,000  
12 people.

13 I don't think it would in any way be an issue  
14 overall.

15 Q So am I hearing you correctly, then, that you  
16 can't identify a specific community beyond the  
17 connection between Paulding and Cobb Counties but that  
18 at some point, one person, one vote means you have to  
19 reach the right number of people? Is that right?

20 A Well, that is a factor, but I don't think  
21 that Columbus is so different that it is problematic to  
22 include that part of western Georgia with Metro  
23 Atlanta, western part, along Paulding and Carroll  
24 County lines there.

25 Q Do you think that's also true of the enacted

1 District 14, which combines West Cobb and Paulding with  
2 areas running north?

3 A It's less of a problem, I think. Because  
4 really, once you -- once you include South Cobb County  
5 into District 14, you're in effect adding in Cobb  
6 County -- you're placing Cobb County not only into a  
7 district that includes the suburbs of Chattanooga, but  
8 also into a district that is part of Appalachia. And  
9 so it's quite different.

10 I think the distinction there is probably  
11 greater than would be the distinction between Cobb  
12 County and the Columbus area. Although Cobb County  
13 does have a high mountain; right? Kennesaw Mountain is  
14 a thousand feet or something like that. I'm only being  
15 halfway facetious. It's not quite as mountainous as  
16 some parts of existing District 14.

17 Q So just so I understand, existing District 14  
18 takes in part of western Cobb County in the south part  
19 of the county. Illustrative District 3 takes in part  
20 of western Cobb County not quite as far south. Both  
21 unite that western part of Cobb County with more rural  
22 areas and other metropolitan areas.

23 What is the distinction between those two  
24 decisions of how to split Cobb County that you see?

25 A Well, I sort of tried to make that

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

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1 have 765,000 people. So it's not just in Georgia, it's  
2 in any state you're going to sometimes have to include  
3 urban and rural voters in a congressional plan no  
4 matter whether you like doing so or not.

5 Q And you'd agree illustrative District 10  
6 mixes Appalachian North Georgia with parts of the black  
7 belt in Eastern Georgia; right?

8 A It does. It does.

9 Q And you reference Douglas, Fulton, and  
10 Fayette Counties being core Metro Atlanta counties in  
11 the Atlanta Regional Commission in paragraph 68.

12 Do you see that?

13 A Yeah.

14 Q And is Coweta County also a core Metro  
15 Atlanta county under the Atlanta Regional Commission?

16 A I'm not sure. There are 11 counties and I'm  
17 not sure Coweta is part of it.

18 Q Are you aware that Coweta County touches  
19 Douglas, Fulton, and Fayette Counties?

20 A Yes.

21 Q And you put Coweta County in a district with  
22 Columbus, Georgia, on the illustrative plan; right?

23 A I did, yes. Is that bad?

24 Q I guess what I'm trying to understand is  
25 you're criticizing the enacted plan for mixing