Attachment 3B

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

DOROTHY NAIRNE, ET AL : CIVIL ACTION

VERSUS : NO. 3:22-178-SDD

KYLE ARDOIN, ET AL : NOVEMBER 29, 2023

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DAY 3 (AFTERNOON SESSION)
BENCH TRIAL
BEFORE THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

A P P E A R A N C E S

FOR THE PLAINTIFFS:

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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING COMPUTER-AIDED TRANSCRIPTION SOFTWARE

I N D E X

PLAINTIFFS WITNESS:

TRACI BURCH PAGE
VOIR DIRE EXAMINATION BY MS. WENGER 6
DIRECT EXAMINATION BY MS. WENGER 11
CROSS-EXAMINATION BY MR. LEWIS 74
REDIRECT EXAMINATION BY MS. WENGER 105

01:32p

(NOVEMBER 29, 2023 AFTERNOON SESSION)

PROCEEDINGS

THE COURT: BE SEATED.

NEXT WITNESS, PLEASE.

MS. WENGER: GOOD AFTERNOON, YOUR HONOR.

VICTORIA WENGER WITH LDF.

PLAINTIFFS CALL DR. TRACI BURCH.

(WHEREUPON, TRACI BURCH, BEING DULY SWORN, TESTIFIED AS FOLLOWS.)

MS. WENGER: YOUR HONOR, I'D ASK TO APPROACH THE WITNESS TO PROVIDE A FOLDER CONTAINING THREE DOCUMENTS PREMARKED AS PLAINTIFFS' EXHIBITS 126, 127, 128, AND SOME WATER.

THE COURT: ARE THERE OBJECTIONS TO 126, 127 OR 128? ARE THOSE THE EXPERT REPORTS?

MR. LEWIS: YOUR HONOR -- PATRICK LEWIS FOR THE LEGISLATIVE INTERVENORS -- THOSE ARE THE REPORTS AND THE C.V. WE DO NOT OBJECT, SUBJECT TO -- I BELIEVE THE SECOND REPORT IS THE SURREBUTTAL IN RESPONSE TO ANOTHER EXPERT, SO I THINK WE WOULD WANT THE SAME AGREEMENT THAT WE HAD WITH MR. COOPER; THAT IF SHE'S PERMITTED TO TESTIFY IF PLAINTIFFS' CASE-IN-CHIEF IN REBUTTAL TO DEFENSE EXPERTS, THAT SHE TESTIFY ONCE AND NOT COME BACK AGAIN IN REBUTTAL.

THE COURT: DO WE HAVE THAT AGREEMENT?

01:34p

MS. WENGER: ABSOLUTELY. THE SUPPLEMENTAL REPORT, 128, IS IN REBUTTAL TO DR. ALFORD'S TESTIMONY, AND DR. BURCH WOULD NOT BE COMING BACK AFTER HIS TESTIMONY.

THE COURT: OKAY. YOU MAY CERTAINLY HAND HER THE DOCUMENTS. AND LET'S GO AHEAD AND GET 126, 127 AND 128 ADMITTED.

MS. WENGER: THANK YOU.

THE COURTROOM DEPUTY: AND WOULD YOU PLEASE STATE YOUR NAME AND SPELL IT FOR THE RECORD.

THE WITNESS: YES. IT'S TRACI, T-R-A-C-I, BURCH, B-U-R-C-H.

VOIR DIRE

BY MS. WENGER:

Q GOOD AFTERNOON, DR. BURCH.

WHAT IS YOUR ROLE IN THIS CASE?

A I'M HERE AS AN EXPERT.

Q LET'S TAKE A LOOK AT THE DOCUMENT IN FRONT OF YOU LABELED PLAINTIFFS' EXHIBIT 127. DO YOU HAVE THAT IN FRONT OF YOU?

A I DO.

Q ARE YOU FAMILIAR WITH THIS DOCUMENT?

A YES.

Q WHAT IS IT?

A IT'S A COPY OF THE C.V. THAT I PROVIDED WITH

01:35p

THIS REPORT. IT'S A COPY OF THE C.V. THAT I PROVIDED WITH THIS REPORT.

Q DR. BURCH, WHAT IS YOUR EDUCATIONAL BACKGROUND?

A SO I FINISHED MY UNDERGRADUATE WORK AT PRINCETON IN POLITICS, WHICH IS WHAT THEY CALL POLITICAL SCIENCE, WITH A MINOR IN AFRICAN-AMERICAN STUDIES. AND MY PH.D. IS IN GOVERNMENT AND SOCIAL POLICY FROM HARVARD. AND GOVERNMENT IS WHAT THEY CALL POLITICAL SCIENCE THERE AND SOCIAL POLICY IS A SEPARATE DEPARTMENT.

Q EXCELLENT. AND JUST FOR THE COURT'S AWARENESS AND THE RECORD, I'LL BE USING AN ILLUSTRATIVE AID SLIDE DECK THAT'S BEEN MARKED WITH CITATIONS THAT CORRESPOND TO THE MATERIALS YOU'LL BE REVIEWING, DR. BURCH. THIS WAS PROVIDED TO DEFENDANTS LAST NIGHT.

DR. BURCH, WHAT IS YOUR CURRENT OCCUPATION?

A SO CURRENTLY I AM BOTH ASSOCIATE PROFESSOR OF POLITICAL SCIENCE AT NORTHWESTERN AND A RESEARCH PROFESSOR AT THE AMERICAN BAR FOUNDATION.

Q HOW LONG HAVE YOU BEEN TEACHING?

A I'VE BEEN AT NORTHWESTERN AND THE BAR FOUNDATION SINCE 2007.

Q IN YOUR SCHOLARSHIP DO YOU HAVE ANY

01:36p

PARTICULAR FOCUS?

A YES. SO I WRITE TYPICALLY IN THE FIELD OF POLITICAL BEHAVIOR WITH A FOCUS IN POLITICAL PARTICIPATION. AND THAT INCLUDES THINGS LIKE BARRIERS TO VOTING AS WELL AS OTHER KINDS OF PARTICIPATION LIKE PROTESTS. AND I ALSO DO WORK IN RACE AND ETHNIC POLITICS AND PUBLIC POLICY AND IN CRIMINAL JUSTICE POLICY AS WELL.

Q HAVE YOU BEEN PUBLISHED IN PEER-REVIEWED BOOKS OR JOURNALS?

A YES. I'VE WRITTEN BOTH AS SOLO AND A CO-AUTHORED BOOK AS WELL AS SEVERAL ARTICLES IN PEER-REVIEWED JOURNALS.

Q HAVE YOU RECEIVED ANY AWARDS OR RECOGNITIONS IN YOUR FIELD?

A YES. SEVERAL. SO FOR MY DISSERTATION I RECEIVED SEVERAL AWARDS INCLUDING BEST DISSERTATION AWARD FROM HARVARD AS WELL AS BEST DISSERTATION AWARDS IN THE FIELD OF AMERICAN GOVERNMENT FROM THE AMERICAN POLITICAL SCIENCE ASSOCIATION AND SEVERAL OTHERS FOR MY DISSERTATION AS WELL.

FOR MY BOOK, "TRADING DEMOCRACY FOR JUSTICE," I RECEIVED THE RALPH BUNCHE AWARD FROM THE AMERICAN POLITICAL SCIENCE ASSOCIATION AS WELL AS AWARDS FROM THE LAW IN COURTS AND URBAN SECTION AS

01:37p

WELL. I'VE ALSO RECEIVED SOME RESEARCH GRANTS.

Q DR. BURCH, HAVE YOU TESTIFIED AS AN EXPERT BEFORE IN LITIGATION?

A YES.

Q DOES THAT INCLUDE IN VOTING RIGHTS CASES?

A YES.

Q ROUGHLY HOW MANY CASES HAVE YOU TESTIFIED IN AS OF THE SUBMISSION OF YOUR ORIGINAL EXPERT REPORT?

A I THINK SIX, COUNTING ONE WHERE THE FINAL TESTIMONY WAS A DEPOSITION AND ALSO A PRELIMINARY INJUNCTION HEARING.

Q AND HAVE YOU ACTED AS AN EXPERT IN ANY MORE CASES SINCE?

A YES. SEVERAL.

Q VOTING RIGHTS CASES AS WELL?

A YES.

Q ANY CASES UNDER SECTION 2 OF THE VOTING RIGHTS ACT?

A YES. INCLUDING ONE IN GALVESTON, GEORGIA. AND THOSE ARE THE TWO THAT I'M THINKING ABOUT RIGHT NOW.

Q WERE ANY OF THE MATTERS THAT YOU'VE WORKED IN IN THE PAST REGARDING STATE LEGISLATIVE REDISTRICTING PLANS?

A YES. THE GEORGIA CASE WAS.

01:38p

Q HAVE YOU BEEN ADMITTED AS AN EXPERT IN ALL OF THE CASES IN WHICH YOU HAVE TESTIFIED?

A YES.

Q HAVE THERE BEEN ANY ADDITIONAL CHANGES TO YOUR C.V. OR QUALIFICATIONS SINCE THEY WERE SUBMITTED FOR THIS CASE?

A YES. SO, FOR INSTANCE, I KNOW -- I THINK THERE IS AN ADDITIONAL PUBLICATION THAT HAS COME OUT SINCE, INCLUDING -- THERE IS ACTUALLY TWO. ONE CAME OUT YESTERDAY. SO I HAVEN'T HAD A CHANCE TO UPDATE FOR THAT ONE ESPECIALLY.

Q SO PRIMARILY JUST PUBLICATIONS AND MORE CASEWORK?

A YES.

Q EXCELLENT.

MS. WENGER: YOUR HONOR, I WOULD LIKE TO MOVE TO HAVE DR. BURCH ADMITTED AS AN EXPERT WITNESS IN RACIAL DISCRIMINATION, POLITICAL PARTICIPATION, AND BARRIERS TO VOTING.

MR. LEWIS: NO OBJECTION, YOUR HONOR.

THE COURT: WITHOUT ANY CROSS ON THE TENDER, DR. BURCH WILL BE PERMITTED TO GIVE OPINION TESTIMONY ON RACIAL DISCRIMINATION -- WHAT WAS THE POLITICAL? POLITICAL --

MS. WENGER: POLITICAL PARTICIPATION.

01:39p

THE COURT: -- PARTICIPATION AND BARRIERS TO VOTING.

MS. WENGER: THANK YOU.

DIRECT EXAMINATION

BY MS. WENGER:

Q DR. BURCH, DID YOU SUBMIT ANY REPORTS AS PART OF YOUR WORK IN THIS CASE?

A YES; TWO.

Q CAN YOU DESCRIBE WHAT THOSE WERE?

A SO ONE WAS AN INITIAL EXPERT REPORT AND THEN A SUPPLEMENT IN RESPONSE TO DR. ALFORD'S REPORT.

Q ALL RIGHT. LET'S START BY LOOKING AT WHAT IS MARKED AS PLAINTIFFS' EXHIBIT 126, YOUR INITIAL EXPERT REPORT. DO YOU HAVE THAT IN FRONT OF YOU?

A I DO.

Q EXCELLENT. AND IS THAT THE REPORT THAT YOU SUBMITTED IN THIS CASE INITIALLY?

A YES.

Q ARE YOU BEING PAID AS PART OF YOUR PARTICIPATION IN THIS CASE?

A I AM. $300 AN HOUR.

Q IS YOUR COMPENSATION CONTINGENT OR TIED TO YOUR OPINIONS IN THIS REPORT?

A NO.

Q WHAT DID YOU SET OUT TO EVALUATE IN YOUR

01:40p

EXPERT REPORT, DR. BURCH?

A SO I WAS ASKED TO LOOK AT THE LOUISIANA LEGISLATURE'S PASSAGE OF SB 1 AND HB 14 WITH RESPECT TO THE TOTALITY OF THE CIRCUMSTANCES AS IT RELATES TO SECTION 2 OF THE VOTING RIGHTS ACT. AND I WAS ASKED TO LOOK AT SENATE FACTORS 5, 6, 7, 8 AND 9.

Q WHAT METHODOLOGIES DID YOU APPLY FOR THIS ANALYSIS?

A SO I LOOKED AT TYPICAL STANDARD METHODS THAT WE USE IN POLITICAL SCIENCE, SUCH AS REVIEWING THE SCHOLARLY LITERATURE, ANALYZING DEMOGRAPHIC AND CENSUS DATA, LOOKING AT HISTORICAL RECORDS AND GOVERNMENT REPORTS AND DATA, NEWS, LEGISLATIVE PROCEEDINGS. I ALSO LOOKED AT PUBLIC OPINION SURVEYS AS WELL.

Q AT A HIGH LEVEL, CAN YOU EXPLAIN THE FOCUS OF EACH OF THE SENATE FACTORS YOU WERE ASKED TO ASSESS, STARTING WITH SENATE FACTOR 5?

A YES. SO SENATE FACTOR 5 SPECIFICALLY REFERS TO THE EXTENT TO WHICH MINORITY GROUP MEMBERS BEAR THE EFFECTS OF DISCRIMINATION IN AREAS SUCH AS EDUCATION, EMPLOYMENT AND HEALTH, WHICH HINDER THEIR ABILITY TO PARTICIPATE EFFECTIVELY IN THE POLITICAL PROCESS. AND I WAS ASKED TO CONSIDER THAT SPECIFICALLY FOR BLACK LOUISIANIANS.

01:41p

AND SENATE FACTOR 6 IS THE USE OF OVERT OR SUBTLE RACIAL APPEALS IN POLITICAL CAMPAIGNS. SENATE FACTOR 7 LOOKS AT THE EXTENT TO WHICH MEMBERS OF THE MINORITY GROUP HAVE BEEN ELECTED TO PUBLIC OFFICE IN THE JURISDICTION. SENATE FACTOR 8 IS ABOUT A LACK OF RESPONSIVENESS ON THE PART OF ELECTED OFFICIALS TO THE PARTICULARIZED NEEDS OF THE MINORITY GROUP MEMBERS. AND SENATE FACTOR 9 IS WHETHER THE POLICY UNDERLYING THE CHANGE, STANDARD, OR PRACTICE IS TENUOUS.

Q THANK YOU, DR. BURCH.

LET'S GO THROUGH YOUR ANALYSIS OF EACH OF THESE FACTORS, STARTING WITH FACTOR 5 REGARDING THE EFFECTS OF DISCRIMINATION HERE IN LOUISIANA.

WHAT WERE YOUR SPECIFIC AREAS OF FOCUS IN ANALYZING THE PRESENCE OF SENATE FACTOR 5 IN THE STATE?

A SO FOR SENATE FACTOR 5, IT'S NOT EXHAUSTIVE BUT -- IN THE LIST THAT'S DISCUSSED SPECIFICALLY. BUT I WANTED TO MAKE SURE THAT I TALKED ABOUT THE KINDS OF AREAS THAT WERE IN THE POLITICAL SCIENCE LITERATURE AS AFFECTING VOTER TURNOUT. AND SO I FOCUSED ON EDUCATION, SOCIOECONOMIC STATUS, SEVERAL MEASURES OF THAT INCLUDING EMPLOYMENT AS WELL AS INCOME -- MEDIAN HOUSEHOLD INCOME AND THE LIKE,

01:42p

RACIAL RESIDENTIAL SEGREGATION, HEALTH AND CRIMINAL JUSTICE.

THE REPORTER: CRIMINAL?

THE WITNESS: JUSTICE.

BY MS. WENGER:

Q DR. BURCH, LET'S BEGIN BY TALKING ABOUT EDUCATION. IF YOU CAN TURN YOUR ATTENTION TO THE ILLUSTRATIVE AID ON YOUR SCREEN, WHICH REPRODUCES HERE FIGURE 1 ON PAGE 7 OF YOUR REPORT, WHAT DOES THIS CHART DISPLAY?

A SO THIS CHART IS LOOKING AT EDUCATIONAL ATTAINMENT BY RACE IN LOUISIANA. AND IT'S JUST FOR ADULTS AGES 25 AND OLDER, BECAUSE WE WANT TO GIVE PEOPLE A CHANCE TO, IF THEY'RE GOING TO GO TO COLLEGE, MAYBE TO KIND OF FINISH IT. AND THE SOURCE IS FROM THE AMERICAN COMMUNITY SURVEY ONE-YEAR ESTIMATES THAT COME FROM THE CENSUS BUREAU.

AND YOU CAN SEE HERE THAT THE DIFFERENT LEVELS OF EDUCATION ARE RIGHT ACROSS THE BOTTOM OF THE CHART, AND LATINOS ARE HERE. BUT IN PARTICULAR, WHITE PEOPLE ARE LISTED IN GOLD AND BLACK PEOPLE ARE IN THE PURPLE BARS. AND THE IMPORTANT TAKE-AWAY FROM THIS CHART IS THAT YOU CAN SEE THAT AT THE LOWER LEVELS OF EDUCATION -- SPECIFICALLY LESS THAN HIGH SCHOOL -- BLACK PEOPLE ARE MUCH MORE LIKELY THAN

01:43p

WHITE PEOPLE IN LOUISIANA TO HAVE NOT COMPLETED HIGH SCHOOL. IN FACT, IF YOU JUST KIND OF COMPARE ACROSS THE PURPLE BARS, YOU CAN SEE THAT MORE -- THERE ARE MORE BLACK PEOPLE IN LOUISIANA WHO HAVEN'T FINISHED HIGH SCHOOL THAN THERE ARE WHO HAVE FINISHED COLLEGE.

IN COMPARISON, AMONG WHITE PEOPLE IN LOUISIANA, THERE ARE FEWER OF THEM WHO ARE CONCENTRATED IN THOSE LOWER EDUCATIONAL ECHELONS. AND MANY MORE -- A LARGER PERCENTAGE OF THE GROUP -- HAS COMPLETED A BACHELOR'S DEGREE OR HIGHER.

Q THANK YOU, DR. BURCH.

AND JUST FOR CLARITY OF THE RECORD, THE CORRESPONDING FIGURES IN YOUR REPORT ARE MONOCHROME BUT HAVE BEEN REPRODUCED WITH COLORS IN THE SLIDE JUST FOR EASE OF VISUALIZING THE DATA THAT YOU ARE DISCUSSING HERE.

TURNING TO THE NEXT SLIDE, THIS REPRODUCES TABLE 1 FROM PAGE 7 OF YOUR REPORT. WHAT DOES THIS TABLE CONVEY?

A SO THIS TABLE IS FROM THE 2020 CURRENT POPULATION SURVEY VOTING AND REGISTRATION SUPPLEMENT, WHICH IS ANOTHER SURVEY THAT'S PRODUCED BY THE CENSUS BUREAU THAT'S SUPPOSED TO BE REPRESENTATIVE AT THE -- OF THE NATION AND AT THE STATE LEVEL. AND WHAT THEY DO IS THE CENSUS BUREAU ASKS PEOPLE IF THEY VOTED IN

01:44p

THE 2020 GENERAL ELECTION.

AND WHAT I HAVE HERE IN THIS CHART IS -- FOR EACH EDUCATIONAL LEVEL I HAVE WHITE TURNOUT AND I HAVE BLACK TURNOUT. NOW, ONE OF THE THINGS THAT'S READILY APPARENT FROM THIS CHART, IF YOU JUST READ DOWN THE TABLE WITH WHITE TURNOUT, YOU CAN SEE THAT WHITE TURNOUT INCREASES ALMOST UNIFORMLY IN TERMS OF IT'S ALWAYS INCREASING WITH EDUCATIONAL ATTAINMENT. SO THE RELATIONSHIP HERE -- AND THE SAME IS TRUE FOR BLACK TURNOUT. SO THE RELATIONSHIP HERE BETWEEN EDUCATIONAL ATTAINMENT AND VOTER TURNOUT, WHEN YOU JUST LOOK AT THESE DIFFERENT LEVELS OF EDUCATION, IT'S QUITE STARK.

SO THE ISSUE HERE, OF COURSE, IF WE RECALL FROM THE PREVIOUS SLIDE, IS THAT BLACK PEOPLE ARE CONCENTRATED IN THIS NO HIGH SCHOOL DIPLOMA LOWER -- IN HIGH SCHOOL DIPLOMA LOWER TURNOUT CATEGORIES; WHEREAS WHITE PEOPLE ARE MORE LIKELY TO BE IN THESE BACHELOR'S DEGREE AND GRADUATE SCHOOL CATEGORIES, WHICH MAKES IT SO THAT THEY ARE -- THE WAYS THAT THE GROUPS ARE ARRANGED IN THESE CATEGORIES KIND OF SHAPES THE GAP IN TURNOUT. SO HERE YOU CAN CLEARLY SEE THAT EDUCATIONAL ATTAINMENT INCREASES VOTER TURNOUT, AND IT DOES SO FOR BOTH RACIAL GROUPS.

Q THANK YOU, DR. BURCH.

01:46p

TURNING TO THE NEXT SLIDE, CAN YOU WALK ME THROUGH YOUR FINDINGS REGARDING PATTERNS OF SEGREGATION IN LOUISIANA SCHOOLS?

A YES. SO HISTORICALLY THERE HAS BEEN SEGREGATION IN LOUISIANA SCHOOLS. BUT THE DATA ALSO SHOW THAT THERE IS STILL SOME EDUCATIONAL SEGREGATION WITHIN LOUISIANA TODAY. SO ACCORDING TO PROPUBLICA'S *MISEDUCATION* PROJECT, AS RECENTLY AS 2017 HALF OF TRADITIONAL SCHOOL DISTRICTS IN LOUISIANA THAT WERE AVAILABLE DEMONSTRATED HIGH LEVELS OF RACIAL SEGREGATION WITHIN THE DISTRICT. AND THERE ARE NINE OF THE 68 TRADITIONAL SCHOOL DISTRICTS IN LOUISIANA THAT ARE MORE THAN 87 PERCENT NON-WHITE. SO EVEN THOUGH WE KNOW ABOUT THE HISTORICAL SCHOOL SEGREGATION THAT I TALK ABOUT AT LENGTH IN MY REPORT, THIS IS ALSO A CONTINUING ISSUE.

Q TURNING TO THE NEXT SLIDE, REPRODUCING FIGURE 2 FROM PAGE 8 OF YOUR REPORT, WHAT DOES THIS CHART TELL US?

A SO THIS CHART LOOKS SPECIFICALLY AT EAST BATON ROUGE PARISH, AND IT TALKS ABOUT A COMPARISON BETWEEN, IN THE DOTTED LINES, THE ACTUAL WHITE AND BLACK POPULATIONS OF THE PARISH. AND THE SOLID LINES ARE THE SCHOOL POPULATIONS. AND YOU CAN SEE THAT THERE IS KIND OF PARITY BETWEEN BLACK PEOPLE AND

01:47p

WHITE PEOPLE IN EAST BATON ROUGE PARISH. BUT IN THE SCHOOL SYSTEM IT'S OVER -- EXCUSE ME -- OVER 70 PERCENT BLACK.

AND THE REASON FOR THAT IS FOR -- THERE ARE SEVERAL REASONS FOR THAT. BUT ONE OF THEM, FOR INSTANCE, IS SUCCESSION MOVEMENTS IN WHICH SOME PARENTS CHOSE TO JUST ABANDON -- WHITE PARENTS CHOSE TO ABANDON EAST BATON ROUGE PARISH FOR A DIFFERENT SCHOOL DISTRICT.

Q THANK YOU, DR. BURCH.

TURNING TO THE NEXT SLIDE, THIS REPRODUCES FIGURE 3 FROM PAGE 9 OF YOUR REPORT. WHAT CAN THIS CHART TELL US?

A SO THIS CHART LOOKS AT TEST SCORES IN EIGHTH GRADE IN 2019 FOR MATH IN LOUISIANA. AND IT LOOKS AT IT BY RACE. SO AS YOU CAN SEE FROM THIS CHART, THE WHITE CIRCLES REPRESENT WHITE STUDENTS IN EACH YEAR AND THE CROSSES REPRESENT BLACK STUDENTS IN EACH YEAR. AND THERE IS A PRETTY PERSISTENT 30'ISH POINT GAP BETWEEN BLACK AND WHITE STUDENTS ACROSS TIME. AND IN EACH -- AND IT LOOKS LIKE -- AT THE BOTTOM IT SHOWS YOU WHETHER THAT'S A STATISTICALLY SIGNIFICANT DIFFERENCE. AND THE DIFFERENCE IS SORT OF LIKE NOT CHANGING OVER TIME. AND -- BUT THOSE GAPS IN TEST SCORES ARE PERSISTENT.

01:49p

Q LET'S TURN TO THE NEXT SLIDE. REPRODUCING HERE FIGURE 4 FROM PAGE 9 OF YOUR REPORT, WHAT CAN THIS CHART TELL US?

A AGAIN, THE OUTCOMES FOR RACIAL GROUPS IN LOUISIANA SCHOOLS ARE THIS TIME FOR EIGHTH GRADE READING BY RACE. AND AGAIN, WHITE STUDENTS' OUTCOMES ON TESTS ARE MUCH BETTER THAN BLACK STUDENTS' OUTCOMES. AND THOSE, AGAIN, ARE ABOUT -- HOVERING AROUND 25 TO -- 22 TO 25 POINTS IN EACH GIVEN YEAR.

Q DR. BURCH, I'D LIKE TO TURN TO YOUR OVERARCHING OPINIONS ON EDUCATION DISPARITIES IN LOUISIANA.

FROM YOUR ACADEMIC ASSESSMENT, WHAT EXPLAINS THESE MEASURES OF INEQUITY IN EDUCATIONAL ATTAINMENT BASED ON RACE IN LOUISIANA?

A SO IN MY REPORT I TALK ABOUT BOTH THE HISTORICAL AND THE KINDS OF CONTEMPORARY DISCRIMINATION THAT LOUISIANIANS HAVE FACED -- BLACK LOUISIANIANS HAVE FACED IN THE EDUCATIONAL SYSTEM. AND I POINT OUT THAT, ESPECIALLY FOR THE HISTORICAL DISCRIMINATION, IT'S NOT DISTANT HISTORY. MANY -- A LARGE PROPORTION OF THE ELECTORATE THAT WAS AROUND TO EXPERIENCE THESE LEGALLY SEGREGATED SCHOOLS ARE STILL HERE AND VOTING IN LOUISIANA. AND THAT KIND OF HELPS EXPLAIN SOME OF THOSE RACIAL DISPARITIES THAT I

01:50p

SHOWED YOU IN THE CHARTS.

THERE ARE RACIAL GAPS IN VOTER TURNOUT IN LOUISIANA. AND VOTER TURNOUT VARIES BY EDUCATIONAL ATTAINMENT IN THE WAYS THAT I SHOWED YOU, SUCH THAT HIGHLY EDUCATED VOTERS ARE MORE LIKELY TO TURN OUT THAN VOTERS WITH LOW EDUCATIONAL ATTAINMENT. AND THAT CAN EXPLAIN SOME OF THE RACIAL GAP IN VOTER TURNOUT IN LOUISIANA.

AND EDUCATION IS IMPORTANT -- AND I'M SPENDING SO MUCH TIME ON IT -- BECAUSE FOR A POLITICAL SCIENTIST IT'S ONE OF THE MOST FUNDAMENTAL EXPLANATORY VARIABLES WITH RESPECT TO EXPLAINING HOW AND WHEN PEOPLE VOTE AND PARTICIPATE IN POLITICS GENERALLY. BECAUSE EDUCATION JUST MAKES IT EASIER FOR PEOPLE TO NAVIGATE THE COST OF VOTING AND LIKE ACQUIRING INFORMATION ABOUT THE CANDIDATES OR LEARNING HOW TO REGISTER AND NAVIGATING THE PROCESS. SO IT'S -- SO EDUCATION IS REALLY IMPORTANT. THERE ARE GAPS THAT ARE CAUSED BY CONTEMPORARY AND HISTORICAL DISCRIMINATION BY GOVERNMENT. AND EDUCATION, AGAIN, IS FUNDAMENTAL TO VOTING.

Q LET'S MOVE ALONG TO YOUR ANALYSIS OF EMPLOYMENT AND SOCIOECONOMIC INDICATORS.

DR. BURCH, WHAT WERE YOUR FINDINGS ABOUT BLACK LOUISIANIANS' PERCEPTIONS OF THEIR

01:51p

OPPORTUNITIES RELATED TO HIRING, PAY, AND PROMOTIONS HERE?

A SO I LOOKED AT THE 2021 LOUISIANA SURVEY FOR THIS INFORMATION, WHICH IS A REPRESENTATIVE STUDY -- SURVEY OF PEOPLE IN LOUISIANA. AND I FOUND -- THE STUDY FOUND THAT 74 PERCENT OF BLACK PEOPLE AGREE THAT BLACK PEOPLE ARE TREATED LESS FAIRLY THAN WHITE PEOPLE IN HIRING, PAY, AND PROMOTIONS AT WORK. AND RESEARCH ACTUALLY SUPPORTS THAT CLAIM. A VARIETY OF AUDIT STUDIES, WHICH HOLD CONSTANT ALL KINDS OF FACTORS AND THEN SENDS IN LIKE TRAINED ACTORS TO APPLY FOR JOBS OR SENDS IN RÉSUMÉS THAT ARE IDENTICAL EXCEPT FOR EITHER THE NAME OR THE RACE OF THE POTENTIAL APPLICANT, THEY SHOW THAT EMPLOYERS DO DISCRIMINATE AGAINST RACIAL MINORITIES IN HIRING.

Q ALL RIGHT. LET'S TURN YOUR ATTENTION TO THE NEXT SLIDE, WHICH REPRODUCES FIGURE 5 FROM PAGE 10 OF YOUR REPORT.

DR. BURCH, WHAT DOES THIS CHART REFLECT?

A SO THIS CHART IS ALSO FROM THE AMERICAN COMMUNITY SURVEY 2019 ONE-YEAR ESTIMATES. AND THIS ONE IS LOOKING AT THE UNEMPLOYMENT RATE BY RACE FOR LOUISIANA, JUST THE CIVILIAN LABOR FORCE, AGES 16 AND OVER. AND YOU CAN SEE FOR BLACK UNEMPLOYMENT -- THAT BLACK UNEMPLOYMENT IS HIGHER THAN WHITE UNEMPLOYMENT

01:52p

IN LOUISIANA IN THAT YEAR AND CONSISTENTLY TENDS TO BE HIGHER.

Q ALL RIGHT. LET'S TURN TO THE NEXT SLIDE. THIS REPRODUCES FIGURE 6 FROM PAGE 11 OF YOUR REPORT.

WHAT DOES THIS CHART DISPLAY?

A SO THIS CHART SWITCHES FROM INDIVIDUALS AND LOOKS AT HOUSEHOLDS. AND SO THIS LOOKS AT THE MEDIAN HOUSEHOLD INCOME IN LOUISIANA BY THE RACE OF THE HOUSEHOLDER. AND HERE WE CAN SEE THAT BLACK HOUSEHOLDS -- SORRY -- WHITE HOUSEHOLDS EARN OR HAVE INCOMES THAT ARE TENS OF THOUSANDS OF DOLLARS HIGHER AT THE MEDIAN THAN BLACK HOUSEHOLDS.

Q AND TURNING TO THE NEXT SLIDE, WHICH REPRODUCES FIGURE 7 FROM PAGE 11 OF YOUR REPORT, WHAT DOES THIS CHART DISPLAY?

A SO THIS CHART LOOKS AT FAMILY POVERTY IN LOUISIANA, AGAIN, BY RACE OF THE HOUSE -- THE HEAD OF THE HOUSEHOLD OF FAMILY. AND 2019 -- AND THIS IS THE 2019 AMERICAN COMMUNITY SURVEY AGAIN. AND AGAIN, WHITE PEOPLE IN THIS CHART ARE IN GOLD AND BLACK PEOPLE ARE IN PURPLE. AND THE DATA SHOW THAT BLACK POVERTY IS MORE THAN DOUBLE, ALMOST TRIPLE THAT OF WHITE POVERTY.

Q LET'S TURN TO THE NEXT SLIDE, REPRODUCING FIGURE 8 FROM PAGE 12 OF YOUR REPORT.

01:54p

WHAT DOES THIS CHART DISPLAY?

A SO THIS CHART LOOKS, AGAIN, AT LOUISIANA HOUSEHOLDS AND LOOKS AT HOUSEHOLDS THAT DON'T HAVE ACCESS TO A VEHICLE BY RACE OF THE HOUSEHOLDER. AND AGAIN, BLACK HOUSEHOLDS -- A SIGNIFICANT PERCENTAGE OF BLACK HOUSEHOLDS DON'T HAVE ACCESS TO A CAR, COMPARED WITH LESS THAN -- IT LOOKS LIKE ABOUT 5 PERCENT OF WHITE HOUSEHOLDS.

Q CAN YOU DISCUSS HOW THAT MIGHT IMPACT A VOTER'S ACCESS?

A YES. SO IF YOU NEED TO GO TO A POLLING PLACE OR GO TO REGISTER OR IF YOU'RE GOING TO, FOR INSTANCE, REGISTER THROUGH MOTOR VOTER, IF YOU DON'T HAVE A DRIVER'S LICENSE OR A CAR YOU'RE NOT GOING TO NECESSARILY HAVE TO DO THAT. SO IT DEFINITELY -- HAVING A CAR DEFINITELY MAKES IT EASIER FOR PEOPLE TO BE ABLE TO GO IN PERSON TO DO THINGS THEY MAY HAVE TO DO IN ORDER TO VOTE.

Q ALL RIGHT, DR. BURCH. I'D LIKE TO TURN TO YOUR OVERARCHING OPINIONS ON EMPLOYMENT DISPARITIES IN LOUISIANA. FROM YOUR ACADEMIC ASSESSMENT, WHAT EXPLAINS THESE MEASURES OF INEQUITY IN EMPLOYMENT IN THE STATE?

A SO AS I SAY, THERE IS -- AND AS I SHOW -- THERE ARE MARKERS OF CONTEMPORARY AND HISTORICAL

01:55p

DISCRIMINATION BY GOVERNMENT AND BY MARKET INSTITUTIONS AND ACTORS THAT ARE -- THAT ARE IN LOUISIANA THAT ARE TAKING -- MAKING IT -- THESE ECONOMIC DISPARITIES APPARENT.

AND WHAT'S INTERESTING ABOUT THEM IS THAT THEY'RE -- EDUCATION IS KIND OF ALSO FEEDING INTO THESE SOCIOECONOMIC INDICATORS AS WELL. SO EDUCATIONAL ATTAINMENT KIND OF ALSO AFFECTS INCOME AND OTHER -- ALL OF THESE OTHER SOCIOECONOMIC INDICATORS. SO IF YOU THINK ABOUT THIS COMBINATION, SO PEOPLE WITH WHITE COLOR OCCUPATIONS LIKE MANY OF US IN THIS COURTROOM, IT MAKES -- IT MIGHT MAKE IT EASIER FOR PEOPLE TO DEVELOP CIVIC SKILLS THAT CAN BE USEFUL IN THINKING ABOUT HOW TO NAVIGATE BUREAUCRACIES. AND IT ALSO MIGHT MAKE -- GIVE YOU GREATER FREEDOM TO TAKE TIME OFF OF WORK WITHOUT LOSING OR RISKING YOUR PAY OR HOURLY PAY. AND WORK IS ALSO -- CAN BE AN IMPORTANT SITE FOR RECRUITMENT INTO POLITICS AND ASKING PEOPLE TO BE MORE POLITICAL, WHICH ALSO INCREASES VOTER TURNOUT.

SO THERE IS A NUMBER OF MECHANISMS IN THE LITERATURE BY WHICH ALL OF THESE OTHER KINDS OF SOCIOECONOMIC INDICATORS LIKE EMPLOYMENT AND INCOME AND HAVING A VEHICLE CAN FEED INTO VOTING.

Q THANK YOU, DR. BURCH. LET'S MOVE TO YOUR

01:56p

ANALYSIS OF HOUSING DISPARITIES AND RESIDENTIAL SEGREGATION IN LOUISIANA. TURNING YOUR ATTENTION TO THE NEXT SLIDE, THIS REPRODUCES FIGURES 9 AND 10 FROM PAGES 14 AND 15 OF YOUR REPORT RESPECTIVELY.

DR. BURCH, WHAT DO THESE MAPS DEPICT?

A SO THESE ARE HISTORICAL MAPS THAT WERE DRAWN BY THE HOMEOWNERS LOAN CORPORATION. AND THEY WERE USED BY THE FHA TO FIGURE OUT WHERE THEY WOULD MAKE LOANS FOR MORTGAGES. AND THESE MAPS -- I HAVE TO CHECK TO SEE. IT'S HARD FOR ME TO SEE AND RECALL THE DATES HERE. BUT THESE WERE TYPICALLY IN THE LATE '30s, EARLY '40s IN WHICH THESE MAPS WERE PRODUCED.

WHAT'S INTERESTING ABOUT THE MAPS THAT THE FHA WAS USING FOR UNDERWRITING LOANS IS THAT THIS COLOR CODING IS THE RUBRIC FOR WHERE IT WAS SAFE TO MAKE MORTGAGE LOANS. AND THAT'S WHERE THEY DIRECTED THE MONEY, VERSUS THE ONES WHERE THEY WERE NOT.

SO BLUE AND GREEN ARE I THINK A AND B, THOSE GRADES. AND THOSE ARE GOOD PLACES TO MAKE MORTGAGE LOANS; WHEREAS RED AND YELLOW ARE MARKS AS DECLINING OR HAZARDOUS. THESE MAPS, AGAIN, THAT WERE USED BY THE FEDERAL HOUSING ADMINISTRATION FOR MAKING LOANS, THE WAY THAT THIS COLOR CODING TAKES PLACE IS ARGUABLY ALMOST ALL ABOUT RACE.

THERE IS SOME INDICATION THAT IN THE NEW

01:58p

ORLEANS MAP THE FLOODING AND ELEVATION ALSO PLAY A ROLE IN THESE GRADES. BUT THEN IF YOU LOOK AT WHAT THE ACTUAL DESCRIPTIONS ARE OF SOME OF THESE RED ZONE AREAS -- LIKE, FOR INSTANCE, I TALK ABOUT IN MY REPORT AREA 35 IS DESCRIBED AS, QUOTE, COMPOSED OF TWO-STORY DOUBLES, NEGRO ROW HOUSES AND RAISED SINGLES. THIS AREA INCLUDES WHAT IS OFTEN REFERRED TO AS THE IRISH CHANNEL AND IS ONE OF THE TOUGHEST SECTIONS IN THE ENTIRE CITY. IT HAS A MIXED POPULATION. SOME BLOCKS ARE MIXED WHITE AND COLORED, SOME SOLID WHITE, SOME SOLID COLORED, AND PROPERTIES ARE IN A VARYING CONDITION: FAIR, BAD AND INDIFFERENT. IT IS A REGULAR CONGLOMERATION OF THE WORST FEATURES FOUND IN THE CITY. AND IN SHREVEPORT, ALL THE AREAS GRADED A OR B WERE 100 PERCENT WHITE, WHILE ALL THE AREAS MARKED D OR HAZARDOUS OR RED HAD SOME PROPORTION OF BLACK RESIDENTS.

Q DR. BURCH, FOR CLARITY OF THE RECORD, WHAT IS THE FHA?

A SO THE FHA IS THE FEDERAL HOUSING ADMINISTRATION. AND AT LEAST WITH RESPECT TO THESE MAPS, THEY WERE TASKED WITH HELPING TO PROVIDE LOANS TO -- UNDERWRITING LOANS SO THAT PEOPLE COULD GET MORTGAGES.

Q AND WHAT IS THE HOMEOWNERS LOAN CORPORATION?

01:59p

A THE HOMEOWNERS LOAN CORPORATION IS THE ORGANIZATION THAT MADE THESE MAPS FOR -- THAT THE FHA USED IN DETERMINING WHERE IT WAS -- WHERE YOU COULD MAKE THE -- WHICH LOANS THEY WOULD UNDERWRITE.

Q AND SPEAKING TO CONTEMPORARY TRENDS, ARE THERE ANY OTHER EXAMPLES OF WAYS IN WHICH AID OR OTHER MONETARY SUPPORT HAS NOT BEEN ABLE TO BE INVESTED IN THOSE REDLINE COMMUNITIES?

A SO I THINK IT'S CLEAR THAT THERE -- THE DATA SHOW THAT MANY OF THESE CITIES -- EXCUSE ME -- ARE STILL SEGREGATED BY RACE. SO THERE IS BOTH CENSUS DATA AND THE GEOGRAPHIC ANALYSIS OF CELL PHONE DATA THAT DEMONSTRATE THAT MANY OF THE CITIES AND METRO AREAS YOU CAN THINK OF IN LOUISIANA ARE STILL HIGHLY SEGREGATED BY RACE. SO THE OTHER -- OTHERING & BELONGING INSTITUTE CHARACTERIZED SEVERAL METROPOLITAN AREAS IN THE STATE AS HIGH SEGREGATION, INCLUDING THE NEW ORLEANS, METAIRIE, KENNER AREA, BATON ROUGE, SHREVEPORT, BOSSIER CITY AND LAKE CHARLES AS WELL.

Q IS THERE ANY INTERPLAY BETWEEN SEGREGATION AND DISASTER RELIEF?

A YES. SO ONE OF THE ISSUES WITH RESPECT TO HOW POLICIES ARE SHAPING BOTH WHERE PEOPLE LIVE AND WHERE PEOPLE CAN LIVE IS WITH RESPECT TO DISASTER

02:01p

RELIEF. AND IT'S MUCH HARDER FOR -- FOR INSTANCE, AFTER KATRINA IN 2005, MOST OF THE NEIGHBORHOODS THAT SUSTAINED THE MOST DAMAGE WERE -- HAD A HIGHER BLACK POPULATION THAN NEIGHBORHOODS THAT DIDN'T SUSTAIN A LOT OF DAMAGE. BUT IT'S ALSO THE CASE THEN THAT BLACK NEW ORLEANS RESIDENTS WERE MORE LIKELY TO BE DISPLACED AND THEN HAD A HARDER TIME COMING BACK TO THE CITY AND -- BECAUSE OF DELAYED TIMING OF DISASTER RELIEF AND REBUILDING EFFORTS.

SO IT'S NOT JUST THE CASE THAT IT'S CONTEMPORARY ISSUES WITH RESPECT TO POLICY SHAPING -- WHO CAN COME BACK AND WHO CAN LIVE WHERE -- THERE IS ALSO SOME -- IN THE PAST THERE IS ALSO SOME CONTEMPORARY POLICIES SUCH AS HOW DISASTER RELIEF IS HANDLED AND WAS HANDLED AFTER NATURAL DISASTERS THAT CAN SHAPE WHO GETS TO LIVE WHERE AND WHO CAN AFFORD TO COME BACK.

Q THANK YOU, DR. BURCH.

LET'S TURN TO YOUR OVERARCHING OPINIONS ON HOUSING DISPARITIES IN LOUISIANA. FROM YOUR ACADEMIC ASSESSMENT, WHAT EXPLAINS THESE PATTERNS OF SEGREGATION BASED ON RACE IN LOUISIANA IN THE PAST AND TODAY?

A SO THERE ARE BOTH CONTEMPORARY AND HISTORICAL FACTORS SUCH AS RACIAL DISCRIMINATION BY

02:02p

GOVERNMENT AND MARKET ACTORS THAT CAN SHAPE PATTERNS OF RESIDENTIAL RACIAL SEGREGATION. AND RACIAL RESIDENTIAL SEGREGATION IS IMPORTANT SIMPLY BECAUSE THERE IS -- IT'S BEEN SHOWN TO AFFECT VOTING THROUGH A NUMBER OF MECHANISMS. SEGREGATION HAS BEEN SHOWN TO INCREASE -- DECREASE BLACK VOTER TURNOUT. AND ALSO SEGREGATED BLACK AREAS, I CITE RESEARCH IN MY REPORT THAT TALKS ABOUT HOW THOSE AREAS TEND TO HAVE LESS ACCESS TO PUBLIC GOODS SUCH AS TRANSPORTATION OR POLLING PLACES THAT MIGHT MATTER FOR VOTING. AND RACIAL RESIDENTIAL SEGREGATION IS ALSO AN IMPORTANT DETERMINATE, AS I TALK ABOUT IN MY REPORT, OF SOME OF THE OTHER FACTORS THAT ALSO SHAPE VOTING, LIKE ECONOMIC OUTCOMES AND HEALTH OUTCOMES AS WELL. SO ALL OF THESE FACTORS ARE ALSO NOT SEPARATE BUT INTERPLAY WITH ONE ANOTHER AS WELL.

Q LET'S DISCUSS YOUR FINDINGS ON HEALTH DISPARITIES IN LOUISIANA. TURNING TO THE SLIDE ON YOUR SCREEN WHICH REPRODUCES FIGURE 11 FROM PAGE 17 OF YOUR REPORT, WHAT CAN YOU TELL US ABOUT THIS CHART?

A SO THIS IS A CHART TAKEN FROM THE CDC'S CHRONIC DISEASE INDICATORS FOR LOUISIANA ADULTS. AND IT LOOKS AT DISEASE MORTALITY AND RACE FOR SOME DIFFERENT DISEASES WHICH TYPICALLY TEND TO BE LARGE

02:03p

-- HIGH SOURCES OF MORTALITY IN POPULATIONS. AND AS YOU CAN SEE, AGAIN BLACK PEOPLE ARE THE PURPLE BARS AND WHITE PEOPLE ARE THE GOLD BARS. AND FOR EACH OF THESE DISEASES, BLACK PEOPLE ARE MORE LIKELY TO DIE FROM THEM THAN WHITE PEOPLE.

INTERESTINGLY ENOUGH, THOUGH, AT LEAST FOR CANCER, ONE OF THE THINGS THAT'S INTERESTING IS THAT THE RATES OF GETTING CANCER BETWEEN BLACK AND WHITE LOUISIANIANS ACTUALLY ISN'T THAT DIFFERENT. BUT BLACK PEOPLE TEND TO JUST HAVE WORSE OUTCOMES WITH RESPECT TO GETTING -- WITH RESPECT TO DYING FROM CANCER.

Q TURNING TO THE NEXT SLIDE, REPRODUCING FIGURE 12 FROM PAGE 17 OF YOUR REPORT, WHAT DOES THIS CHART TELL US?

A SO THIS CHART LOOKS AT LIFE EXPECTANCY AT BIRTH. AND THIS -- AND LIFE EXPECTANCY IS REALLY JUST KIND OF A -- GIVES YOU A OVERARCHING SENSE OF THE HEALTH OF A POPULATION. AND THIS IS FROM THE LOUISIANA DEPARTMENT OF PUBLIC HEALTH. AND IT LOOKS AT LIFE EXPECTANCY BETWEEN MEN AND WOMEN FOR THE TWO DIFFERENT GROUPS.

AND AGAIN, WITH WHITE IN YELLOW AND BLACK IN PURPLE, A LOT OF THESE HEALTH DISPARITIES AND OTHER ISSUES TRANSLATE INTO JUST LONGER LIVES BY A NUMBER

02:04p

OF YEARS. SO WHITE MEN ARE EXPECTED -- AND WHITE WOMEN ARE EXPECTED TO LIVE SEVERAL YEARS LONGER THAN BLACK MEN AND WOMEN IN LOUISIANA.

Q TURNING TO THE NEXT SLIDE, REPRODUCING FIGURE 13 FROM PAGE 18 OF YOUR REPORT, WHAT DO WE LEARN FROM THIS CHART ABOUT ACCESS TO HEALTH INSURANCE FOR BLACK LOUISIANIANS?

A SO SOME OF THESE FACTORS CAN BE EXPLAINED BY SOME POLICIES. SO, FOR INSTANCE, LOUISIANIANS WITHOUT HEALTH INSURANCE COVERAGE BY RACE, WE CAN SEE HERE -- AGAIN, WITH BLACK IN PURPLE AND WHITE IN YELLOW -- THERE ARE SLIGHTLY -- BLACK PEOPLE ARE SLIGHTLY MORE LIKELY TO BE UNINSURED THAN WHITE PEOPLE.

Q DR. BURCH, DO ENVIRONMENTAL FACTORS CONTRIBUTE TO RACIAL HEALTH DISPARITIES IN LOUISIANA?

A YES. SO I CITE SEVERAL STUDIES THAT TALK ABOUT THE ENVIRONMENTAL FACTORS THAT CAN SHAPE HEALTH OUTCOMES. SO AS I JUST MENTIONED, KATRINA, NATURAL DISASTERS ARE ONE AVENUE. AND ESPECIALLY WITH KATRINA, BLACK PEOPLE WERE SIGNIFICANT -- IN ORLEANS PARISH ACROSS ALL AGE GROUP CATEGORIES AGE 30 YEARS AND OLDER, THEY WERE JUST MORE LIKELY TO HAVE DIED IN THAT STORM THAN PEOPLE OF OTHER RACIAL GROUPS.

BUT ALSO THE WAY THAT CHEMICAL PLANTS ARE

02:06p

CITED, PARTICULARLY IN THE AREA OF THE STATE KNOWN AS CANCER ALLEY, THAT CAN EXPOSE RESIDENTS TO HIGH LEVELS OF AIR POLLUTION AND OTHER DANGERS. AND THOSE HAVE BEEN SHOWN TO DETRIMENTALLY AFFECT HEALTH. SO STUDIES IN THAT AREA HAVE LINKED HIGH LEVELS OF AIR POLLUTION TO RESPIRATORY ILLNESSES LIKE CANCER, COVID 19, AND ASTHMA.

Q THANK YOU, DR. BURCH.

I'D LIKE TO TURN TO YOUR OVERARCHING OPINIONS ON HEALTH DISPARITIES IN LOUISIANA. FIRST, DR. BURCH, FROM YOUR ACADEMIC ASSESSMENT, WHAT EXPLAINS THESE MEASURES OF INEQUITY IN HEALTHCARE AND HEALTH OUTCOMES AND MORTALITY IN LOUISIANA THAT WE'VE JUST DISCUSSED?

A SO I TALK ABOUT IN MY REPORT THE WAYS -- AND I'VE TALKED TODAY -- ABOUT THE WAYS THAT HEALTH DISPARITIES ARE SHAPED BY GOVERNMENT AND MARKET POLICIES. AND THEY CAN AFFECT THE SITE OF ENVIRONMENTAL HAZARDS AS WELL AS ACCESS TO HEALTHCARE THAT CAN HAPPEN THROUGH HEALTH INSURANCE. BUT ALSO I TALK ABOUT IN MY REPORT THE WAYS THAT ACCESS IS SHAPED BY RACIAL RESIDENTIAL SEGREGATION.

SO ALSO, THE REASON THAT'S IMPORTANT IS BECAUSE HEALTH, AS I ALLUDED TO EARLIER, IS AN IMPORTANT PREDICTOR OF VOTER TURNOUT. SO THERE ARE

02:07p

LOTS OF REASONS THAT HEALTHY PEOPLE ARE MORE LIKELY TO VOTE. BUT PART OF THAT IS JUST THAT IF YOU'RE REALLY SICK, YOU DON'T HAVE THE TIME AND THE MONEY TO GO VOTE OR ENGAGE IN POLITICS. IF YOU HAVE IMPAIRED COGNITIVE FUNCTIONING OR PHYSICAL DISABILITY, IT MIGHT MAKE VOTING MORE DIFFICULT. AND PEOPLE -- AND LIKEWISE, PEOPLE WITH DISABILITIES ARE LESS LIKELY TO VOTE. AND SOMETIMES THAT'S EXPLAINED BY PROBLEMS WITH POLLING PLACE ACCESSIBILITY, BUT THERE MIGHT BE OTHER KINDS OF ISSUES THAT THEY FACE THAT MAKES IT HARDER FOR THEM TO VOTE AS WELL.

Q THANK YOU, DR. BURCH.

LET'S TURN FINALLY FOR SENATE FACTOR 5 TO YOUR ANALYSIS OF DISPARITIES IN LOUISIANA'S CRIMINAL LAW ENFORCEMENT AND PRISON SYSTEMS.

BEFORE WE DIVE INTO SOME OF THE QUANTITATIVE DATA YOU CITE, CAN YOU PLEASE PROVIDE SOME INSIGHT INTO THE HISTORIC ROOTS OF LOUISIANA'S CRIMINAL LAW ENFORCEMENT IN PRISON SYSTEMS THAT FRAME YOUR ANALYSIS?

A YES. SO I TALK IN MY REPORT AT FIRST ABOUT THE HISTORY OF ANGOLA PLANTATION AND HOW IT BECAME ANGOLA PENITENTIARY. AND ONE OF THE REALLY INTERESTING PHENOMENA THAT I THINK SHAPE BOTH THAT STORY, WHICH IS SO IMPORTANT TO ANGOLA ITSELF -- THEY

02:08p

HAVE IT ON THEIR WEBSITE AS KIND OF LIKE A LONG HISTORY OF THE INSTITUTION. BUT THERE IS THIS REPORT BY THE BUREAU OF JUSTICE STATISTICS THAT LOOKS OVER TIME AT PRISON ADMISSIONS IN DIFFERENT STATES BY RACE.

AND ONE OF THE MOST INTERESTING IDEAS THAT COME FROM THIS CHART IS THAT IF YOU LOOK JUST AT THE DATA ON PRISON ADMISSIONS IN LOUISIANA FROM 1925 UNTIL 1975, IN THAT 50-YEAR PERIOD, BLACK PEOPLE HAVE -- ADMISSIONS RATES HAVE -- BLACK PEOPLE HAVE ALWAYS BEEN ABOUT 60 PERCENT OF PEOPLE ADMITTED TO PRISON IN LOUISIANA OVER TIME THROUGHOUT HISTORY. AND THEY'RE ABOUT 66 PERCENT OF THE PRISON POPULATION TODAY. SO THAT UNBROKEN LINE I THINK IS -- AND THAT CONTINUITY IS SOMETHING WE DON'T OFTEN SEE IN SOCIAL SCIENCE. SO IT'S DEFINITELY IMPORTANT TO ME TO KIND OF LINK THAT HISTORICAL TRAJECTORY WITH WHAT WE SEE IN THE STATE TODAY.

Q TURNING TO THE NEXT SLIDE, REPRODUCING FIGURE 15 FROM PAGE 21 OF YOUR REPORT, WHAT DOES THIS CHART INDICATE?

A SO THIS IS A CHART THAT IS FROM THE LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTION THAT LOOKS AT CORRECTIONAL POPULATIONS BY RACE IN THE STATE TODAY. AND AGAIN, BLACK PEOPLE ARE

02:10p

OVER-REPRESENTED IN ALL ASPECTS OF CORRECTIONS IN LOUISIANA. SO, OF COURSE, AS I JUST SAID WITH THE PRISON POPULATION, THERE IS ABOUT TWO-THIRDS BLACK, AND THE PROBATION POPULATION IS SLIGHTLY LESS THAN HALF, AGAIN, WHICH REPRESENTS OVER-REPRESENTATION. THE PROBATION POPULATION IS BLACK AND THE PAROLE POPULATION IS DISPROPORTIONATELY AND MAJORITY BLACK AS WELL.

Q DR. BURCH, FROM YOUR UNDERSTANDING, ARE PEOPLE WHO ARE INCARCERATED DUE TO A CONVICTION ABLE TO VOTE IN LOUISIANA?

A NO.

Q FROM YOUR UNDERSTANDING, ARE VOTING RIGHTS AUTOMATICALLY RESTORED FOR PEOPLE ON THE DAY THEY ARE RELEASED FROM INCARCERATION?

A NO. IT TAKES SOME TIME.

Q TURNING TO SLIDE 37 IN FRONT OF YOU, WHAT IS THE IMPACT OF FELONY DISENFRANCHISEMENT POLICIES IN LOUISIANA ON THE SIZE OF THE ELECTORATE?

A SO ACCORDING TO A STUDY OF MANS AND UGGEN -- NOT MANS AND UGGEN. I'M SORRY. THE SENTENCING PROJECT AND CHRIS UGGEN AND CO-AUTHORS -- ALMOST 48,000 BLACK LOUISIANIANS WERE UNABLE TO VOTE IN THE 2020 ELECTION DUE TO THEIR FELONY CONVICTIONS. AND AGAIN, A DISPROPORTIONATE AMOUNT OF THE BLACK VOTING

02:11p

AGE POPULATION IN LOUISIANA CANNOT VOTE DUE TO A FELONY, RELATIVE TO PEOPLE IN OTHER GROUPS.

Q DR. BURCH, LET'S TURN TO YOUR OVERALL CONCLUSIONS REGARDING THE IMPACT OF CRIMINAL LAW ENFORCEMENT IN LOUISIANA. FROM YOUR ACADEMIC ASSESSMENT, WHAT EXPLAINS THESE MEASURES OF INEQUITY IN THE STATE?

A SO CRIMINAL JUSTICE INVOLVEMENT DOES AFFECT VOTING, AND THOSE OUTCOMES, AS I SHOWED, VARY BY RACE. AND -- BUT RESEARCH HAS SHOWN THAT RACIAL DISCRIMINATION PLAYS A ROLE IN PRODUCING THOSE RACIAL DISPARITIES IN CRIMINAL JUSTICE IN LOUISIANA IN THE PAST. AND THERE IS CONTEMPORARY RESEARCH THAT ALSO SHOWS -- THAT I CITE IN MY REPORT -- THAT TALKS ABOUT THESE ISSUES IN LOUISIANA TODAY.

SO THERE ARE SEVERAL STUDIES THAT TALKS ABOUT EITHER THE LIKELIHOOD THAT A BLACK PERSON WILL RECEIVE THE DEATH PENALTY FOR KILLING A BLACK VICTIM VERSUS A WHITE VICTIM THAT I CITE, OR DATA THAT TALKS ABOUT HOW PROSECUTORS TREAT BLACK VICTIMS RATHER THAN WHITE VICTIMS. BUT I ALSO CITE SOME REALLY INTERESTING DISPARITIES BETWEEN ARRESTS AND SENTENCING. SO ABOUT TWO -- I THINK ABOUT 63 PERCENT -- 65 PERCENT OF THE PEOPLE IN LOUISIANA IN PRISON FOR A DRUG CONVICTION ARE BLACK. BUT THEN

02:13p

WHEN YOU LOOK AT THE ARREST DATA, A MAJORITY OF THE PEOPLE WHO ARE ARRESTED FOR SERIOUS DRUG OFFENSES IN LOUISIANA -- SO THOSE THAT INCLUDE EITHER TRAFFICKING OF ANY DRUG OR POSSESSION OF A HARD DRUG -- ARE WHITE. SO THE UNDERLYING DATA IN TERMS OF CRIMINALITY AREN'T REALLY EXPLAINING THOSE OUTCOMES WITH RESPECT TO INCARCERATION IN -- AT LEAST WITH RESPECT TO DRUG CONVICTIONS AND DRUG CRIMES.

SO -- YES, SO THOSE PATTERNS OF OUTCOMES CAN'T BE FULLY EXPLAINED BY THE DIFFERENTIAL COMMISSION OF CRIMES BY RACE. AND THEN YOU -- SO THEN YOU HAVE TO LOOK TO THESE OTHER FACTORS LIKE -- THAT I CITE IN MY REPORT -- LIKE OVER-POLICING OR DISCRIMINATION IN SENTENCING AND THE LIKE TO EXPLAIN THOSE DISPARITIES.

Q YOU TOUCHED ON THIS A BIT, BUT CAN YOU EXPLAIN HOW, IF AT ALL, THESE DISPARITIES REFLECT ON ACCESS TO THE POLITICAL PROCESS FOR BLACK LOUISIANIANS?

A YES, SURE. SO PART OF HOW VOTING -- VOTING CAN BE AFFECTED BY CRIMINAL JUSTICE IS VERY CLEAR THROUGH, LIKE I SAID, FELONY DISENFRANCHISEMENT LAWS. BUT MY WORK AND THE WORK OF SEVERAL OTHER PEOPLE IN POLITICAL SCIENCE HAVE -- IT'S SHOWN THAT THESE INTERACTIONS WITH THE CRIMINAL JUSTICE SYSTEM

02:14p

GENERALLY, ESPECIALLY THOSE THAT MIGHT BE SEEN AS UNFAIR, TEND TO DEMOBILIZE VOTING AND MAKE PEOPLE SHY AWAY FROM PARTICIPATING IN POLITICS.

Q THANK YOU, DR. BURCH.

LET'S MOVE ON TO YOUR DISCUSSION OF SENATE FACTOR 6 REGARDING THE USE OF RACIAL CAMPAIGN APPEALS IN LOUISIANA. TO BEGIN, WHAT IS A RACIAL APPEAL?

A SO A RACIAL APPEAL IS A USE OF A CODE WORD OR IMAGES OR SOME OTHER KIND OF ASPECT IN A CAMPAIGN THAT MAKES VOTERS THINK ABOUT OR TAKE RACE INTO CONSIDERATION WHEN THEY'RE MAKING CHOICES IN POLICY DECISIONS AND CANDIDATE CHOICE. THOSE CAN BE EITHER OVERT, MEANING THEY SAY THEY'RE TALKING ABOUT RACE, OR SUBTLE, IN WHICH THEY DON'T USE THE ACTUAL LANGUAGE OF RACE BUT MIGHT -- IT MIGHT RELY MORE HEAVILY ON IMAGERY OR OTHER KINDS OF CODE WORDS.

Q THINKING ABOUT THE LANGUAGE THAT ADS MAY EMPLOY, WHAT ARE SOME EXAMPLES OF CODE WORDS USED IN RACIAL APPEALS?

A THERE IS LOTS OF THEM IN THE LITERATURE. SO "INNER-CITY," "SANCTUARY CITY," "CRIME," "WELFARE," "ILLEGAL IMMIGRATION," STUFF LIKE THAT.

Q ARE THERE ANY ADDITIONAL OR MORE RECENT EXAMPLES FROM CONTEMPORARY POLITICAL DISCOURSE?

A THERE IS LIKE "URBAN" OR "GANG," LIKE "WOKE"

02:15p

AND "CRITICAL RACE THEORY." BUT I DON'T KNOW IF THOSE -- THOSE ARE -- I DON'T KNOW IF THOSE ARE EVEN CODE WORDS, BECAUSE LIKE "RACE" IS IN "CRITICAL RACE THEORY," SO THAT MIGHT BE MORE EXPLICIT.

Q HOW ABOUT VISUAL CUES OR SIGNALS THAT ADS MAY EMPLOY? WHAT ARE SOME EXAMPLES?

A SO WHEN ANALYZING TELEVISION CAMPAIGN ADS, THESE ADS -- MCILWAIN AND CALIENDO FIND THAT THEY TEND TO CONTAIN CERTAIN ELEMENTS. AND THOSE ELEMENTS ARE THE INVOCATION OF A SALIENT STEREOTYPE ABOUT THE MINORITY GROUP, SO THAT MIGHT BE CRIMINALITY, LAZINESS, TAKING UNDESERVED ADVANTAGE, COUPLED WITH THE CHARGE OF LIBERALISM, SO EXTREME LIBERAL, DANGEROUS LIBERAL, RADICAL. SO THOSE TWO -- THOSE THINGS GROUPED TOGETHER.

THEY SOMETIMES OFTEN SHOW THE IMAGE OF THE MINORITY OPPONENT OR A MINORITY POLITICAL CANDIDATE AND THEN THEY MIGHT ALSO CONTAIN IMAGES OF THE ALL-WHITE -- ALL-WHITE, NONCANDIDATE IMAGES. SO THERE MIGHT BE LIKE IMAGES OF VOTERS WHO ARE ALL WHITE. SO THOSE ARE THE PEOPLE WHO ARE, FOR INSTANCE, BEING PROTECTED FROM THE ISSUES IN THE SALIENT STEREOTYPE. AND SO THAT AUDIENCE WOULD INCLUDE A HIGH PERCENTAGE OF WHITE POTENTIAL VOTERS.

Q FROM YOUR REVIEW OF THE ACADEMIC LITERATURE,

02:17p

ARE RACIAL APPEALS EFFECTIVE AT INFLUENCING VOTER BEHAVIOR?

A YES. SO BOTH IMPLICIT AND NOW EXPLICIT APPEALS HAVE ALSO BEEN SHOWN TO BE EFFECTIVE IN INFLUENCING VOTER BEHAVIOR.

Q HOW SO?

A TO THE EXTENT THAT THEY CAN -- LET ME MAKE SURE I GET THIS RIGHT. SO THEY CAN MAKE THOSE RACIAL ATTITUDES AND CONCERNS MORE SALIENT IN THE MINDS OF VOTERS, AND THEY CAN MAKE IT SO THAT CERTAIN KINDS OF VOTERS -- I'M SORRY. I'M TRYING TO SUMMARIZE A BUNCH OF LITERATURE AT ONCE. BUT, FOR EXAMPLE, YOU MIGHT SEE PEOPLE THINK MORE ABOUT WEIGHING CRIMINAL JUSTICE OR MIGHT WANT TO THINK ABOUT HARSHER CRIMINAL JUSTICE PENALTIES IF THEY SEE AN AD WITH LIKE A MINORITY MUGSHOT THAN IF THEY'RE LOOKING AT SOME OTHER KIND OF AD IN SUPPORT OF A CANDIDATE.

Q AND DO RACIAL APPEALS HAVE ANY DIFFERING IMPACT DEPENDING ON THE AUDIENCE?

A YES. SO RACIAL APPEALS, DEPENDING ON WHETHER THEY ARE SHOWN BY -- EXPERIENCED BY BLACK MEMBERS AS WELL AS WHITE MEMBERS CAN HAVE DIFFERENT EFFECT. SO CERTAIN KINDS OF RACIAL APPEALS, ESPECIALLY THOSE THAT ARE DESIGNED TO MAKE BLACK VOTERS FEEL LIKE THEIR CHOSEN CANDIDATES DON'T CARE

02:18p

ABOUT THEM. KIND OF LIKE THE STUFF THAT TROLL FARMS DID ABOUT HILLARY CLINTON IN 2016, THOSE KINDS OF ADS HAVE BEEN SHOWN TO DEMOBILIZE BLACK VOTERS, AND THEY DON'T HAVE THAT EFFECT ON WHITE VOTERS.

Q DR. BURCH, IF YOU CAN TURN YOUR ATTENTION TO THE NEXT SLIDE, WHAT DOES THIS SLIDE DEPICT?

A SO THESE ARE SOME --

MR. LEWIS: EXCUSE ME. YOUR HONOR, I'M GOING TO OBJECT TO THIS. THESE IMAGES WERE NOT PRODUCED IN DISCOVERY. THEY WERE NOT PRODUCED AS PART OF DR. BURCH'S REPORT OR HER REPORT BACK-UP. THEY HAVE NOT BEEN PROVIDED, EITHER THE IMAGES OR THE UNDERLYING VIDEOS THAT -- FROM WHICH THE IMAGES WERE DERIVED.

THE COURT: MS. WENGER, DO YOU WANT TO RESPOND?

MS. WENGER: CERTAINLY. SO THESE IMAGES ARE DISCUSSED IN DR. BURCH'S REPORT. I CAN PULL UP THE SITE. ON PAGE 23 IN THE MIDDLE OF THE PAGE -- WE CAN TAKE THE SLIDE DOWN FOR NOW.

IN THE MIDDLE OF THE PAGE ON PAGE 23, THESE IMAGES ARE DISCUSSED AT LENGTH BY DR. BURCH. AND THE SLIDE DECK THAT WE'RE USING IS NOT MEANT TO BE ADMITTED INTO THE RECORD. IT IS SIMPLY AN ILLUSTRATIVE VISUAL AID FOR THE ASSISTANCE OF THE

02:20p

1 COURT AND OTHER PEOPLE IN THE ROOM TO UNDERSTAND WHAT
2 DR. BURCH HAS ALREADY DESCRIBED AT LENGTH AND CAN
3 TEXTUALIZE IN HER EXPERT REPORT. SO WE CERTAINLY
4 DON'T THINK THERE IS ANY UNDUE BIAS BY HAVING THESE
5 DISPLAYED IN THIS SETTING. BUT WE'RE CERTAINLY NOT
6 RELYING ON THEM IF YOUR HONOR FEELS OTHERWISE.
7 **THE COURT:** MR. LEWIS, DO YOU WANT TO
8 RESPOND TO THAT?
9 **MR. LEWIS:** YES, YOUR HONOR. IT'S ONE THING
10 TO HAVE A TEXTUAL DESCRIPTION TO SAY THERE WAS AN AD
11 THAT DOES SOMETHING. IT'S QUITE ANOTHER TO THEN, YOU
12 KNOW, DISPLAY IMAGES AND USE -- WHICH IS BEING USED
13 FOR EVID- -- IT'S EVIDENTIARY IN CHARACTER. IT
14 WASN'T PRODUCED. IT WASN'T IN THE REPORT. IT WASN'T
15 LINKED FROM THE REPORT. IT WASN'T IN THE REPORT.
16 **THE COURT:** IT IS IN THE REPORT, THE IMAGERY
17 OF THE AD THAT CONTAIN ALL-WHITE, NONCANDIDATE IMAGES
18 OF -- AND SHE MENTIONS THE NAMES THAT I BRIEFLY SAW
19 ON THE PHOTOGRAPHS BEFORE THEY WERE TAKEN DOWN. I
20 MEAN, THE REPORT -- I'M LOOKING AT IT AND IT DOES
21 DESCRIBE THOSE EXACT IMAGES, AS BEST I CAN TELL FROM
22 WHAT I SAW. MORE IMPORTANTLY, MS. WENGER IS SAYING
23 THAT THEY'RE NOT -- SHE'S NOT OFFERING THEM INTO
24 EVIDENCE; SHE'S USING THEM ILLUSTRATIVELY.
25 SO DO YOU -- IS IT YOUR CONTENTION THAT

02:21p

AS THE TRIER OF THE FACT I'M GOING TO BE SO SHOCKED AND HORRIFIED THAT I'M NOT GOING TO BE ABLE TO -- YOU'RE NOT GOING TO BE ABLE TO UNRING THE BELL? I MEAN, THEY DIDN'T LOOK THAT SHOCKING.

MR. LEWIS: I DON'T -- YOUR HONOR, I JUST -- I'M JUST TRYING TO, YOU KNOW, FOOT TO THE RULES OF EVIDENCE. THEY HAD PLENTY OF OPPORTUNITY --

THE COURT: SHE'S NOT PUTTING IT INTO EVIDENCE.

MR. LEWIS: AND IT'S ALSO -- WE'D ALSO ADD THAT UNDER RULE 1006, IT'S ALSO NOT IMPROPER SUMMARY BECAUSE IT'S A DIFFERENT MEDIUM, RIGHT. IT'S A TEXT DESCRIPTION, THERE IS A VIDEO, THEN THERE IS THE STILL FROM A VIDEO, YOU KNOW, NONE OF WHICH HAVE BEEN -- HAVE BEEN PROVIDED. SO I -- THAT'S OUR POSITION.

THE COURT: AND I THINK YOU MAKE A GOOD POINT. ACTUALLY, THE SUMMARY ARGUMENT THAT YOUR CO-COUNSEL GAVE YOU WAS PRETTY INGENIOUS. BUT SHE'S NOT OFFERING THEM INTO EVIDENCE. AND I THINK, AS THE TRIER OF FACT, THEY'RE NOT -- YOU KNOW, THEY'RE NOT PICTURES THAT -- THEY'RE NOT "SHOCKING THE CONSCIENCE" TYPE PICTURES, SO I THINK THAT IT'S PROBABLY OKAY. I'M GOING TO OVERRULE YOUR OBJECTION. THEY'RE NOT COMING INTO EVIDENCE.

02:22p

YOU MAY SHOW THE PHOTOS.

MS. WENGER: THANK YOU, YOUR HONOR.

BY MS. WENGER:

Q DR. BURCH, WITH THE REPORT YOU HAVE IN FRONT OF YOU, IF YOU COULD TURN TO PAGE 23 JUST SO THAT WE CAN USE THAT FOR CONTEXT IN WHAT YOU'RE DESCRIBING. WE HAVE SOME VISUALS ON THIS SCREEN, BUT I'D LIKE TO HAVE YOU WALK THROUGH TRULY WHAT YOU'RE TALKING ABOUT ON PAGE 23 OF YOUR REPORT IN RELATION TO THE 2019 GUBERNATORIAL ELECTION.

A YES. SO AS I SAID BEFORE, THERE ARE SOME HALLMARKS OF THE KINDS OF ADS THAT WE WOULD -- OF ADS THAT CONSTITUTE IMPLICIT RACIAL APPEALS. AND AS I SAID BEFORE, SO THIS AD THAT WAS BY CANDIDATE EDDIE RISPONE BEGINS WITH MUGSHOTS OF BLACK MEN PROMINENTLY DISPLAYED ALONGSIDE ADDITIONAL MUGSHOTS OF TWO OTHER MEN WHO COULD BE LATINO. THE IMAGERY -- THEN ALSO IN THE UPPER CORNER CONTAINS THE ALL-WHITE, NONCANDIDATE IMAGES OF RISPONE WITH HIS CONSTITUENTS THAT MCILWAIN AND CALIENDO MARK AS COMMON IN THE SENSE THAT IT'S LIKE THESE ARE THE PEOPLE WE'RE TRYING TO PROTECT.

AND THEN YOU ALSO SEE WORDS LIKE "SANCTUARY CITY," AGAIN, THOSE CODE WORDS AS WELL. AND I HAVE THE TEXT OF THE AUDIO AS WELL, WHICH SAYS "DANGEROUS, SICK, VIOLENT. JOHN BEL EDWARDS PUT THEM BACK ON OUR

02:23p

STREETS WHERE THEY ROBBED, ATTACKED, MURDERED. UNDER EDWARDS MURDER IS UP 20 PERCENT. THOUSANDS OF DANGEROUS CRIMINALS RELEASED AND NEW ORLEANS A SANCTUARY CITY MECCA FOR LAWLESSNESS. EDDIE RISPONE WILL BAN SANCTUARY CITIES AND LEAVE FORGIVENESS TO GOD, NOT GOVERNMENT. COMMIT THE CRIME, DO THE TIME. EDDIE RISPONE FOR GOVERNOR."

Q THANK YOU, DR. BURCH.

I'D LIKE TO LEAN IN A LITTLE BIT MORE TO YOUR DISCUSSION OF IMPLICIT RACIAL APPEALS. ARE THESE APPEALS MEANT TO SHOCK THE CONSCIENCE OR ARE THEY DESIGNED TO CUE OTHER SIGNALS OR SUBCONSCIOUS BIASES?

A YES. SO I CAN GO BACK TO MY REPORT AND TALK SPECIFICALLY ABOUT THIS. CANDIDATES -- BECAUSE -- THESE ADS HAPPEN BECAUSE CANDIDATES -- I'M ON PAGE 22 OF MY REPORT. THEY STILL HAVE AN INCENTIVE TO APPEAL TO WHITE RACIAL FEARS. AND KIND OF THIS COMBINATION OF PHENOMENA, THE NEED TO APPEAR RACIALLY EGALITARIAN WHILE ACTIVATING RACIAL ATTITUDES IS WHY YOU HAVE TO DO THIS THROUGH COVERT OR IMPLICIT MEANS SUCH AS IMAGES OR CODED LANGUAGE. SO IT'S ALMOST TRYING TO ACT SUBCONSCIOUSLY.

Q DOES THAT REFLECT AT ALL ON WHY THESE CUES MIGHT RESONATE DIFFERENTLY FOR DIFFERENT AUDIENCES?

02:25p

A YES.
Q CAN YOU DESCRIBE EXAMPLES OF ANY OTHER KINDS OF RACIAL APPEALS YOU LOOKED AT IN LOUISIANA BEYOND OR INCLUDING THE STATEWIDE ELECTIONS WE JUST DISCUSSED?
A I FOCUSED PRIMARILY ON THE GUBERNATORIAL ELECTION. BUT THERE WERE EVEN IN THAT EXCHANGE SOME OTHER ACTORS, NOT JUST THE CANDIDATES WHO RELEASED ADS. FOR INSTANCE, I INCLUDE AN EXAMPLE FROM STATE SENATOR CONRAD APPEL AND FROM THE LOUISIANA REPUBLICAN PARTY AS WELL.
Q ANY OTHER HISTORIC EXAMPLES OF RACIAL APPEALS THAT YOU IDENTIFIED IN YOUR REPORT?
A YES. SO I ALSO DISCUSSED THE CANDIDACY IN RACIAL APPEALS GOING BACK TO DAVID DUKE IN LOUISIANA, WHO OBVIOUSLY, FOR THE RECORD, WAS A FORMER GRAND WIZARD OF THE KU KLUX KLAN WHO WON A STRONG MAJORITY OF LOUISIANA'S WHITE VOTE IN THREE STATEWIDE ELECTIONS, AND HE RAN ON A PLATFORM THAT OPENLY APPEALED TO WHITE RACIAL FEARS.
Q OVERALL, DR. BURCH, WHAT WERE YOUR CONCLUSIONS ABOUT THE EFFECT OF RACIAL CAMPAIGN APPEALS IN LOUISIANA?
A SO I CONCLUDED THAT POLITICAL CAMPAIGNS IN LOUISIANA, THERE IS HISTORICAL EVIDENCE THAT THEY

02:26p

HAVE MADE RACIAL APPEALS AND THEY STILL HAVE IMPLICIT AND EXPLICIT RACIAL APPEALS THAT COME OUT IN THESE CAMPAIGNS IN THE ELECTIONS THAT I -- THE CONTEMPORARY ELECTIONS THAT I STUDIED. AND THOSE RACIAL APPEALS FEATURED PROMINENTLY IN THE 2019 GUBERNATORIAL ELECTION. AND NOT JUST BY THE CANDIDATES BUT OTHER POLITICAL ORGANIZATIONS MADE THEM, TOO.

Q AND DO YOU HAVE ANY REASON TO BELIEVE THAT SIMILAR TYPES OF APPEALS HAVE CEASED TO EXIST IN THE STATE SINCE 2019?

A NO.

Q ALL RIGHT. LET'S MOVE ALONG TO YOUR ANALYSIS OF SENATE FACTOR 7 REGARDING THE EXTENT TO WHICH BLACK LOUISIANIANS HAVE BEEN ELECTED TO OFFICE.

DR. BURCH, IF YOU CAN TURN YOUR ATTENTION TO THE NEXT SLIDE RIGHT HERE, THIS REPLICATES DATA POINTS FROM PAGE 25 OF YOUR REPORT. JUST OFFERS A VISUALIZATION OF NUMBERS THAT YOU CITE. WHAT DOES THIS SLIDE CONVEY -- LET'S START WITH THE FEDERAL LEVEL HERE. WHAT DID YOUR RESEARCH FIND WITH RESPECT TO REPRESENTATION FOR BLACK LOUISIANIANS IN FEDERAL POSITIONS?

A SO IF WE JUST LOOK AT THE LEFT-HAND PART OF THIS SLIDE, WE CAN SEE FOR THE CONGRESSIONAL DELEGATION CURRENTLY IN LOUISIANA THERE -- WHERE THE

02:27p

PURPLE IS THE BLACK REPRESENTATIVES AND YELLOW IS WHITE REPRESENTATIVES -- ONE OUT OF SIX REPRESENTATIVES IN THE CONGRESSIONAL DELEGATION ARE BLACK.

AND WITH RESPECT TO THE NUMBER OF BLACK LOUISIANIANS WHO HAD EVER BEEN SENT TO CONGRESS, THERE ARE FIVE IN THE HISTORY OF THE STATE. AT LEAST THREE CAME FROM CONGRESSIONAL DISTRICT 2. AND SINCE THE -- AND ONE WAS ELECTED IN RECONSTRUCTION. AND SINCE THEN ALL OF THE OTHERS CAME FROM MAJORITY-MINORITY DISTRICTS.

Q HAS THERE EVER BEEN A BLACK SENATOR ELECTED FROM LOUISIANA?

A I COULD NOT FIND ONE.

Q LET'S LOOK AT SOME OF THE OTHER POSITIONS YOU ANALYZED HERE. WHAT CAN THEY TELL US ABOUT REPRESENTATION OF BLACK PEOPLE IN LOUISIANA?

A YES. SO WITH RESPECT TO THE STATE LEGISLATURE, BLACK LEGISLATORS HOLD ABOUT 25 PERCENT OF ALL OF THE STATE LEGISLATIVE SEATS. AND THAT'S ACROSS THE HOUSE AND SENATE. AND THERE IS 26 BLACK LEGISLATORS IN THE HOUSE OUT OF 105 AND LESS -- AND I THINK ABOUT TEN LOUISIANA STATE SENATORS OUT OF 39 TOTAL SEATS ARE BLACK.

Q WHAT ABOUT SOME OF THE OTHER POSITIONS?

02:29p

A SO THERE IS ALSO SOME -- IF YOU THINK ABOUT THE STANDARD OF ABOUT OVER 30 PERCENT OF THE STATE IS BLACK, STATE COURT JUDGES ARE ALSO -- BLACK PEOPLE ARE ALSO UNDER-REPRESENTED ON THE STATE BENCH, ALSO WITH RESPECT TO COUNTY -- WITH EXECUTIVE -- OTHER EXECUTIVE POSITIONS LIKE MAYORS, AND ALSO THERE IS UNDER-REPRESENTATION ON THE BOARD OF ELEMENTARY AND SECONDARY EDUCATION.

Q AND FROM YOUR AWARENESS, ARE ANY OF THESE ELECTED OFFICIALS ELECTED FROM BLACK-MAJORITY DISTRICTS?

A I'M SURE THAT SOME ARE. I THINK THERE -- I'M NOT SURE A HUNDRED PERCENT ABOUT ALL OF THE -- FOR INSTANCE, THE MAYORS. BUT THE STATE LEGISLATIVE SEATS MOST PROBABLY ARE.

Q HAS THERE EVER BEEN A BLACK GOVERNOR OR A LIEUTENANT GOVERNOR IN LOUISIANA SINCE RECONSTRUCTION?

A NOT SINCE RECONSTRUCTION.

THE REPORTER: I'M SORRY.

THE WITNESS: NOT SINCE RECONSTRUCTION.

BY MS. WENGER:

Q DR. BURCH, WHAT WERE YOUR OVERALL CONCLUSIONS FROM YOUR ANALYSIS OF SENATE FACTOR 7?

A SO OVERALL I CONCLUDED THAT BLACK PEOPLE ARE

02:30p

ABOUT A THIRD OF LOUISIANA'S OVERALL POPULATION BUT ARE UNDER-REPRESENTED AMONG ELECTED OFFICIALS AT ALL LEVELS OF GOVERNMENT INCLUDING AMONG EXECUTIVES SUCH AS GOVERNOR, LIEUTENANT GOVERNOR, MAYOR AND LEGISLATORS AT THE FEDERAL AND STATE LEVEL, AND JUDGES.

Q THANK YOU.

DR. BURCH, LET'S MOVE TO YOUR DISCUSSION OF SENATE FACTOR 8 REGARDING ANY LACK OF RESPONSIVENESS FROM ELECTED OFFICIALS TO THE NEEDS OF BLACK CONSTITUENTS. I'D LIKE TO START WITH THE METRICS YOU ASSESSED. CAN YOU TURN TO THE SLIDE ON YOUR SCREEN HERE AND EXPLAIN A BIT WHAT THESE VISUALIZATIONS INTEND TO CONVEY.

A YES. SO THESE DATA POINTS FROM MY REPORT TALK ABOUT THE FACT THAT LOUISIANA -- IF YOU'RE LOOKING IN COMPARISON WITH THE OTHER 50 STATES -- LOUISIANA RANKS 48TH OUT OF 50 IN MATH ACHIEVEMENT, 46 OUT OF 50 IN CANCER DEATH RATE, 44 OUT OF 50 IN LIFE EXPECTANCY. AND ON ALL OF THESE DIMENSIONS THAT I JUST TALKED ABOUT IN MY REPORT, BLACK PEOPLE ARE WORSE OFF RELATIVE TO WHITE PEOPLE IN THE STATE AMONG ALL OF THESE DIMENSIONS WHERE LOUISIANA IS DOING POORLY.

AND SO WHEN WE THINK ABOUT RESPONSIVENESS,

02:31p

THEN WE WANT TO THINK ABOUT THE EXTENT TO WHICH WE'RE -- THE STATE IS ENACTING POLICIES THAT ARE DESIGNED TO ADDRESS SOME OF THESE ISSUES. AND SO -- BUT ONE OF THE EXAMPLES OF THE WAYS THAT PERHAPS THIS IS NOT HAPPENING IS A QUOTATION BY SENATOR CASSIDY, WHICH I THINK GOES TO THE HEART OF RESPONSIVENESS.

SO IN TALKING ABOUT MATERNAL MORTALITY AND PRESENTED WITH DATA THAT LOUISIANA IS PERFORMING POORLY WITH RESPECT TO MATERNAL MORTALITY, SENATOR CASSIDY SAID IN RESPONSE "ABOUT A THIRD OF OUR POPULATION IS AFRICAN AMERICAN; AFRICAN AMERICANS HAVE A HIGHER INCIDENCE OF MATERNAL MORTALITY. SO, IF YOU CORRECT OUR POPULATION FOR RACE, WE'RE NOT AS MUCH OF AN OUTLIER AS IT'D OTHERWISE APPEAR."

Q FOR CLARITY OF THE RECORD, THAT'S FROM PAGE 26 OF YOUR REPORT.

TURNING TO THE NEXT SLIDE, YOU DISCUSS CANCER ALLEY IN YOUR REPORT AND I HEARD YOU MENTION IT EARLIER. HOW DOES CANCER ALLEY IN LOUISIANA REFLECT ON THE RESPONSIVENESS OF ELECTED OFFICIALS TO THE NEEDS OF BLACK PEOPLE IN YOUR ASSESSMENT?

A SO I THOUGHT THAT THIS WAS AN INTERESTING INCIDENT BECAUSE -- EXAMPLE -- BECAUSE THERE IS A SPECIFIC INSTANCE IN WHICH IN 2021 PRESIDENT BIDEN ANNOUNCED SEVERAL CLIMATE-RELATED EXECUTIVE ORDERS

02:33p

THAT WERE DESIGNED TO PROMOTE ENVIRONMENTAL JUSTICE AND HELP PLACES AND MENTIONED LOUISIANA'S CANCER ALLEY SPECIFICALLY. SENATOR CASSIDY ACTUALLY GOT ANGRY AND CALLED THOSE REMARKS THAT HE MADE A SLAM ON THE STATE AND THEN DENIED THAT POLLUTION WAS A FACTOR IN CAUSING THESE ELEVATED CANCER RATES, WHICH I HAVE ALREADY SAID RESEARCH HAS SHOWN THAT AIR POLLUTION AND THE LIKE IN THESE AREAS DOES MATTER. AND SO INSTEAD WE SAW BEHAVIORAL FACTORS THAT HE BLAMED FOR THE ELEVATED CANCER RATES.

SO SENATOR CASSIDY SAYS -- AND I CITE IT ON PAGE 26 -- "WE HAVE A HIGHER INCIDENCE OF CIGARETTE SMOKING, OF OBESITY, OF CERTAIN VIRAL INFECTIONS, AND OTHER THINGS WHICH INCREASE THE INCIDENCE OF CANCER IN OUR STATE."

AND AGAIN, PEOPLE WHO -- ADVOCATES FOR THE AREA CALLED CANCER ALLEY WHO HEARD THIS TOOK THIS AS, YOU KNOW, IT'S ALWAYS -- THE QUOTE IS: "IT'S ALWAYS 'BLAME THE FOLKS' -- THE POOR BLACK FOLKS -- FOR THEIR OWN DEMISE." SO THAT, AGAIN, THEY SAW THAT COMMENT AS BEING NOT RESPONSIVE TO THE NEEDS, ESPECIALLY WHEN SOMEONE AT THE FEDERAL LEVEL WAS TRYING TO HELP THE AREA.

Q ALL RIGHT. MOVING TO THE NEXT SLIDE, PULLING DATA CITED FROM PAGES 26 TO 27 OF YOUR

02:34p

REPORT, CAN YOU DESCRIBE WHY THIS SURVEY DATA -- WHAT THIS SURVEY DATA TELLS US ABOUT BLACK LOUISIANIANS' OWN SENSE OF THEIR ELECTED OFFICIALS' RESPONSIVENESS?

A SO I TOOK DATA FROM THE 2022 LOUISIANA SURVEY, WHICH IS A REPRESENTATIVE SURVEY OF THE STATE. AND IT SHOWS THAT ACROSS THE STATE ABOUT 70 PERCENT OF BLACK RESPONDENTS TO THE SURVEY AGREED THAT, QUOTE, MOST ELECTED OFFICIALS IN LOUISIANA DON'T CARE WHAT PEOPLE LIKE ME THINK. AND THAT FIGURE IS ACTUALLY PRETTY SIMILAR TO WHAT WHITE LOUISIANIANS THINK. BUT THEN THERE IS SPECIFIC REASONS THAT BLACK LOUISIANIANS FEEL THAT WAY. AND THEY GO ON IN THE SURVEY TO TALK ABOUT BLACK PEOPLE IN THE STATE FEEL THAT THEY ARE DISCRIMINATED AGAINST POLITICALLY. SO FEWER BLACK LOUISIANIANS WERE VERY CONFIDENT THAT PEOPLE WHO ARE LEGALLY QUALIFIED TO VOTE ARE ABLE TO IN THE STATE, AND A MAJORITY OF BLACK LOUISIANIANS BELIEVE THAT, QUOTE, BLACK PEOPLE ARE TREATED LESS FAIRLY THAN WHITE PEOPLE WHEN VOTING IN ELECTIONS.

Q THANK YOU.

TURNING TO THE NEXT SLIDE, CAN YOU EXPLAIN HOW PUBLIC TESTIMONY FROM THE REDISTRICTING PROCESS PLAYED INTO YOUR ANALYSIS OF SENATE FACTOR 8?

A SO IF YOU THINK ABOUT THE DATA THAT I JUST

02:35p

CITED ABOUT THE CONCERN ABOUT POLITICAL INEQUALITY AMONG BLACK PEOPLE IN THE STATE, THESE CONCERNS THAT I PULLED FROM THE REDISTRICTING ROADSHOWS AND HEARINGS ACTUALLY IS A REFLECTION OF WHAT WE SEE IN THE SURVEY DATA STATEWIDE. AND SO WE SEE QUOTES, FOR INSTANCE, FROM LYDIA LARSE WHO SAYS -- WHO -- I WATCHED THE VIDEO AND SHE APPEARED TO BE AFRICAN AMERICAN TO ME, AND FROM HER STATEMENTS SEEM SO. SHE SAYS, QUOTE, THE CONSTITUTION STARTS WITH WE THE PEOPLE. I DON'T FEEL THAT. NONE OF YOU GUYS UP HERE REPRESENT ME, BUT A FEW. WE'RE ONE-THIRD OF THE STATE, AND I'M NOT BEING REPRESENTED. OUR VOICES ARE NOT BEING HEARD. AT ALL. I FEEL AS THOUGH MY VOICE IS NOT BEING HEARD BECAUSE Y'ALL DON'T NEED US. WE'RE NOT NEEDED. YOU DON'T CARE.

DO YOU -- ADAM MOORE SAYS, "DO WE CARE ABOUT GERRYMANDERING? HEY, LET'S ISOLATE THESE PEOPLE OVER HERE. DO YOU CARE? HELP US. DO ANYONE CARE? HEY, IT'S NOT MY FAULT I'M BLACK. I WAS BORN THIS WAY."

A COUPLE OF OTHER PEOPLE IN THOSE -- WELL, SEVERAL OTHER PEOPLE SAID THINGS LIKE THIS, BUT JUST A COUPLE OF EXAMPLES ON THE SLIDE THAT LINK REPRESENTATION TO OUTCOMES COME FROM KETURAH BUTLER-REED WHO SAYS, "I CHALLENGE YOU TO PUSH FOR MORE MAJORITY-MINORITY DISTRICTS BECAUSE MORE MEANS MORE

02:37p

RESOURCES POURED INTO BLACK SCHOOLS AND MORE OF A SIGNIFICANT VOICE IN BLACK PEOPLE CHOOSING ELECTED OFFICIALS BECAUSE THAT IS REFLECTIVE OF THE NUMBERS OF THE PEOPLE." SO TYING THAT THEY NEED THOSE MAJORITY-MINORITY DISTRICTS TO TRANSLATE INTO RESOURCES AND OUTCOMES.

DEONDRE BELL, II: "AND SO, TO DEPRIVE ONE-THIRD OF THE STATE'S POPULATION OF THE ABILITY TO ELECT THEIR PREFERRED CANDIDATE KEEPS LOUISIANA AT THE BOTTOM OF NEARLY EVERY STATISTIC IN THIS COUNTRY."

SO THEY'RE KIND OF, AGAIN, MAKING THOSE SAME CONNECTIONS THAT I MADE IN MY REPORT.

Q THANK YOU, DR. BURCH.

TURNING TO THE NEXT SLIDE, WHAT DO THESE METRICS PULLED FROM PAGE 28 OF YOUR REPORT INDICATE ABOUT THE RESPONSIVENESS OF LOUISIANA LEGISLATORS DURING THE PASSAGE OF THE CHALLENGED SENATE DISTRICTS HERE?

A SO WHAT WAS INTERESTING FROM THE PUBLIC TESTIMONY THAT WE SAW IN LOOKING AT THE PASSAGE OF THE MAPS, 80 PEOPLE SUBMITTED PUBLIC COMMENT CARDS AGAINST THE ENACTED MAP WITHOUT SPEAKING. AN ADDITIONAL 22 PEOPLE SPOKE AGAINST THE ENACTED MAP AND IN FAVOR OF MORE MAJORITY-MINORITY DISTRICTS.

02:38p

AND THERE WERE NO PEOPLE THAT MADE PUBLIC COMMENTS IN SUPPORT OF THE STATUS QUO NUMBER OF MAJORITY-MINORITY SENATE SEATS.

AND SO IT'S VERY CLEAR THAT THE PUBLIC COMMENT THAT SENATORS HEARD THERE WAS CLEARLY IN SUPPORT IN INCREASING MINORITY REPRESENTATION. AND SIMILARLY, PEOPLE -- 56 PEOPLE SUBMITTED COMMENT CARDS IN SUPPORT OF THE ALTERNATIVE MAP THAT ADDED MAJORITY-MINORITY DISTRICTS. SO THERE IS CLEAR SUPPORT FOR ADDING MAJORITY-MINORITY DISTRICTS, BUT THAT WAS NOT -- OBVIOUSLY WITH THE OUTCOME, THOSE WERE NOT -- THE LEGISLATURE WAS NOT RESPONSIVE TO THOSE.

Q THANK YOU, DR. BURCH.

OVERALL WHAT WERE YOUR FINDINGS REGARDING THE PRESENCE OF SENATE FACTOR 8 IN THE CONTEXT OF THIS STATE IN THIS CASE?

A SO I FIND THAT THE OUTCOMES OF POLICIES DO NOT TRACK THE SPECIFIC NEEDS OF THE MINORITY COMMUNITY IN SEVERAL WAYS. AND I FEEL LIKE IN MY REPORT I'VE SHOWED THE WAYS THAT, AGAIN, OUTCOMES OVER TIME HAVE BEEN PERSISTENT IN TERMS OF RACIAL GAPS IN EDUCATION AND CRIMINAL JUSTICE AND THE LIKE. BLACK LOUISIANIANS EXPRESSED IN SURVEYS AND TO THE LOUISIANA LEGISLATURE THAT THEY ARE NOT VALUED

02:39p

EQUALLY AND DON'T FEEL VALUED EQUALLY BY ELECTED REPRESENTATIVES AND FEEL DISCRIMINATED AGAINST IN POLITICS. AND THEN THEY CONNECT THAT POLITICAL INEQUALITY WITH POOR OUTCOMES AS WELL.

SO IT'S -- JUST LISTENING TO THE VOICES OF THE PEOPLE, IT'S VERY CLEAR THAT THEY ARE SAYING THEY FEEL THAT THEIR GOVERNMENT IS NOT RESPONSIVE TO THEM.

Q THANK YOU, DR. BURCH.

LET'S TURN TO YOUR ANALYSIS OF THE LAST SENATE FACTOR YOU WORKED ON HERE REGARDING THE TENUOUSNESS OF THE LEGISLATURE'S UNDERLYING POLICY JUSTIFICATIONS FOR THEIR ENACTED STATE LEGISLATIVE MAPS.

FIRST, WHAT SOURCES DID YOU USE TO EXAMINE AND ASSESS SENATE FACTOR 9?

A SO I INCLUDE HERE SEVERAL VIDEOS OF -- AND ANALYZED THE HEARINGS, THE ROADSHOWS, THE -- SOME OTHER NEWS OR PUBLIC SPEECHES MADE BY LEGISLATORS IN THIS SECTION OF THE REPORT.

Q THANK YOU.

BASED ON YOUR REVIEW OF THE LEGISLATORS' STATEMENTS, WHAT DID YOU IDENTIFY AS THE KEY POLICY CONSIDERATIONS LEGISLATORS OFFERED TO JUSTIFY THE LEGISLATIVE MAPS ENACTED WITHOUT SUBSTANTIVELY INCREASING REPRESENTATION FOR BLACK VOTERS?

02:40p

A SO IN MY ANALYSIS I PUT THE REASONS FOR NOT DRAWING ADDITIONAL MINORITY DISTRICTS INTO THREE BUCKETS. SO THE SUPPORTERS OF THE BILL ARGUE THAT ADDITIONAL MAJORITY-MINORITY DISTRICTS WOULD FIRST DILUTE THE BLACK VOTE; SECOND, UNDERMINE INCUMBENCY PROTECTION AND; THIRD, VIOLATE COMMUNITIES OF INTEREST. AND SO I DISCUSS THOSE IN TURN IN MY REPORT.

Q GENERALLY, DR. BURCH, DID YOU FIND THAT LEGISLATORS SUPPORTED THESE CLAIMS WITH EVIDENCE?

A NO.

Q LET'S LOOK AT SOME OF THE TESTIMONY YOU ANALYZED, TURNING TO THE SLIDE ON YOUR SCREEN. CAN YOU DESCRIBE YOUR FINDINGS REGARDING THE TESTIMONY PRESENTED BY THE RESPECTIVE SPONSORS OF THE ENACTED MAP? WE CAN START WITH SB 1.

A YES. SO SENATE PRESIDENT CORTEZ TESTIFIED AT VARIOUS POINTS. HE AGREED THAT THE MAP IN SENATE BILL 1 DID NOT INCREASE MAJORITY-MINORITY SENATE DISTRICTS FROM THE PRIOR MAP. AND HE DID AGREE THAT LOUISIANA DEMOGRAPHICS HAD SHIFTED. HE AGREED THAT IT WAS POSSIBLE TO CREATE ADDITIONAL MAJORITY-MINORITY DISTRICTS. BUT THEN HE CHOSE NOT TO. AND THEN HE LISTS SPECIFICALLY THREE REASONS. HE SAYS CONTINUITY OF REPRESENTATION, MINORITY VOTE DILUTION,

02:42p

AND COMPACTNESS.

Q HOW ABOUT FOR HOUSE BILL 14?

A SO CHAIRMAN STEFANSKI WAS A LITTLE LESS CLEAR ABOUT THE PRIORITIES FOR DRAWING THE MAP IN HB 14, SO HE GAVE A LIST OF FACTORS THAT HE TOOK INTO ACCOUNT AND AT VARIOUS POINTS MENTIONED POPULATION SIZE, GEOGRAPHY, COMMUNITIES OF INTEREST, LAWS, PUBLIC COMMENTS, MEMBERS' DESIRES FOR THEIR COMMUNITY, AND CONCERNS ABOUT POPULATION LOSS IN NORTH LOUISIANA AS WELL.

Q AMONG THOSE LAUNDRY LIST OF FACTORS, DID YOU FIND HE ALSO MADE REFERENCE TO THOSE BUCKETS OF CLAIMS THAT YOU HEARD IN PRESIDENT CORTEZ'S TESTIMONY?

A YES.

Q THANK YOU.

ALL RIGHT. LET'S LOOK CLOSER AT YOUR ANALYSIS OF THE LOUISIANA LEGISLATURE'S PURPORTED CONCERNS REGARDING MINORITY VOTE DILUTION. TURNING TO THE SLIDE BEFORE YOU WHICH PULLS FROM PAGES 30 THROUGH 35 OF YOUR REPORT, CAN YOU DESCRIBE YOUR FINDINGS?

A YES. SO I FOUND THAT THERE WAS AN ARGUMENT THAT WAS MADE BOTH IN SUPPORT OF SB 1 AND HB 14 THAT ADDING A SECOND MAJORITY-MINORITY DISTRICT WOULD

02:43p

DILUTE THE BLACK VOTE. AND SO WHAT THAT MEANS SPECIFICALLY IS THAT THE -- SO THERE IS THIS IDEA THAT THE VOTING RIGHTS ACT KIND OF REQUIRES THE PACKING OF MINORITY VOTERS INTO MAJORITY-MINORITY DISTRICTS IN VERY HIGH CONCENTRATIONS IN ORDER TO GUARANTEE THAT THE MINORITY GROUP WILL ELECT A CANDIDATE OF CHOICE. SO IN PRESIDENT CORTEZ'S WORDS, IT CAN'T JUST BE AN OPPORTUNITY BUT A SLAM DUNK. SO UNDER THAT STANDARD, EVEN DISTRICTS WITH LIKE 53 PERCENT MINIMUM BLACK VOTING AGE POPULATIONS WOULD NOT BE ADEQUATE UNDER THE VOTING RIGHTS ACT.

AND SO HE SAYS SPECIFICALLY -- I QUOTE HIM ON PAGE 31 IN A LONG QUOTE: "SO, WHAT IS 50 PERCENT PLUS ONE GIVES YOU A MAJORITY OF" -- "MAJORITY OF THE MINORITY IF THAT'S THE POPULATION YOU LOOKING AT, BUT IF THEY ONLY TURN OUT AT 30 OR 35% RATE, AND THE OTHER POPULATION TURNS OUT AT 40 OR 50% RATE, THE MINORITY GROUP IS GOING TO, I'M TRYING TO BE CLEAR. THE MINORITY IS GOING TO HAVE A HIGHER NUMBER OF VOTING AGE POPULATION, BUT THEY WON'T VOTE AND THEY WON'T ELECT THE CANDIDATE OF THEIR CHOICE." AND SO THAT'S KIND OF HIS ARGUMENT ABOUT VOTE DILUTION.

Q DID HE USE ANY DATA TO BACK UP THAT ARGUMENT?

A NO.

02:44p

Q IN YOUR ANALYSIS, DR. BURCH, DID ANY OF THE SUPPORTERS' OR THE SPONSORS' COLLEAGUES PUSH BACK AGAINST THE USE OR SUGGESTION OF THE RELEVANCY OF THESE METRICS OR THEORIES?

A OH, YES. SO THERE WERE LONG DISCUSSIONS ABOUT THIS, ACTUALLY, IN THE RECORD. AND SO THEY HEARD SEVERAL ARGUMENTS FROM -- ESPECIALLY FROM MEMBERS OF THE BLACK CAUCUS THAT TALKED ABOUT AND CALLED INTO QUESTION THESE CLAIMS. SO, FOR INSTANCE, SENATOR PRICE -- AND I HAVE HIM QUOTED ON PAGE 32. HE'S BASICALLY RECALLING OTHER -- MORE COMMENTS THAT HAD BEEN MADE BY SENATOR TARVER. HE ARGUED THAT THE REQUIREMENT WAS FOR AN OPPORTUNITY, NOT A GUARANTEE.

AND SO HE SAYS, "UNDER SECTION 2 OF THE 1965 VOTING RIGHTS ACT, IT SPECIFICALLY TALKS ABOUT THE FACT OF GIVING PEOPLE OPPORTUNITY AND OPPORTUNITY, I THINK, IT'S ALL THAT WE CAN ASK FOR, AND YOU SAY, WELL, YOU MAY NOT BE ABLE TO ELECT, BUT AS SENATOR TARVER SAID, IT'S UP TO THE PERSON IN THE DISTRICT TO GET OUT THERE AND MAKE SURE THAT ITS CONSTITUENTS COME OUT AND VOTE AND AT LEAST GIVE THEMSELVES THAT OPPORTUNITY. IF WE DO NOT INCREASE THE MINORITY DISTRICT, WE'LL NEVER HAVE THAT OPPORTUNITY. IF WE JUST STAY STATUS QUO AS THE MAP IS RIGHT NOW WITHOUT EVEN CONSIDERING INCREASE, THEN THE OPPORTUNITY GOES

02:46p

AWAY, I THINK, UNDER SECTION 2, IT CLEARLY STATES THAT WE MUST BE GIVEN AN OPPORTUNITY TO ELECT A PERSON OF OUR CHOICE, AND BY NOT PROVIDING THAT OPPORTUNITY, I THINK, IT VIOLATES SECTION 2 OF THE CIVIL RIGHTS ACTS."

Q SOME OF THESE CITATIONS THAT YOU PULLED FROM YOUR REPORT -- FOR EXAMPLE, FROM SENATOR PRICE WHO I BELIEVE REPRESENTS NAPOLEONVILLE, SENATOR TARVER, A FORMER OR CURRENT SENATOR FROM SHREVEPORT -- DID YOU FIND THAT THEIR SENTIMENTS AND DEBATE IN THE LEGISLATIVE RECORD THAT YOU REVIEWED BETTER REFLECTED SOME OF THOSE PUBLIC COMMENTS OR TESTIMONY YOU REVIEWED FROM THE ROADSHOW AND THE LEGISLATIVE PROCESS?

A YES.

Q INCLUDING FROM BLACK CONSTITUENTS?

A YES.

Q IT WAS MORE RESPONSIVE TO WHAT THEY HAD HEARD FROM THE PEOPLE THAT SPOKE UP IN THIS PROCESS?

A YES.

Q LET'S TURN TO YOUR ANALYSIS OF THE LEGISLATURE'S PRIORITIZATION OF INCUMBENT PROTECTION, TURNING TO THE NEXT SLIDE PULLED FROM PAGES 35 TO 38 OF YOUR REPORT. CAN YOU DESCRIBE YOUR FINDINGS?

A YES. SO BY INCUMBENCY PROTECTION, THIS IS

02:47p

NOT -- THAT TERM IS NOT EXPLICITLY USED AS -- BUT, RATHER, AT LEAST IT COMES UP IN A COUPLE OF DIFFERENT WAYS.

SO PRESIDENT CORTEZ ARGUED THAT ADDING MAJORITY-MINORITY DISTRICTS WOULD VIOLATE THE PRINCIPLE OF WHAT HE CALLED CONTINUITY OF REPRESENTATION. AND WHAT HE MEANT BY THAT IS, QUOTE, THE THIRD TENET OR PRINCIPLE WAS AS BEST AS POSSIBLE TO MAINTAIN THE CONTINUITY OF REPRESENTATION. WHAT DO I MEAN BY THAT? IT MEANS THAT IF YOUR DISTRICT ELECTED YOU AND YOU'VE DONE A GOOD JOB, THEY ALSO HAVE A RIGHT TO REELECT YOU. AND THAT'S ON PAGE 36 OF MY REPORT.

AND HE TALKS ABOUT THIS AGAIN IN MAKING IT CLEAR THAT HE'S TALKING ABOUT INCUMBENCY PROTECTION. AND THE HOUSE PLAN, THIS COMES UP NOT AS -- QUOTE, UNQUOTE -- CONTINUITY OF REPRESENTATION BUT THE DESIRE TO MAKE CHANGES ONLY TO DISTRICTS WHERE INCUMBENTS WERE NOT RETURNING BECAUSE OF TERM LIMITS.

Q WAS INCUMBENCY PROTECTION INCLUDED IN JOINT RULE 21 OR OTHER GUIDANCE PRESENTED IN ADVANCE OF THE REDISTRICTING PROCESS?

A NO. AND IT'S ALSO -- IT'S NOT INCLUDED AS A PRIORITY IN JOINT RULE 21, AND NEITHER IS THE TERM "LIMITED" -- STICKING THE TERM "LIMITED MEMBERS"

02:48p

1 THING. BUT EVEN IF IT WERE, THERE ARE ALTERNATIVE
2 HOUSE PLANS THAT -- FOR INSTANCE, THAT MANAGE TO DRAW
3 ADDITIONAL MAJORITY-MINORITY DISTRICTS WHILE FOCUSING
4 ONLY ON THIS TERM "LIMITED DISTRICT" IDEA. SO THAT'S
5 NOT AN IMPEDIMENT TO ADDING MAJORITY-MINORITY
6 DISTRICTS. THE TWO THINGS AREN'T MUTUALLY EXCLUSIVE.
7 Q THANK YOU, DR. BURCH.
8 FINALLY LET'S TURN TO THE NEXT SLIDE PULLING
9 FROM PAGES 38 THROUGH 42 OF YOUR REPORT. WHAT WAS
10 YOUR ASSESSMENT OF THE DISCUSSION OF COMMUNITIES OF
11 INTEREST LEADING TO THE PASSAGE OF THE ENACTED
12 LEGISLATIVE MAPS HERE IN LOUISIANA?
13 A SO THERE WAS SOME DISCUSSION OF COMMUNITIES
14 OF INTEREST AS A REASON THAT THEY -- THE DRAWERS OF
15 THE ENACTED MAPS COULDN'T ADD MORE MAJORITY-MINORITY
16 DISTRICTS. BUT WHAT'S INTERESTING ABOUT THOSE
17 DISCUSSIONS IS THAT FIRST THEY WEREN'T -- AGAIN, A
18 LOT OF TIMES THE DISCUSSION DIDN'T SAY THAT THOSE --
19 KEEPING THOSE COMMUNITIES INTACT WOULD BE MUTUALLY --
20 AND DRAWING A NEW DISTRICT WAS MUTUALLY EXCLUSIVE.
21 SO, FOR INSTANCE, WITH RESPECT TO THE SENATE
22 MAP, SENATE PRESIDENT CORTEZ ARGUED THAT IT WAS
23 IMPOSSIBLE TO CREATE ADDITIONAL MAJORITY-MINORITY
24 DISTRICTS WITHOUT DISRUPTING THE REPRESENTATION OF
25 THAT COMMUNITY BETWEEN ST. CHARLES AND ST. JOHN

02:49p

PARISHES. AND THAT WAS THE PROBLEM WITH ONE OF A NEW MAJORITY-MINORITY DISTRICT. BUT THERE WAS NO ANSWER THAT THE OTHER ONE IN THE SENATE MAP WOULD VIOLATE A PARTICULAR COMMUNITY OF INTEREST. SO IT MIGHT BE AN EXCUSE FOR ONE PARTICULAR CONFIGURATION, BUT YOU COULD DO SOMETHING WITH OTHERS.

IT'S ALSO TRUE THAT IT'S NOT REALLY CLEAR WHICH COMMUNITIES OF INTEREST WE WERE TALKING ABOUT PRIORITIZING. SO THE NEEDS OF OTHER COMMUNITIES OF INTEREST THAT WERE DISCUSSED IN THE RECORD, SUCH AS THE BLACK RESIDENTS OF THE WESTBANK IN JEFFERSON PARISH, THOSE WERE IGNORED. AND THEY WERE IGNORED FOR REASONS THAT WERE THINGS LIKE ONE SENATOR WHO WANTED TO REPRESENT HIS SISTER AND HE WAS STILL PAYING STUDENT LOANS TO TULANE. SO THE RATIONALE FOR THAT WAS NOT -- IT WAS NOT COMMUNITIES OF -- THAT COMMUNITY OF INTEREST WAS IGNORED FOR REASONS LIKE THAT.

Q THANK YOU, DR. BURCH.

DR. BURCH, IN YOUR ASSESSMENT IS THERE POLITICAL SCIENCE DATA TO SUPPORT THE EXISTENCE OF EVERY SINGLE SENATE FACTOR YOU ANALYZED IN LOUISIANA?

A YES.

Q THANK YOU.

I'D NOW LIKE TO SHIFT OUR FOCUS TO THE

02:51p

SUPPLEMENTAL REPORT THAT DR. BURCH SUBMITTED IN RESPONSE TO DEFENDANTS' EXPERT, DR. ALFORD. THIS IS PLAINTIFFS' EXHIBIT 128.

DO YOU HAVE THAT IN FRONT OF YOU, DR. BURCH?

A I DO.

Q IS THIS THE REPORT THAT YOU SUBMITTED IN RESPONSE TO YOUR REVIEW OF DR. ALFORD'S REPORT?

A YES.

Q DR. BURCH, WHAT DOES YOUR SUPPLEMENTAL REPORT EXAMINE?

A SO IT LOOKS AT DR. ALFORD'S CONCLUSION THAT CLEAR CORRELATIONS BETWEEN RACE AND VOTING IN LOUISIANA ARE CAUSED BY PARTY COHESION RATHER THAN RACE AND THAT MANY MEASURES OF RACIAL POLARIZATION HAVE DECLINED OVER TIME.

AND SO IN ANSWERING THAT, I LOOKED AT THE ROLE OF RACE OR RACIAL ATTITUDES AND PARTISANSHIP IN VOTE CHOICE IN THE POLITICAL SCIENCE LITERATURE.

Q WHAT DID YOU REVIEW TO REACH YOUR CONCLUSIONS?

A THE RELEVANT LITERATURE IN POLITICAL SCIENCE AND I ALSO HAVE A CHART HERE FROM DATA FROM THE LOUISIANA -- VOTING DATA FROM THE LOUISIANA SECRETARY OF STATE'S OFFICE.

Q THANK YOU.

02:52p

BEFORE CIRCLING BACK TO YOUR OVERALL FINDINGS, DID YOU REACH ANY CONCLUSIONS ABOUT THE HISTORICAL ROOTS OF THE LINK BETWEEN RACE AND PARTY IN THE UNITED STATES AND HERE IN LOUISIANA?

A YES. SO THE POLITICAL SCIENCE LITERATURE IS QUITE CLEAR THAT PARTISAN REALIGNMENT -- THEY DISAGREE SOMETIMES ABOUT THE TIMING. BUT PARTISAN REALIGNMENT REALLY HAPPENED BEGINNING AFTER THE NEW DEAL AND ACCELERATING THROUGH WORLD WAR II AS BLACK VOTERS BEGAN TO VOTE FOR DEMOCRATS IN LARGER NUMBERS. AND THAT MADE THE PARTY MORE RESPONSIVE TO THE NEEDS OF AFRICAN AMERICANS.

AND SO YOU CAN THINK ABOUT -- THE DIXIECRAT SUCCESSION IN 1948 WAS WHEN THE DEMOCRATIC PARTY FIRST TRIED TO PUT CIVIL RIGHTS AS A PLANK IN ITS PARTY PLATFORM. AND SOUTHERN DEMOCRATS GOT MAD AND SUCCEEDED FROM PARTY FOR A MOMENT. AND SO THERE IS THIS HISTORY OF THE DEMOCRATIC PARTY MOVING MORE TOWARD BEING THE PARTY OF LIBERALIZATION ON RACIAL ISSUES AND CIVIL RIGHTS. AND SO THEN THAT ALL CULMINATED IN THE ELECTION OF 1964 AND YOU STARTED TO SEE THIS EXODUS OF SOUTHERN WHITE VOTERS FROM THE DEMOCRATIC PARTY -- BEGINNING IN THAT LATE 1950s, EARLY 1960s TIME PERIOD -- AS A REFLECTION OF THOSE RACIAL ATTITUDES. AND STUDIES HAVE SHOWN THAT IT IS

02:53p

THE CIVIL RIGHTS AND RACIAL ATTITUDES THAT MADE PEOPLE CHANGE -- MOVE OUT OF THE PARTY RATHER THAN INCOME OR OTHER POLICY PREFERENCES.

AND SO OTHER STUDIES HAVE SHOWN THAT RACIAL ATTITUDES MORE THAN IDEOLOGICAL SHIFTS OR OTHER POLICY PREFERENCES EXPLAIN AN INCREASINGLY LARGE PART OF CANDIDATE CHOICE AND PARTISANSHIP AMONG WHITE VOTERS BETWEEN 1972 AND 2000. AND THAT PARTISAN SORTING BY RACIAL GROUP HAS ACTUALLY ONLY GOTTEN STRONGER BEGINNING IN 2008 WITH THE ELECTION OF PRESIDENT OBAMA.

Q THANK YOU, DR. BURCH.

AND DOES THIS HISTORY INFORM YOUR PROFESSIONAL OPINIONS AROUND THE EXISTENCE OF RACIALLY POLARIZED VOTING PATTERNS IN THE STATE OF LOUISIANA?

A YES. SO I LOOKED AT SEVERAL STUDIES OF LOUISIANA POLITICS TO TALK ABOUT THE FACT THAT LOUISIANA HAS FOLLOWED THIS SAME PATTERN IN ABOUT THE SAME TIMING AS OTHER -- THE ELECTORATE IN OTHER SOUTHERN STATES. AND SO I CONTINUE -- I TALK ABOUT STUDIES THAT HAVE SHOWN HOW THIS HAPPENED HISTORICALLY THROUGH THE 1996 PRESIDENTIAL ELECTION. AND THEN IN MY REPORT I PICK UP ON THAT, LOOKING AT DATA IN LOUISIANA FROM 2000 TO 2022 PARTY

02:54p

REGISTRATION BY RACE.

Q LET'S ACTUALLY TURN TO THE NEXT SLIDE THEN. THIS REPLICATES FIGURE 1 IN YOUR SUPPLEMENTAL REPORT. CAN YOU SPEAK TO WHAT THIS CHART TELLS US.

A YES. SO THIS IS, LIKE I SAID, DATA FROM THE LOUISIANA SECRETARY OF STATE. AND IT SHOWS THE PERCENTAGE OF LOUISIANA VOTERS REGISTERED AS DEMOCRATS BY RACE. AND THE PURPLE IS BLACK VOTERS AND THE YELLOW IS WHITE VOTERS. AND YOU CAN SEE THAT BLACK VOTERS HOVER AROUND 80 PERCENT, BUT THEY WERE REGISTERED AS DEMOCRATIC. AND IT KIND OF STAYS THAT WAY OVER TIME OVER THE PAST 22 YEARS.

BUT WHITE VOTERS CONSISTENTLY, ESPECIALLY BEGINNING BETWEEN THE 2004 AND 2008 PERIOD, YOU SEE THAT DEMOCRATIC REGISTRATION DECLINE. AND SO LIKE I SAID, WHITE VOTERS ARE MOVING OUT OF THE DEMOCRATIC PARTY TO THE POINT WHERE AT -- BY 2022 IT ONLY LOOKS LIKE 22, 21 PERCENT OF WHITE VOTERS ARE STILL REGISTERED AS DEMOCRATS. SO YOU SEE THIS POLARIZATION PLAY OUT OVER TIME EXACTLY AS THE LITERATURE SUGGESTS IT WILL.

Q WHAT DOES THE LITERATURE YOU REVIEWED INDICATE, IF ANYTHING, REGARDING PERCEPTIONS OF RACE AND PARTY ALIGNMENT IN THE UNITED STATES?

A SO IT TELLS -- THE LITERATURE TELLS US THAT

02:56p

PARTISANSHIP AND PARTY ALIGNMENT AND PARTY CHOICE IS ITSELF SHAPED BY RACE AND RACIAL ATTITUDES. SO, FOR INSTANCE, FOR BLACK PEOPLE, THE HIGH RATE OF DEMOCRATIC SUPPORT IS PRIMARILY BASED ON THE IDEA OF RACIAL LINKED FATE, AND IT -- AND THE SUPPORT OF RACIAL EGALITARIAN -- RACIALLY EGALITARIAN OR CIVIL RIGHTS PLANKS AND THE LIKE IS ABOUT THE DEGREE TO WHICH A BLACK PERSON BELIEVES THAT THEIR FATE IS TIED TO THE FATE OF THE RACE. AND IT'S ALSO SOMEWHAT ABOUT SOCIAL PRESSURE TO CONFORM TO GROUP IDEAS OF BLACK UPLIFT.

SO THERE IS THESE RACIAL CONSIDERATIONS OF PARTISANSHIP THAT AFFECT HOW BLACK VOTERS CHOOSE TO IDENTIFY WITH PARTIES. SO AGAIN, IT'S HARD TO SAY THAT THIS IS -- SO TO SAY THAT THESE PATTERNS ARE ABOUT PARTISANSHIP RATHER THAN RACE IGNORES THE ISSUE THAT PEOPLE ARE CHOOSING PARTIES BASED ON HOW THE PARTIES ALIGN ON RACIAL ISSUES.

THAT'S ALSO TRUE FOR WHITE REPUBLICANS. IN THE MINDS OF MOST AMERICANS -- THERE IS THIS REALLY INTERESTING STUDY IN WHICH THEY ASKED AMERICANS TO ENVISION THE TYPICAL PERSON IN A POLITICAL PARTY. AND 97.2 PERCENT OF AMERICANS THINK THAT THE TYPICAL REPUBLICAN IS WHITE. AND THEN ALSO WHITE RESPONDENTS WHO PERCEIVE THE DEMOCRATIC PARTY AS AFRICAN AMERICAN

02:57p

OR PRIMARILY AFRICAN AMERICAN ARE ACTUALLY LESS FAVORABLE TOWARD DEMOCRATS. THEY'RE MORE FAVORABLE TOWARD REPUBLICANS AND THEY TAKE MORE CONSERVATIVE ISSUES ON THESE -- ON POLITICAL -- STANCES ON POLITICAL ISSUES.

AND SO THERE IS THIS -- AND THERE IS ALSO DATA THAT SHOW THAT RACIAL ATTITUDES ARE -- MUCH MORE STRONGLY PREDICT PARTISANSHIP AND PARTY CHOICE TODAY THAN THEY HAVE PREVIOUSLY. SO THAT RELATIONSHIP IS JUST GETTING MUCH MORE TIGHT AS TIME GOES ON.

Q THANK YOU, DR. BURCH.

TURNING TO THE NEXT SLIDE, HOW DO METRICS REGARDING SUPPORT FOR INTERRACIAL MARRIAGE DISCUSSED ON PAGE 4 OF YOUR SUPPLEMENTAL REPORT PULLED INTO YOUR ASSESSMENT?

A SO I DISCUSSED INTERRACIAL MARRIAGE BECAUSE DR. ALFORD DOES. I THINK THAT IT -- HE CITES A STATISTIC ABOUT INTERRACIAL MARRIAGE. BUT I THINK IT'S INTERESTING BECAUSE THE WAY THAT MOST OF THE LITERATURE MEASURES INTERRACIAL -- SUPPORT FOR INTERRACIAL MARRIAGE ISN'T JUST A GENERALIZED QUESTION LIKE HE USES. IT'S ACTUALLY AN EXAMPLE OF THINKING. TO GET AT THE -- QUOTE, UNQUOTE -- REAL ATTITUDE IS ASKING PEOPLE WHAT THEY THINK ABOUT A CLOSE RELATIVE MARRYING SOMEONE OF A DIFFERENT RACE.

02:58p

AND THEN YOU START TO SEE THAT A MINORITY OF WHITE RESPONDENTS SAY THAT THEY FAVORED OR SOMEWHAT FAVORED A CLOSE RELATIVE MARRYING SOMEONE OF A DIFFERENT GROUP. AND THAT'S COMPARED TO LIKE 53.7 PERCENT OF BLACK RESPONDENTS. SO IT'S STILL CLEAR THAT THERE IS SOME RESISTANCE TO INTERRACIAL MARRIAGE IN THESE GROUPS, ESPECIALLY WHEN YOU ASK ABOUT A CLOSE RELATIVE RATHER THAN A GENERAL BLANKET POLICY STATEMENT.

IT'S ALSO INTERESTING THAT PARTISANSHIP AND IDEOLOGY ARE STATISTICALLY SIGNIFICANT PREDICTORS OF SUPPORT FOR INTERMARRIAGE, SO -- INTERRACIAL MARRIAGE. AND SO EVEN THAT IS TIED UP IN RACIAL POLITICS. AND SO REPUBLICANS AND IDEOLOGICAL CONSERVATIVES ARE ACTUALLY LESS SUPPORTIVE OF INTERMARRIAGE WITH BLACK PEOPLE.

Q THANK YOU, DR. BURCH.

OVERALL WHAT DID YOU CONCLUDE REGARDING THE CONTEMPORARY RELATIONSHIP BETWEEN RACIAL ATTITUDES AND VOTE CHOICE?

A SO I FOUND THAT THE LITERATURE IN POLITICAL SCIENCE VERY CLEARLY SUPPORTS THE POINT THAT PARTY AND CANDIDATE CHOICE IS SHAPED BY RACIAL IDENTITY AND RACIAL ATTITUDES IN THE ELECTORATE. AND THAT RELATIONSHIP HAS BEEN GETTING STRONGER IN RECENT

02:59p

YEARS. AND SO TO SAY THAT PARTY COHESION RATHER THAN RACIAL CONSIDERATIONS EXPLAINS VOTING PATTERNS ALONG RACIAL DIMENSIONS IN LOUISIANA, IT JUST CONFUSES THE CAUSALITY. THERE IS REALLY STRONG EVIDENCE IN THE LITERATURE THAT RACE AND RACIAL ATTITUDES ARE WHAT ARE DRIVING PARTY COHESION AND VOTE CHOICE.

Q THANK YOU, DR. BURCH.

MS. WENGER: YOUR HONOR, IF I CAN HAVE A MOMENT TO CONFER WITH MY CO-COUNSEL?

THE COURT: TAKE A MINUTE.

MS. WENGER: YOUR HONOR, IF I CAN JUST MAKE SURE WE HAVE A CLEAN RECORD ON THIS. I WANT TO MAKE SURE WE HAVE THE NUMBERS.

PLAINTIFFS MOVE TO ADMIT PLAINTIFFS' EXHIBIT 126, 127 AND 128 WITHOUT OBJECTION.

THE COURT: I THINK THEY WERE ALREADY ADMITTED. BUT IF THOSE AREN'T THE RIGHT NUMBERS, THEY ARE NOW THE RIGHT NUMBERS. 126, 127 AND 128 ARE ADMITTED.

MS. WENGER: THANK YOU, YOUR HONOR.

THANK YOU, DR. BURCH.

I'LL PASS THE WITNESS.

THE COURT: LET'S TAKE A 15-MINUTE RECESS BEFORE YOUR CROSS.

THE LAW CLERK: ALL RISE. COURT IS IN

03:00p

RECESS.

(WHEREUPON, A RECESS WAS TAKEN.)

THE COURT: BE SEATED.

CROSS.

CROSS-EXAMINATION

BY MR. LEWIS:

Q GOOD AFTERNOON, DR. BURCH. I'M PATRICK LEWIS FOR THE LEGISLATIVE DEFENDANTS.

A GOOD AFTERNOON.

Q ALL RIGHT. JUST TO BEGIN, I DON'T RECALL YOU TESTIFYING ON DIRECT EXAMINATION ABOUT THE TURNOUT GAP BETWEEN -- THE ACTUAL VALUE OF THE TURNOUT GAP BETWEEN WHITE AND BLACK RESIDENTS IN LOUISIANA. SO I'D LIKE TO START THERE.

A OKAY.

Q IF WE COULD TURN TO PAGE 6 OF YOUR REPORT, PL 126, WHICH I BELIEVE IS PAGE 8 OF THE EXHIBIT.

A I HAVE IT.

Q OKAY. WE'RE WAITING FOR THE SCREEN TO GET UP. THERE WE GO.

A OKAY. OH. WELL, THAT'S -- YES.

Q OKAY. ALL RIGHT. SO IF I'M READING FROM THE THIRD PARAGRAPH CORRECTLY, YOU REPORT THAT IT WAS 64 PERCENT WHITE TURNOUT IN 2020 COMPARED TO 58 PERCENT FOR BLACK LOUISIANANS?

03:21p

A YES.
Q FAIR TO SAY THAT THAT LEVEL OF BLACK TURNOUT IS HIGHER THAN IT WAS IN, FOR EXAMPLE, 1982?
A I DON'T HAVE THOSE DATA IN FRONT OF ME, SO I DON'T KNOW.
Q YOU DON'T KNOW. OKAY.
HIGHER THAN BLACK TURNOUT WOULD HAVE BEEN IN 1965?
A I WOULD -- DON'T KNOW, ACTUALLY.
Q YOU DON'T KNOW.
A I'D HAVE TO LOOK AT THAT.
Q OKAY. SO YOU INCLUDE IN YOUR REPORT AS WELL AND YOU DISCUSSED IN YOUR DIRECT EXAMINATION TABLE 1 ON PAGE 7.
MR. LEWIS: SO IF WE COULD TURN TO THE NEXT PAGE, MR. WILLIAMSON.
BY MR. LEWIS:
Q IT'S UP ON THE SCREEN. DO YOU RECOGNIZE THIS TABLE FROM YOUR REPORT?
A I DO.
Q OKAY, GREAT. SO THIS ANALYSIS SHOWS THAT AMONG THE LEAST EDUCATED LOUISIANANS, BLACK TURNOUT ACTUALLY EXCEEDS WHITE TURNOUT. IS THAT RIGHT?
A WELL, IT DEPENDS ON WHAT YOU MEAN BY "LEAST." SO FOR PEOPLE WITH A HIGH SCHOOL DIPLOMA,

03:22p

WHITE TURNOUT EXCEEDS BLACK TURNOUT. FOR PEOPLE WITH NO HIGH SCHOOL DIPLOMA, BLACK TURNOUT EXCEEDS WHITE TURNOUT. SO AT THE LOWER END OF THE SCALE IT KIND OF REVERSES.

Q OKAY. AND AMONG THOSE WITH A BACHELOR'S DEGREE, BLACK TURNOUT ALSO EXCEEDS WHITE TURNOUT. IS THAT CORRECT?

A YES. BUT I'M NOT A HUNDRED PERCENT SURE THOSE ARE STATISTICALLY SIGNIFICANT, SO THEY MAY BE -- THAT MAY BE LIKE PARITY. PARITY, YES.

Q I SEE. OKAY. AND THEN AMONG THOSE WITH THE HIGHEST LEVEL OF EDUCA- -- I BELIEVE GRADUATE SCHOOL, YOU HAVE WHITE TURNOUT EXCEEDING BLACK TURNOUT. IS THAT RIGHT?

A YES.

Q SO THE DIFFERENCE BETWEEN WHITE TURNOUT AND BLACK TURNOUT AS EDUCATION LEVEL INCREASES IS NOT COMPLETELY LINEAR, IS IT?

A NO. SO THOSE -- SO I GUESS WHAT YOU -- ACTUALLY, I DON'T WANT TO GUESS WHAT YOU MEAN BY THAT. WHAT DO YOU MEAN BY THAT?

Q SURE. SO THE IDEA IS THAT AS THAT WHITE TURNOUT -- AS EDUCATION LEVEL INCREASES, WHITE TURNOUT DOESN'T ALWAYS EXCEED BLACK TURNOUT. RIGHT?

A THAT'S TRUE.

03:23p

Q OKAY. AND --

A TO THE EXTENT THAT -- TO THE EXTENT THAT FOR EACH EDUCATIONAL LEVEL. SOMETIMES BLACK PEOPLE AT THAT EDUCATIONAL LEVEL VOTE MORE, SOMETIMES WHITE PEOPLE AT THAT EDUCATIONAL LEVEL VOTE MORE, SOMETIMES IT'S PARITY. LIKE I SAID, IT CAN BE THE SAME.

Q SURE. SURE. NO, I UNDERSTAND.

AND, IN FACT, THE EDUCATIONAL LEVEL WHERE WHITE TURNOUT EXCEEDS BLACK TURNOUT THE MOST ON THIS TABLE IS AMONG THOSE WITH THE ABSOLUTE HIGHEST LEVEL OF EDUCATION AT GRADUATE SCHOOL. IS THAT RIGHT?

A YES.

Q SO WE CAN -- ACTUALLY, I'D LIKE NOW TO MOVE TO FIGURE 2 ON PAGE 8 OF YOUR REPORT, SO WE'LL GO TO THE NEXT PAGE.

I BELIEVE YOU TESTIFIED ABOUT THIS ON DIRECT. NOW, THIS -- TO MAKE SURE I UNDERSTAND THIS CORRECTLY, THIS FIGURE IS SHOWING THE RACIAL PERCENTAGE SHIFT ENROLLMENT IN EAST BATON ROUGE SCHOOLS FROM 1970 TO 2019. IS THAT RIGHT?

A YES.

Q AND SO DO YOU BELIEVE THAT THIS FIGURE IS SHOWING US THAT AS -- THERE IS AN INCREASE IN BLACK STUDENT POPULATION RELATIVE TO WHITE POPULATION IN THE SCHOOL SYSTEM. ARE YOU SAYING THAT THAT'S A

03:25p

POSITIVE OR A NEGATIVE THING AS FAR AS EQUAL OPPORTUNITY FOR BLACK VOTERS IN LOUISIANA TO VOTE?

A SO WHAT I'M SAYING IS RELATIVE TO THE POPULATION IN THE DISTRICT, SCHOOL SEGREGATION IN EAST BATON ROUGE PARISH IS INCREASING. AND THAT IN AND OF ITSELF, AS I SAID BEFORE, AFFECTS OUTCOMES.

SO RIGHT HERE I TALK ABOUT THE EFFECTS OF SCHOOL SEGREGATION IN MY REPORT ON PAGE 7. SO SCHOOL SEGREGATION HAS BEEN SHOWN TO DETRIMENTALLY AFFECT THE ACADEMIC PERFORMANCE OF MINORITY STUDENTS. BLACK AND LATINO STUDENTS WHO GREW UP UNDER CONDITIONS OF SEGREGATION WERE LESS ACADEMICALLY PREPARED FOR COLLEGE AND HAD BEEN EXPOSED TO MORE VIOLENCE AND SOCIAL DISORDER THAN THOSE COMING FROM MAJORITY DOMINANT SETTINGS.

SO IF WE TAKE THAT A STEP FURTHER AND THINK BACK TO THE CHARTS WE JUST REVIEWED, THEN, AGAIN, BLACK AND LATINO STUDENTS UNDER SEGREGATION BEING LESS PREPARED FOR COLLEGE, THAT SHAPES WHERE ON THAT DISTRIBUTION THEY END UP IN TERMS OF THEIR EDUCATIONAL LEVEL AND THUS THEIR VOTER TURNOUT.

Q OKAY. SO THEN IF I UNDERSTAND CORRECTLY THEN, IF YOU'RE -- ARE YOU THEN SUGGESTING THAT AS THERE IS AN INCREASE IN THE SHARE OF THE STUDENT POPULATION IN THE EAST BATON ROUGE SCHOOLS THAT'S

03:26p

BLACK, THAT THAT'S THEN INDICATIVE OF AN EDUCATION SYSTEM IN EAST BATON ROUGE THAT WOULD BE HARMFUL TO BLACK VOTING OPPORTUNITY?

A YES. THE RESEARCH SAYS THAT IT IS; THAT SEGREGATION IS HARMFUL, YES.

Q OKAY. BUT AGAIN, IN YOUR REPORT YOU DON'T SHOW, FOR EXAMPLE, BLACK TURNOUT RATES IN EAST BATON ROUGE PARISH FROM 1970 TO 2019, DO YOU?

A NO. JUST STATEWIDE BY EDUCATION.

Q OKAY. AND SO YOUR REPORT ALSO INCLUDES -- AND WE DON'T NECESSARILY HAVE TO GO THROUGH ALL OF THESE, ALTHOUGH WE CAN -- A DISCUSSION OF, YOU KNOW, VARIOUS SOCIOECONOMIC FACTORS. YOU INCLUDED INCOME, HOUSEHOLD INCOME AND SO FORTH.

ALL OF THAT DATA ARE REPORTED ONLY AT THE STATEWIDE LEVEL. IS THAT CORRECT?

A YES.

Q OKAY. SORRY.

A YOU'RE -- SORRY. AND YOU'RE JUST TALKING ABOUT THE SECTION WITH SOCIOECONOMIC DATA?

Q SURE. SO JUST TO BE VERY CLEAR, IF WE'RE LOOKING AT FIGURES 5 BEGINNING ON PAGE 10 OF YOUR REPORT AND WE GO THROUGH FIGURE 8 APPEARING ON PAGE 12.

A YES, THOSE ARE ALL STATEWIDE.

03:28p

Q GREAT. OKAY. AND THOSE ARE ALL FROM A SNAPSHOT FROM 2019. IS THAT CORRECT?

A YES.

Q OKAY. SO -- AND THEN IF WE GO ON TO THE HEALTH ANALYSIS THAT YOU -- IF YOU LOOK AT HEALTH OUTCOMES BEGINNING BETWEEN PAGES 16 AND 19 OF YOUR REPORT -- SORRY, AS I'M FUMBLING THROUGH HERE -- FIGURES 11 AND 12 AND 13 ON PAGE 18 OF YOUR REPORT, ALL OF THOSE ARE EFFECTIVELY A SNAPSHOT IN TIME, TOO. ISN'T THAT RIGHT?

A THOSE FIGURES, YES, ARE FROM 2019.

Q OKAY. AND THOSE, AGAIN, ARE REPORTED SOLELY AT THE STATEWIDE LEVEL. IS THAT RIGHT?

A FOR THOSE FIGURES, YES.

Q SO IN YOUR REPORT YOU DON'T STUDY HOW THOSE EMPLOYMENT -- ECONOMIC INDICATORS AND HEALTH INDICATORS CHANGE OVER TIME, DO YOU?

A WELL, I DO TALK ABOUT SOME ASPECTS -- I MOSTLY TALK ABOUT EDUCATION AS IT CHANGES OVER TIME AND HOUSING AS THEY CHANGE OVER TIME. WITH RESPECT TO HEALTH OUTCOMES, I DO NOT TALK ABOUT OVER-TIME DATA, WITH THE EXCEPTION OF SOME DISCUSSIONS OF THINGS LIKE KATRINA, FOR INSTANCE. AND I ALSO TALK ABOUT SEGREGATION OVER TIME AND I DO -- YEAH.

SO MOSTLY MY DATA FOR EDUCATION ARE OVER

03:29p

TIME, AND HOUSING AND THE LIKE ARE BOTH CONTEMPORARY AND OVER TIME. AND THEN DATA ABOUT INCOME AND SOCIOECONOMIC STATUS ARE CONTEMPORARY. THAT'S RIGHT.

Q AND AGAIN, FOR ALL OF THOSE WITH THE EXCEPTION OF THIS -- WHICH I GUESS IS STILL ON THE SCREEN HERE -- FIGURE 2 WITH THE EAST BATON ROUGE SCHOOLS, ALL THAT DATA REPORTED AT THE STATEWIDE LEVEL, NOT AT THE LOCAL LEVEL. IS THAT RIGHT?

A GIVE ME A SECOND.

Q SURE.

A SO EVEN IN THE EDUCATION SECTION I DO -- IT DEPENDS ON WHAT YOU MEAN BY "STATEWIDE." SO, FOR INSTANCE, I DO TALK ON PAGE 5, FOR INSTANCE, ABOUT HISTORICAL SEGREGATION, TALKING ABOUT 11 OF 64 -- THEY CALL THEM COUNTIES, BUT WE KNOW THEY'RE PARISHES -- THAT ARE SEGREGATED AND SPECIFIC DATA ABOUT ORLEANS PARISH AND THE FIGHT TO DESEGREGATE ORLEANS PARISH. I TALK ABOUT DATA ON PAGE 7 AT THE BOTTOM.

SO, OF COURSE I HAVE THIS CHART ABOUT EAST BATON ROUGE AS ZOOM IN, BUT I ALSO TALK MORE ABOUT THE FACT THAT HALF OF TRADITIONAL SCHOOL DISTRICTS FOR WHICH DATA WERE AVAILABLE IN THE STATE DEMONSTRATE HIGH LEVELS OF RACIAL SEGREGATION WITHIN THE DISTRICT, AND NINE OF 68 WERE MORE THAN 87

03:31p

PERCENT NON-WHITE. SO THAT I THINK IS DATA THAT IS NOT JUST IN THE STATE AS A WHOLE BUT ALSO TALKS ABOUT SPECIFIC -- THAT THESE -- PATTERNS IN DIFFERENT PARISHES.

Q I SEE. OKAY. BUT IN YOUR REPORT, THE ONLY -- IN TERMS OF -- I KNOW YOU SET ASIDE THE HISTORICAL EVIDENCE THAT YOU CITED FROM GOING BACK INTO THE '50s. BUT, FOR EXAMPLE, IN THAT PROPUBLICA STUDY, THE ONLY SCHOOL DISTRICT THAT YOU ACTUALLY IDENTIFIED BY NAME AND TALK ABOUT BY NAME IN THAT PART OF YOUR REPORT IS EAST BATON ROUGE. IS THAT RIGHT?

A THAT'S NOT FROM THAT REPORT. BUT YES, THE ONLY ONE THAT I TALK ABOUT BY NAME IS THERE. BUT AGAIN, I LIST -- I DO DISCUSS SEVERAL OTHERS WITH RESPECT TO HOW THEY BREAK DOWN IN THE -- SO NOT JUST STATEWIDE SEGREGATION BUT ACROSS -- THE FACT THAT IT EXISTS IN DIFFERENT PLACES AS WELL.

Q AGAIN, YOU'RE GOING BACK TO THAT -- THE DESEGREGATION PORTION OF YOUR REPORT. I UNDERSTAND. OKAY.

A UH-HUH.

Q BUT THERE ARE VARIATIONS, FOR EXAMPLE, IN SOCIOECONOMIC CONDITIONS DEPENDING ON WHERE ONE LIVES WITHIN THE STATE OF LOUISIANA. IS THAT RIGHT?

03:32p

A YES.
Q SO, FOR EXAMPLE, HOUSEHOLD INCOME FOR BLACK LOUISIANANS IN BATON ROUGE PARISH -- EAST BATON ROUGE PARISH MIGHT NOT BE THE SAME AS HOUSEHOLD INCOME FOR BLACK LOUISIANANS IN, FOR EXAMPLE, THE DELTA PARISHES. IS THAT RIGHT?
A THAT COULD BE TRUE.
Q AND, IN FACT, WHITE LOUISIANANS WOULD HAVE A SIMILAR HOUSEHOLD INCOME DISPARITY BETWEEN URBAN AND RURAL AREAS, TOO. RIGHT?
A THAT COULD BE TRUE.
Q COULD BE TRUE, OKAY.
AND YOUR REPORT DOESN'T ANALYZE THAT, DOES IT?
A NO.
Q AND LIKEWISE, YOUR REPORT DOES NOT ANALYZE VOTER TURNOUT BY RACE IN DIFFERENT LOCALITIES IN LOUISIANA, DOES IT?
A NO.
Q I'D LIKE TO TURN BRIEFLY TO THE PORTION OF YOUR REPORT THAT DISCUSSED RACIAL APPEALS, WHICH IS -- SO WE'RE GOING TO GO TO PAGE 23 OF YOUR REPORT.
A OKAY.
Q THERE WE ARE.
NOW, YOU REFERENCED DAVID DUKE, THE FORMER

03:33p

GRAND WIZARD OF THE KKK. WERE YOU -- BUT YOU ONLY REFERENCE HIS CAMPAIGNS I BELIEVE GOING THROUGH 1991. DO I HAVE THAT RIGHT?

A THE ONE THAT IS IN THE QUOTE HERE IS 1990 SENATE RACE, YES, GUBERNATORIAL RUNOFF.

Q WERE YOU AWARE DAVID DUKE ALSO RAN FOR U.S. SENATE IN 2016?

A I THINK I RECALL THAT.

Q YOU RECALL THAT, OKAY.

WERE YOU AWARE WHAT SHARE OF THE VOTE DUKE RECEIVED THAT YEAR?

A I BELIEVE IT WAS MUCH LOWER THAN IN THE '90S.

Q ABOUT 3 PERCENT? DOES THAT SOUND ABOUT RIGHT?

A I DON'T KNOW EXACTLY.

Q YOU DON'T KNOW, OKAY.

AND YOU DON'T REFERENCE THAT 2016 CAMPAIGN IN YOUR REPORT, DO YOU?

A NO. THIS IS JUST, AGAIN, PROVIDING EXAMPLES OF PROMINENT RACIAL APPEALS IN POLITICS, NOT AN EXHAUSTIVE LIST.

Q I SEE. SO GOING ON TO THOSE EXAMPLES, YOU PROVIDED, I WANT TO SAY, ABOUT FOUR FROM 2019. IS THAT RIGHT?

03:35p

A IF YOU COULD LIST THOSE, WHAT YOU'RE COUNTING, THAT WOULD BE --

Q HAPPY TO DO IT. OKAY. SO WE START WITH -- ON THE THIRD PARAGRAPH ON 23 YOU DISCUSS AN AD FROM EDDIE RISPONE.

A UH-HUH.

Q SO THAT'S THE FIRST AD. RIGHT?

A YES.

Q OKAY. THEN YOU TALK ABOUT AN AD -- IN THE NEXT PARAGRAPH DOWN, AN AD PLACED IN A PROMINENT NEWSPAPER TALKING ABOUT THE CHARGE OF LIBERALISM. DO YOU SEE THAT?

A YES. SO THAT'S TWO.

Q THAT'S TWO. AND THEN IF WE GO TO THE NEXT PAGE, PAGE 24, YOU THEN DISCUSS IN THE THIRD PARAGRAPH SUPPORTERS OF EDWARDS RUNNING ADS TARGETING BLACK VOTERS, ARGUING THAT RISPONE TARGETED DONALD TRUMP AND CALLING TRUMP A RACIST. DO YOU SEE THAT?

A YES.

Q THAT'S -- IS THAT THE THIRD?

A YES, I THINK SO.

Q AND I BELIEVE THE FOURTH IS -- AGAIN, IN THE SAME PARAGRAPH IT SAYS IN -- QUOTE, IN RESPONSE, RISPONE AND THE LOUISIANA GOP SAID THAT EDWARDS, WHO DID NOT RUN THE AD HIMSELF, WAS A RACIST TAKING PART

03:36p

IN THE FAMILY TRADITION OF TAKING ADVANTAGE OF BLACK PEOPLE. DO YOU SEE THAT?

A YES. THAT'S FOUR.

Q THAT'S THE FOURTH?

A SO THE FIFTH ONE --

Q THERE IS A FIFTH, ALL RIGHT.

A YES. SO THE ONE ON THE NEXT PAGE IS I THINK ALSO FROM 2019.

Q I SEE. OKAY. AND THAT WAS FROM A STATE SENATE CANDIDATE. RIGHT?

A YES.

Q OKAY. SO I'D JUST LIKE TO START WITH THE FIRST EXAMPLE. AND TO QUOTE YOUR WORDS FROM THAT -- EXCUSE ME. I ACTUALLY WANT TO LOOK AT -- WELL, LET ME JUST ASK THIS QUESTION.

JOHN BEL EDWARDS WON THAT RACE, DIDN'T HE?

A HE DID.

Q SO ANY ADVERSE RACIAL APPEALS THAT YOU ARGUE EXIST IN THESE ADS DID NOT PRECLUDE THE ELECTION OF GOVERNOR EDWARDS?

A SO I WANT TO BE CAREFUL HERE, BECAUSE I DON'T WANT TO SUGGEST THAT BECAUSE HE GOT ELECTED, THE ADS DIDN'T AFFECT THE ELECTION. SO, FOR INSTANCE, THE -- THE ADS COULD HAVE AFFECTED EITHER HIS ELECTION OR COULD HAVE -- IN TERMS OF MAKING THE

03:37p

MARGIN DIFFERENT, OR IT COULD ALSO HAVE AFFECTED DOWN-BALLOT RACES OR SOMETHING LIKE THAT --

THE REPORTER: I'M SORRY.

THE WITNESS: SORRY.

BY THE WITNESS:

A IT COULD HAVE AFFECTED DOWN-BALLOT RACES, FOR INSTANCE, OR HIS ELECTION IN TERMS OF THE MARGIN. SO EVEN IF HE GOT ELECTED, I DON'T WANT TO IMPLY HERE THAT THE ELECTION WASN'T AFFECTED BY THESE ADS.

Q BUT MY QUESTION, DR. BURCH, IS WHETHER THOSE ALLEGED RACIAL APPEALS PRECLUDED HIS ELECTION, PREVENTED HIM FROM BEING ELECTED.

A NO.

Q SO I'D LIKE TO TURN TO THE FIRST OF THE NEXT EXAMPLE ON PAGE 24. AND THIS IS -- YOU DESCRIBE AGAIN ON THAT THIRD PARAGRAPH ON PAGE 24 THE, QUOTE, SUPPORTERS OF EDWARDS RAN ADS TARGETING BLACK VOTERS, ARGUING THAT RISPONE SUPPORTED DONALD TRUMP AND CALLING TRUMP A RACIST. THE NEXT SENTENCE READS: "STUDIES HAVE SHOWN THAT THIS TYPE OF EXPLICIT RACIAL APPEAL CAN SERVE AS A COUNTERSTRATEGY TO NEUTRALIZE APPEALS IN WAYS THAT GALVANIZE WHITE LIBERALS AND BLACK VOTERS." DO YOU SEE THAT?

A I DO.

Q OKAY. SO WOULD GALVANIZING WHITE LIBERALS

03:39p

AND BLACK VOTERS BE A WAY TO INCREASE BLACK VOTERS' ABILITY TO ELECT CANDIDATES OF CHOICE?

A NOT -- IT DEPENDS ON WHERE THE ADS ARE TARGETED, SO IT MAY OR MAY NOT BE. IT JUST DEPENDS.

Q IT DEPENDS, OKAY.

AND IS IT FAIR TO SAY THAT IT WOULD BE -- BASED ON THE ANALYSIS THAT YOU'RE PROVIDING HERE, THAT IT COULD BE IN DEMOCRATIC CANDIDATES' INTERESTS TO CALL OUT ALLEGED RACIAL APPEALS BY REPUBLICAN CANDIDATES AS RACIST?

A IT SAYS THAT IT CAN SERVE AS THE COUNTERSTRATEGY THAT CAN DO THAT. BUT SOMETIMES IT --

THE REPORTER: I'M SORRY. "SOMETIMES" --

THE WITNESS: SOMETIMES IT MAY NOT WORK.

BY MR. LEWIS:

Q BUT SOMETIMES IT MAY WORK?

A YES.

Q OKAY. NOW, MOVING ON TO THE SECOND EXAMPLE IN THAT SAME PARAGRAPH, YOU SAY ALSO IN THE THIRD PARAGRAPH OF YOUR REPORT THAT, QUOTE, RISPONE AND THE LOUISIANA GOP SAID THAT EDWARDS, WHO DID NOT RUN THE AD HIMSELF, WAS A RACIST TAKING PART IN THE FAMILY TRADITION OF TAKING ADVANTAGE OF BLACK PEOPLE. YOU GO ON TO THEN QUOTE THE AD.

03:40p

AND DO YOU SEE WHERE YOU SAY THAT THAT'S AN EXAMPLE OF A STRATEGY TO, QUOTE -- FOR REPUBLICAN CANDIDATES TO, QUOTE, DEMOBILIZE BLACK VOTERS BY, QUOTE, PORTRAYING THEIR CHOSEN CANDIDATE OR PARTY AS INSENSITIVE TO THE GROUP'S NEEDS? DO YOU SEE THAT?

A SO IN THE PRECEDING PARAGRAPH, YES. OR IS IT SOMEWHERE ELSE THAT YOU WANT ME TO LOOK?

Q NO, THAT'S WHERE -- YEAH, FROM THE PRECEDING PARAGRAPH. IS THAT RIGHT?

A YES.

Q SO THEN AM I UNDERSTANDING THIS CORRECTLY THEN THAT THE WORD "RACIST" CAN ONLY BE USED IN A CAMPAIGN AD WHEN IT SUPPORTS DEMOCRATIC CANDIDATES?

A I DON'T SEE WHERE I WRITE THAT.

Q BUT I MEAN, IS THAT THE -- IF YOU'RE SAYING THAT IT'S AN IMPROPER RACIAL APPEAL IF REPUBLICANS MAKE A CHARGE OF RACISM AND IT'S A COUNTERSTRATEGY IF DEMOCRATIC CANDIDATES MAKE A CHARGE OF RACISM, THEN ISN'T THAT -- DOESN'T THAT FOLLOW THAT IT'S APPROPRIATE WHEN IT'S USED BY DEMOCRATS AND NOT WHEN IT'S USED BY REPUBLICANS?

A CAN YOU --

MS. WENGER: OBJECTION. I THINK THIS BOTH MISCHARACTERIZES THE WITNESS'S TESTIMONY AND ALSO IS VEERING ON ASKED AND ANSWERED.

03:41p

MR. LEWIS: SHE HASN'T ANSWERED THE QUESTION.

THE COURT: OVERRULED.

MR. LEWIS: THANK YOU.

BY THE WITNESS:

A CAN YOU SHOW ME WHERE I USE -- DESCRIBE THIS AS IMPROPER?

Q WELL, IF YOU -- I DON'T KNOW THAT YOU SAY -- I DON'T KNOW THAT YOU USED THE WORD "IMPROPER," SO IF THAT'S FINE, THEN WE CANNOT USE THE WORD "IMPROPER."

BUT IF -- BUT IS IT YOUR POSITION, THEN, THAT IT IS -- THAT IT -- SO WHAT DOES IT MEAN TO DEMOBILIZE BLACK VOTERS? LET'S START THERE.

A SO I SAID TWO THINGS. I SAID THAT RACIAL APPEALS OPERATE DIFFERENTLY, SO THAT MEANS THAT THEY HAVE DIFFERENT EFFECTS. BUT I DON'T BELIEVE I CHARACTERIZE THOSE EFFECTS IN ANY OTHER WAY OTHER THAN TO DESCRIBE WHAT THEY ARE, WHICH IS TO DECREASE BLACK VOTERS. AND THAT'S IN -- ACCORDING TO THE LITERATURE THERE.

Q OKAY. SO THEN IF REPUBLICAN CANDIDATES MAKE CHARGES OF RACISM AGAINST BLACK-PREFERRED CANDIDATES AND IF I'M READING PAGE 24 CORRECTLY, YOU'RE SAYING THAT CAN LEAD TO DEMOBILIZATION OF BLACK VOTERS. IS THAT RIGHT?

03:42p

A YES. THAT'S WHAT THE LITERATURE SHOWS.

Q I SEE. AND IF -- AND I THINK WE'VE ALREADY DISCUSSED. IF DEMOCRATIC CANDIDATES CALL OUT OR MAKE CHARGES OF RACISM AGAINST REPUBLICANS, THAT IT CAN LEAD TO GALVANIZING OF WHITE LIBERALS AND BLACK VOTERS. IS THAT RIGHT?

A SO -- HANG ON A SECOND. SO WHAT I SAY HERE IS NOT NECESSARILY ABOUT PARTY. SO WHAT I SAY IN THE FIRST PARAGRAPH IS THAT "SPECIFICALLY MESSAGES DESIGNED TO PORTRAY THE CHOSEN CANDIDATE OR PARTY OF BLACK VOTERS AS RACIST." SO I DON'T SAY "PARTY" THERE. AND THEN AFTER I SAY "THIS TYPE OF EXPLICIT RACIAL APPEAL CAN SERVE AS A COUNTERSTRATEGY TO NEUTRALIZE RACIAL APPEALS IN WAYS THAT GALVANIZE LIBERALS AND BLACK VOTERS."

AND SO IT'S, AGAIN, TALKING ABOUT RACIAL APPEALS THAT CALL OUT RACISM, BUT IT'S NOT NECESSARILY BY PARTY THAT I'M LISTING THERE IN TERMS OF THE DEFINITION OF THE EFFECTS.

Q I'D LIKE TO MOVE ON TO YOUR ANALYSIS OF SENATE FACTOR 7 VERY QUICKLY. AND I THINK -- IS IT YOUR -- I BELIEVE YOU TESTIFIED ON DIRECT EXAMINATION THAT BLACK -- THAT 25 PERCENT OF THE LOUISIANA LEGISLATURE IS MADE UP OF BLACK MEMBERS. IS THAT CORRECT?

03:44p

A I THINK THAT WAS TRUE AS OF WHEN I WROTE THE PRELIMINARY REPORT. SO THAT MIGHT HAVE BEEN -- WHICH I THINK I DID IN 2022. NOT ANALYZING THE ELECTION THAT CAME AFTER.

Q I SEE. OKAY.

AND SO YOU -- SO WHAT PERCENTAGE OF BLACK ELECTED OFFICIALS IN THE LEGISLATURE DO YOU BELIEVE IS REQUIRED BY SENATE FACTOR 7?

A I DIDN'T ANALYZE THAT.

Q YOU DIDN'T ANALYZE THAT. OKAY.

BUT YOU WOULD AGREE THAT 25 PERCENT OF THE LEGISLATIVE SEATS ARE DEFINITELY MORE THAN SAYING THAT THERE WERE NO MINORITY-ELECTED OFFICIALS IN THE LEGISLATURE. CORRECT?

A YES. 36 IS MORE THAN ZERO.

Q OKAY. AND THAT 36 IS NOT VERY FEW MINORITY-ELECTED OFFICIALS, IS IT?

A THAT'S A QUALITATIVE JUDGMENT. I DON'T --

Q OKAY. AND SO WHAT PERCENTAGE OF THE LOUISIANA LEGISLATURE -- I MEAN, ARE YOU ADVOCATING IN THIS CASE THAT THIRTY -- THAT THE PERCENTAGE OF THE LEGISLATURE THAT IS BLACK HAS TO EQUAL THE POPULATION OF THE STATE THAT IS BLACK?

A I DON'T BELIEVE I MADE THAT STATEMENT. I'M JUST SAYING THAT BLACK LOUISIANIANS ARE

03:46p

UNDERREPRESENTED RELATIVE TO THEIR SHARE OF THE POPULATION.

Q OKAY. SO YOU BELIEVE THEN THAT THE -- WELL, IF IT'S UNDERREPRESENTED, THEN WHAT WOULD BE ADEQUATE REPRESENTATION IN YOUR MIND?

A SO MY DEFINITION OF UNDERREPRESENTED IS STATISTICAL PARITY. SO I'M JUST MAKING A FACTUAL CLAIM THAT STATISTICALLY THE PROPORTION IN THE STATE IS GREATER THAN THE PROPORTION IN THE LEGISLATURE.

Q OKAY. NOW, YOU ALSO MENTIONED IN DIRECT EXAMINATION YOU LOOKED AT THE PERCENTAGE OF MAYORS IN LOUISIANA THAT WERE BLACK. IS THAT RIGHT?

A YES.

Q OKAY. BUT NOT ALL LOUISIANA CITIES ARE THE SAME SIZE, ARE THEY?

A NO.

Q OKAY. SO, FOR EXAMPLE, BEING THE MAYOR OF NEW ORLEANS IS A CONSIDERABLY MORE INFLUENTIAL ROLE THAN BEING THE MAYOR OF A SMALL TOWN. WOULD YOU AGREE?

A ACTUALLY, I DON'T KNOW THE ANSWER TO THAT. SO IT -- BECAUSE IT KIND OF DEPENDS ON THINGS LIKE WHAT THE -- HOW THE COUNTY GOVERNMENT IS SET UP. SO IF, YOU KNOW, YOU HAVE A STRONG MAYOR MODEL, THEN PERHAPS. BUT IF YOU HAVE LIKE A MORE STRONG CITY

03:47p

COUNCIL MODEL, THEN THE MAYOR CAN JUST BE A FIGUREHEAD. SO IT KIND OF VARIES BY JURISDICTION AMONG MORE THINGS THAN JUST POPULATION SIZE.

Q OKAY. BUT IF WE LOOK AT THE TWO LARGEST CITIES IN LOUISIANA, DO YOU KNOW THE MAYOR PRESIDENT OF THE CITY OF BATON ROUGE AND EAST BATON ROUGE PARISHES?

A NO, I DON'T KNOW THEM.

Q DO YOU KNOW THAT PERSON'S RACIAL IDENTIFICATION?

A IF I REMEMBER CORRECTLY -- I'M ACTUALLY NOT SURE IF THIS HAS CHANGED SINCE THE TIME OF MY REPORT, SO I DON'T WANT TO GUESS.

Q YOU DON'T REMEMBER?

A NO. I'M GOING TO SAY NO.

Q OKAY. WOULD IT SURPRISE YOU TO LEARN THAT THE MAYOR-PRESIDENT OF BATON ROUGE IS SHARON WESTON BROOME, A BLACK WOMAN?

A NO.

Q DO YOU KNOW WHO THE MAYOR OF THE CITY OF NEW ORLEANS IS?

A YES. AGAIN, I'M NOT SURE IF THERE HAS BEEN AN ELECTION SINCE THE LAST TIME I CHECKED. BUT IF I REMEMBER CORRECTLY, THAT IS A BLACK WOMAN AS WELL.

Q MAYOR CANTRELL?

03:48p

A YES.
Q DOES THAT SOUND RIGHT? OKAY.
ALL RIGHT. TURNING TO FACTOR 8, RESPONSIVENESS, I JUST HAVE A FEW VERY QUICK QUESTIONS. FIRST, I BELIEVE YOU INDICATED IN YOUR REPORT AND ON YOUR DEMONSTRATIVE THAT -- AND WE CAN -- LET'S PUT IT UP. IT'S PAGE 26 OF THE REPORT, WHICH IS PAGE 28 OF THE DOCUMENT TOWARD THE BOTTOM. IF WE COULD ZOOM IN ON THAT LAST FULL PARAGRAPH, MR. WILLIAMSON.
OKAY. AND DO YOU SEE THAT SECOND SENTENCE THAT SAYS, QUOTE, FOR INSTANCE, ABOUT 70 PERCENT OF BLACK RESPONDENTS TO THE LOUISIANA SURVEY AGREED THAT, QUOTE, MOST ELECTED OFFICIALS IN LOUISIANA DON'T CARE WHAT PEOPLE LIKE ME THINK, END QUOTE, A FIGURE THAT WAS SIMILAR TO WHITE LOUISIANANS. DO YOU SEE THAT?
A I DO.
Q SO SIMILAR PERCENTAGES OF WHITE AND BLACK LOUISIANANS ARE EXPRESSING CONCERN HERE ABOUT RESPONSIVENESS. IS THAT RIGHT?
A OH, YES.
Q AND THAT'S NOT TOO DISSIMILAR FROM THE REST OF THE COUNTRY. RIGHT? PEOPLE OFTEN DON'T LIKE THEIR REPRESENTATIVES. ISN'T THAT RIGHT?

03:50p

A THAT'S INTERESTING. MOST PEOPLE -- SO THE WAY YOU ASK THAT QUESTION, LIKE MY POLITICAL SCIENCE HEAD IS MAKING ME ANSWER MORE THAN YOU PROBABLY THOUGHT, BUT -- SO YES, IT'S SIMILAR IN TERMS OF LIKE THE FACT THAT MOST PEOPLE DON'T LIKE THE GOVERNMENT AND HAVE PROBLEMS WITH THE GOVERNMENT. BUT ACTUALLY MOST PEOPLE HATE CONGRESS BUT LIKE THEIR REPRESENTATIVE. SO IT'S A REALLY INTERESTING DYNAMIC WHEN YOU THINK ABOUT IT.

Q OKAY. AND THEN TURNING TO RESPONSIVENESS, YOU KNOW, YOU CITED -- IT LOOKS LIKE YOU COUNTED UP THE COMMENT CARDS, YOU REVIEWED THE LEGISLATIVE HEARINGS FROM THE REDISTRICTING PROCESS IN 2022 IN LOUISIANA. IS THAT RIGHT?

A I DID. I WATCHED ALL THAT VIDEO.

Q SO -- BUT YOU'D AGREE WITH ME THAT, YOU KNOW, LOOKING AT THE -- I BELIEVE IT'S A HUNDRED AND TWO PUBLIC COMMENTS AGAINST THE PLAN AND THE NUMBER OF MAJORITY-MINORITY DISTRICTS IN THE PLAN. THAT'S NOT A REPRESENTATIVE SAMPLE OF PUBLIC OPINION IN LOUISIANA, IS IT?

A NO. THAT'S WHY I DO INCLUDE DATA THAT'S A REPRESENTATIVE SAMPLE OF PUBLIC OPINION IN LOUISIANA. SO AGAIN, LOOKING AT THE SURVEY DATA THAT I CITE IN PAGE 27, AGAIN THAT -- TOP OF 27 -- "MOREOVER, A

03:51p

MAJORITY OF BLACK LOUISIANIANS BELIEVE THAT 'BLACK PEOPLE ARE TREATED LESS FAIRLY THAN WHITE PEOPLE' WHEN VOTING IN ELECTIONS." SO AGAIN, THAT IS BOTH SURVEY DATA THAT TALKS ABOUT POLITICS AND ALSO ABOUT VOTER SUPPRESSION AND ABOUT -- AS WELL AS THE ROADSHOWS.

Q I UNDERSTAND. YOUR REPORT, HOWEVER, DOESN'T CITE A SINGLE PARTICULAR PUBLIC POLICY, LIKE A PIECE OF LEGISLATION BEFORE THE LEGISLATURE, I GUESS, OTHER THAN THE REDISTRICTING BILL ITSELF, DOES IT?

A NO, OTHER THAN THE -- WELL, THAT'S KIND OF A BIG ONE.

Q I GAVE YOU THE REDISTRICTING BILL.

A YES.

Q I WAS JUST ASKING IF THERE IS ANYTHING ELSE. SO IT'S THE REDISTRICTING BILL?

A YES. THE REDISTRICTING BILLS ARE KIND OF, YEAH, BIG ONES.

Q I UNDERSTAND. AND I SEE YOU HAVE A LOT OF QUOTES IN HERE FROM SENATOR CASSIDY. HE'S A U.S. SENATOR. RIGHT?

A YES.

Q AND THEN AS FAR AS PUBLIC COMMENT -- I GUESS JUST THE LAST COUPLE OF QUESTIONS FOR YOU ON THAT. WERE YOU AWARE THAT THERE WERE GROUPS INCLUDING THE

03:52p

ACLU AND ONE OF THE PLAINTIFFS IN THIS CASE, BVM, THAT WERE -- THAT PARTICIPATED IN THE LEGISLATIVE PROCESS LEADING TO THE REDISTRICTING BILLS AT ISSUE?

A YES, I DID SEE THEM. AND MOSTLY THEY -- AS FAR AS I COULD TELL, THEY IDENTIFIED THEMSELVES WHEN THEY SPOKE, SAYING THEY WERE THERE REPRESENTING X GROUP.

Q SURE. BUT INNER SCRIPTS CAN OFTENTIMES ENCOURAGE THEIR SUPPORTERS TO -- YOU KNOW, TO MAKE PUBLIC COMMENTS OR SHOW UP AT MEETINGS IN LEGISLATION IMPORTANT TO THE GROUP. IS THAT RIGHT?

A YES. AND I ACTUALLY SAW QUITE A BIT OF THAT NOT JUST FROM THE GROUPS THAT YOU MENTIONED BUT, FOR INSTANCE -- ONE OF THE THINGS THAT I THOUGHT WAS REALLY INTERESTING WAS THAT A LOT OF LOCALITIES DURING THE ROADSHOWS WOULD SHOW UP WITH -- DELEGATION IS A STRONG WORD -- BUT LOTS OF OFFICIALS, LIKE THE CHAMBER OF COMMERCE AND OTHER PLACES TO TALK ABOUT THINGS LIKE COMMUNITIES OF INTEREST AND ISSUES SUCH AS THAT. SO IT DEFINITELY HAPPENED THROUGHOUT THE PROCESS. AND AGAIN, MOST OF THE TIME THEY WOULD IDENTIFY THEMSELVES WHEN THEY WERE DOING THAT WORK.

Q SURE. SO I'D LIKE TO TURN TO THE LAST FACTOR YOU ANALYZED, WHICH IS TENUOUSNESS. SO ON PAGE 36 OF YOUR REPORT, WHICH IS PAGE 38 OF OUR -- OF

03:54p

1 YOUR -- OF THE EXHIBIT, YOU DISCUSS PRESIDENT
2 CORTEZ'S VIEWS ON CONTINUITY OF REPRESENTATION. AND
3 I JUST HAD A COUPLE OF QUESTIONS ON THAT.
4 FIRST, YOU KNOW, YOU HAVE THIS SORT OF BLOCK
5 QUOTED LANGUAGE AT THE VERY TOP OF THE PAGE FROM
6 PRESIDENT CORTEZ BEGINNING WITH THE THIRD TENET OR
7 PRINCIPLE. AND I JUST WANT TO MAKE SURE I
8 UNDERSTAND. YOU'RE SAYING THAT THAT BLOCK QUOTED
9 LANGUAGE SUPPORTS THE VIEW THAT YOU MAKE LATER ON IN
10 THE PAGE THAT, QUOTE, CONTINUITY OF REPRESENTATION IS
11 NOT ABOUT VOTERS, RATHER, IT IS ABOUT THE SELF-
12 INTEREST OF THE LEGISLATORS?
13 A HANG ON. LET ME FIND -- I DON'T -- NO. I'M
14 ACTUALLY TALKING ABOUT THE NEXT QUOTATION THERE IN
15 WHICH HE SAYS WHY HE'S TALKING ABOUT -- PRESIDENT
16 CORTEZ IS TALKING ABOUT WHY ADDITIONAL MAJORITY-
17 MINORITY DISTRICTS DO NOT GAIN TRACTION IN THE
18 SENATE. HE SAID, "THE OTHER PART, YOU KNOW, AS IN
19 THIS BUILDING, YOU GOT TO GET VOTES. THAT MAP SO
20 DESTROYED MANY OF THE DISTRICTS AND DIDN'T KEEP THAT
21 CONTINUITY OF REPRESENTATION THAT THERE WAS NOT A
22 REAL CHANCE OF GETTING THE 20 VOTES." AND THEN HE
23 GOES ON TO TALK ABOUT HOW "DRAWING NEW MAJORITY-
24 MINORITY DISTRICTS WAS A NON-STARTER BECAUSE IT WOULD
25 PUT CERTAIN INCUMBENTS IN JEOPARDY." AND AGAIN,

03:55p

QUOTE, AND THEN YOU GET INTO ANOTHER AREA OF PEOPLE THAT YOU'VE NEVER MET BEFORE AND HAVE NEVER VOTED FOR YOU. AND ALMOST IT WAS MORE THAN 50 PERCENT OF THE PEOPLE IN THAT DISTRICT WOULD NEVER HAVE VOTED FOR THE PERSON CURRENTLY HOLDING.

SO THOSE ARE THE KINDS OF THINGS THAT I'M TALKING ABOUT WITH RESPECT TO THE SELF-INTEREST OF THE LEGISLATORS.

Q OKAY. BUT DO YOU SEE ON THAT -- GOING BACK TO THAT SECOND PARAGRAPH WHERE YOU -- IT BEGINS, QUOTE, TO PRESIDENT CORTEZ, REDISTRICTING VIOLATES THE CONTINUITY OF REPRESENTATION TO THE EXTENT THAT PLANS, QUOTE, GRAB A GROUP OF CONSTITUENTS TO ELECT A DIFFERENT PERSON. DO YOU SEE THAT?

A I DO.

Q OKAY. AND YOU LINK THAT TO THE PRIOR SENTENCE YOU QUOTE FROM HIM IN THE BLOCK QUOTE WHERE IT SAYS, QUOTE, IT MEANS THAT IF YOUR DISTRICT ELECTED YOU AND YOU'VE DONE A GOOD JOB, THEY ALSO HAVE A RIGHT TO REELECT YOU. RIGHT?

A YES. SO HERE IN THIS PARAGRAPH I'M TRYING TO TALK ABOUT HOW HE DEFINES WHAT CONTINUITY OF REPRESENTATION MEANS TO HIM.

Q NOW, YOU'D AGREE THAT WHEN CITING ANY TRANSCRIPT, IT'S IMPORTANT TO INCLUDE THE APPROPRIATE

03:57p

CONTEXT OF SOMEONE'S REMARKS. RIGHT?

A YES. I TRIED REALLY HARD TO PUT IN WHOLE SENTENCES, DESCRIBE THE CONTEXT BUT IN -- WELL, TO BE HONEST, I WAS MORE WORRIED THAT I WOULD BE ACCUSED OF PUTTING IN TOO MANY LONG BLOCK QUOTES IN ORDER TO PROVIDE CONTEXT RATHER THAN EXCERPTING AND MOVING THINGS ALONG.

Q OKAY. SO I'D LIKE TO JUST PULL UP NOW JX 21, JOINT EXHIBIT 21, WHICH HAS BEEN PREADMITTED. AND I'LL REPRESENT TO YOU, DR. BURCH, THIS IS THE TRANSCRIPT FROM THE HEARING THAT YOU'RE CITING IN YOUR PIECE. AND IF WE COULD GO TO PAGE 7.

AND, DR. BURCH, DO YOU SEE THE TEXT FROM -- AND I'LL REPRESENT TO YOU THIS IS REMARKS FROM PRESIDENT CORTEZ AT THAT FEBRUARY 2, 2022 SENATE HEARING YOU REFERENCED IN THE FOOTNOTE IN YOUR REPORT.

IF WE TURN TO LINE 9 -- AND I'LL READ IT TO YOU. IT SAYS, QUOTE, THE THIRD TENET OR PRINCIPLE WAS AS BEST POSSIBLE TO MAINTAIN THE CONTINUITY OF REPRESENTATION. WHAT DO I MEAN BY THAT? IT MEANS THAT IF YOUR DISTRICT ELECTED YOU AND YOU'VE DONE A GOOD JOB, THEY ALSO HAVE A RIGHT TO REELECT YOU. CONVERSELY, YOU DON'T GET TO CHOOSE WHO YOUR POPULATION IS, THEY CHOOSE YOU. IF YOU DIDN'T DO A

03:58p

GOOD JOB, THEY HAVE THE RIGHT TO UNELECT YOU. AND THE PEOPLE WHO PEOPLE WHO KNOW YOUR JOB THE BEST FOR THOSE WHO WERE IN YOUR DISTRICT.

DO YOU SEE THAT?

A SO I THINK THAT WHAT I PUT IN WAS TRUE TO THE FACT THAT HIS DEFINITION OF CONTINUITY OF REPRESENTATION IS BASICALLY ABOUT INCUMBENCY.

Q BUT YOU SAW THAT SUBSEQUENT TEXT WHEN YOU WATCHED THE VIDEO. RIGHT?

A YEAH. SO I DON'T THINK THAT CONTRADICTS WHAT I HAVE HERE IN TERMS OF SAYING THAT THIS IS ABOUT INCUMBENCY.

Q YOU DIDN'T INCLUDE THOSE REMARKS IN YOUR REPORT, DID YOU?

A YOU MEAN THE PART ABOUT "YOU DON'T GET TO CHOOSE WHO YOUR POPULATION IS, THEY CHOOSE YOU"?

Q CORRECT.

A FROM THERE?

Q YES.

A NO.

Q NO, OKAY. I'D LIKE TO TURN VERY QUICKLY TO A COMMENT THAT YOU MADE ON PAGE 32 OF YOUR REPORT. SO IF WE COULD GO BACK TO PL 126 AND TURN TO PAGE 32.

AND SPECIFICALLY THE SECOND PARAGRAPH FROM THE BOTTOM YOU STATE THAT, QUOTE, THE COMMITTEE --

04:00p

AND I BELIEVE THAT WAS THE SENATE COMMITTEE -- WAS PRESENTED WITH EVIDENCE THAT STATISTICAL ANALYSES SHOW THAT PLANS SUCH AS THAT PRESENTED IN SB 17 WOULD RELIABLY PERFORM TO ALLOW BLACK LOUISIANANS TO ELECT CANDIDATES OF THEIR CHOICE. DO YOU SEE THAT?

A I DO.

Q AND WERE YOU AWARE THAT SENATOR HEWITT ASKED MORE THAN ONCE FOR A COPY OF THAT STATISTICAL ANALYSIS?

A I DID SEE HER DO THAT.

Q YOU DID SEE HER DO THAT.

AND WERE YOU AWARE THAT THE ACLU DID NOT PROVIDE THAT ANALYSIS TO SENATOR HEWITT?

A I DON'T KNOW.

Q YOU DON'T KNOW, OKAY.

AND YOU DIDN'T REFERENCE THAT THAT ANALYSIS WAS REQUESTED AND MAY OR MAY NOT HAVE BEEN PROVIDED IN YOUR REPORT, DO YOU?

A LET ME SEE. I THINK IT MUST -- IT MUST BE THAT IT WAS DESCRIBED IN -- NO. I THINK I JUST REFERENCED THE FACT THAT IT WAS DESCRIBED.

Q AND THEN FINALLY I JUST HAD JUST A COUPLE VERY BRIEF WRAP-UP QUESTIONS.

YOU REFERENCE A SERIES OF ALTERNATE BILLS THAT WERE PRESENTED TO THE LOUISIANA LEGISLATURE IN

04:01p

THAT FIRST EXTRAORDINARY SESSION IN 2022. IS THAT RIGHT?

A YES.

Q OKAY. AND DO YOU KNOW IF ANY OF THE -- ANY OF THOSE PLANS PROPOSED 14 OR MORE MAJORITY-BLACK DISTRICTS FOR THE SENATE?

A I DON'T RECALL.

Q YOU DON'T RECALL, OKAY.

AND WERE YOU AWARE OF ANY OF THE PLANS -- ANY OF THOSE ALTERNATE PLANS THAT WOULD HAVE HAD 35 OR MORE MAJORITY-BLACK DISTRICTS IN THE HOUSE?

A I DON'T RECALL.

Q SO FINALLY, I JUST HAD ONE MORE QUESTION FOR YOU, AND IT'S ON PAGE 40 OF YOUR REPORT. IF WE COULD GO TO THAT QUICKLY. AND I JUST WANTED TO ASK YOU ABOUT -- YOU MADE REFERENCE IN YOUR TESTIMONY IN DIRECT EXAMINATION ABOUT A STATEMENT MADE BY SENATOR HENRY ABOUT WANTING A DISTRICT A CERTAIN WAY SO HE, QUOTE, REPRESENT HIS SISTER AND WAS STILL PAYING STUDENT LOANS TO TULANE. DO YOU RECALL THAT?

A I DO.

Q OKAY. AND I BELIEVE YOU BLOCK QUOTE HIS FULL COMMENTS IMMEDIATELY BELOW THAT TEXT. DO YOU SEE THAT?

A YES. YES.

04:03p

Q OKAY. AND HE'S PRETTY CLEARLY REFERRING TO WANTING TO REPRESENT TULANE AND LOYOLA. IS THAT RIGHT?

A YES. AND -- YES. SO HE'S GOT SOME DISCUSSION -- YES.

Q OKAY. SO NOT JUST HIS SISTER. RIGHT?

A WELL, HE ALSO TALKS ABOUT ONE SISTER, TWO SISTERS, A BROTHER AND A FATHER AND A MOTHER. YEAH. SO THERE IS A LOT -- THERE IS A LOT THERE.

Q AND THOSE ARE ALL PEOPLE THAT HAD CONNECTIONS TO LOYOLA UNIVERSITY. RIGHT? FROM HIS STATEMENT?

A YES.

Q OKAY.

MR. LEWIS: YOUR HONOR, I HAVE NO FURTHER QUESTIONS. THANK YOU, DR. BURCH.

THE COURT: THANK YOU.

ANY REDIRECT?

MS. WENGER: JUST A LITTLE.

REDIRECT EXAMINATION

BY MS. WENGER:

Q NOW, DR. BURCH, MR. LEWIS SPOKE TO YOU ABOUT FIGURE 1 AND TABLE 1 FROM PAGE 7 OF YOUR REPORT. IF WE CAN PULL UP THOSE UP -- THAT PAGE UP.

DR. BURCH, IS THERE A REASON THAT YOU SHARED

04:04p

THESE DEPICTIONS TOGETHER?

A YES. SO AGAIN, GOING BACK TO FIGURE 1, WHEN YOU LOOK AT LESS THAN HIGH SCHOOL AND EDUCATIONAL ATTAINMENT BY RACE AMONG LOUISIANA ADULTS AGE 25 AND OLDER, AGAIN, LOOKING AT BLACK LOUISIANIANS, THERE ARE MORE OF THEM IN THAT LESS THAN HIGH SCHOOL CATEGORY THAN THERE ARE IN THE LAST TWO -- THE TWO BOTTOM CATEGORIES OF BACHELOR'S DEGREE AND HIGHER. AND SO EVEN IF WHITE TURNOUT AND BLACK TURNOUT AT THAT LESS THAN HIGH SCHOOL DIPLOMA LEVEL, BLACK VOTERS ARE OUTVOTING WHITE PEOPLE THERE. THE PROPORTION OF THE WHITE GROUP IN LOUISIANA THAT'S IN THAT LESS THAN HIGH SCHOOL CATEGORY IS SO SMALL, ESPECIALLY RELATIVE TO THE NUMBER WHO ARE IN THE BACHELOR'S DEGREE OR HIGHER.

AND SO, AGAIN, THINKING ABOUT WHERE PEOPLE ARE CONCENTRATED IN TURNOUT, THE NO HIGH SCHOOL DIPLOMA, EVEN IF THERE IS MORE BLACK PEOPLE VOTING AT HIGHER RATES IN THAT GROUP, THERE IS STILL -- IT'S NOT ENOUGH TO OVERCOME THAT EDUCATIONAL DISPARITY BETWEEN THE TWO GROUPS IN TERMS OF HOW PEOPLE WITH BACHELOR'S DEGREES AND WHO HAVE GONE TO GRADUATE SCHOOL ARE VOTING AMONG WHITE PEOPLE. SO IT'S JUST, AGAIN, WHAT'S GOING ON ACROSS RACE AND THAT SHOULDN'T -- ISN'T REALLY THE FOCUS.

04:06p

IT'S TWO THINGS. IT'S, ONE, THE EFFECT OF EDUCATION ON TURNOUT. WE CAN SEE IT INCREASES IN EACH RACIAL GROUP, SUCH THAT GENERALLY PEOPLE WITH LOWER EDUCATIONAL ATTAINMENT ARE LESS LIKELY TO VOTE THAN PEOPLE WITH HIGHER EDUCATIONAL ATTAINMENT. AND COUPLED WITH FIGURE 1, WE CAN SEE THAT BLACK PEOPLE ARE MORE LIKELY THAN WHITE PEOPLE TO BE IN THAT LOW TURNOUT AND LOW EDUCATION GROUP.

Q THANK YOU, DR. BURCH.

MR. LEWIS ALSO MENTIONED YOUR USE OF BOTH STATEWIDE DATA, ONE, AND DATA FROM THE YEAR OF 2019 SPECIFICALLY. I'D LIKE TO TURN TO THE BOTTOM OF PAGE 18 OF YOUR REPORT. LET'S TALK A LITTLE ABOUT YOUR ANALYSIS OF HEALTH OUTCOMES IN LOUISIANA.

YOU MENTIONED CANCER ALLEY. IS THAT A STATEWIDE REGION OR A SPECIFIC AREA WITHIN THE STATE?

A JUST A SPECIFIC AREA WITHIN THE STATE THAT STRETCHES BETWEEN NEW ORLEANS AND BATON ROUGE.

Q AND DID YOU DISCUSS ANY OTHER HEALTH PHENOMENA BEYOND THE YEAR OF 2019 RELEVANT TO HEALTH OUTCOMES FOR BLACK LOUISIANANS?

A YES, I DO TALK ABOUT RACIAL DISPARITIES AND ACCESS TO COVID-19 VACCINE SITES AS WELL, AND DIFFICULTIES FOR BLACK AMERICANS TO ACCESS PRIMARY-CARE PHYSICIANS AND DOCTORS BECAUSE OF RACIAL

04:07p

RESIDENTIAL SEGREGATION.

Q THANK YOU.

LET'S TALK A LITTLE BIT ABOUT YOUR DISCUSSION AND WHAT MR. LEWIS DISCUSSED REGARDING RACIAL CAMPAIGN APPEALS. DOES THE LITERATURE ON RACIAL CAMPAIGN APPEALS OR RACIAL APPEALS GENERALLY THAT YOU DISCUSSED ONLY LOOK AT THE OUTCOMES OF ELECTIONS, OR IS IT ALSO ENGAGING WITH ANY ANALYSIS OF THE EFFECT THAT THESE APPEALS HAVE ON INDIVIDUAL VOTERS?

A YES. SO A LOT OF THESE ARTICLES, FOR INSTANCE, WHAT THEY MIGHT DO IS ACTUALLY SHOW -- RANDOMLY ASSIGN A GROUP OF VOTERS IN AN EXPERIMENTAL CONDITION TO SEE CERTAIN KINDS OF ADS AND THEN TEST THEIR ATTITUDES AFTERWARDS TO SHOW THAT THEY STILL HAVE AN EFFECT ON HOW VOTERS THINK AND WHETHER THEY'RE PRIMED TO THINK ABOUT RACIAL ISSUES VERSUS OTHER KINDS OF ISSUES.

Q ALL RIGHT. FINALLY, LET'S DISCUSS SOME OF THE METRICS THAT YOU LOOKED AT. MR. LEWIS DISCUSSED -- I BELIEVE THESE ARE MAINLY FROM PAGE 28 -- REGARDING COMMENT CARDS AND OTHER COMMENTARY AROUND THESE OTHER BILLS THAT WERE SUBMITTED DURING THE REDISTRICTING PROCESS THAT INCREASED BLACK-MAJORITY DISTRICTS, BUT PERHAPS THE ISSUE IS

04:08p

1 THE NUMBER OF DISTRICTS THAT WERE ADDED IN RELATION
2 TO PLAINTIFFS' ILLUSTRATIVE MAPS HERE.
3 I'M JUST CURIOUS. FROM YOUR ANALYSIS OF THE
4 COMMENTS MADE OR COMMENT CARDS SUBMITTED, WERE
5 MEMBERS WHO WENT TO THE CAPITOL TO SPEAK CONSTITUENTS
6 FOCUSED ON THE EXACT NUMBER OF DISTRICTS OR DID THEY
7 SPEAK TO OTHER THEMES THAT MATTERED TO THEM?
8 **A** MOSTLY THEY WERE ABOUT OTHER THEMES AND
9 ASKING FOR MORE THAN WHAT THEY GOT, SO MORE THAN THE
10 CURRENT MAP. AND THEY WANTED TO BE REPRESENTED. SO
11 AGAIN, THERE ARE SOME PEOPLE WHO TALK ABOUT THE
12 ONE-THIRD NUMBER, BUT THEY ARE DEFINITELY NOT
13 SPECIFIC TO A -- SOMETHING LIKE "WE JUST WANT TWO."
14 **Q** THANK YOU, DR. BURCH.
15 **MS. WENGER:** NO FURTHER QUESTIONS.
16 **THE COURT:** ALL RIGHT. IT IS AFTER FOUR
17 TODAY. WHERE ARE WE IN TERMS OF THE CASE?
18 **MS. KEENAN:** SURE, YOUR HONOR. WOULD YOU
19 LIKE ME TO COME TO THE PODIUM?
20 **THE COURT:** YES, PLEASE. IT WOULD BE BETTER
21 FOR THE -- MAKE SURE WE HAVE A GOOD RECORD.
22 **MS. KEENER:** SO, YOUR HONOR, PLAINTIFFS
23 DON'T HAVE ANY ADDITIONAL WITNESSES TO CALL AT THIS
24 TIME. BUT BEFORE WE REST OUR CASE-IN-CHIEF, THERE
25 ARE A FEW FINAL MATTERS WE WANT TO ADDRESS WITH THE

04:10p

COURT. WE'RE HAPPY TO DO THAT NOW IF YOUR HONOR WOULD LIKE.

THE COURT: GO AHEAD.

MS. KEENAN: SO FIRST, THERE ARE A HANDFUL OF EXHIBITS THAT WE'RE HOPING TO ASK THE COURT TO TAKE JUDICIAL NOTICE OF AND ADMIT. THERE ARE THREE CATEGORIES THAT I CAN RUN THROUGH.

THE FIRST IS A HANDFUL OF DOCUMENTS: PLAINTIFFS' EXHIBITS 164 THROUGH 180. THOSE ARE SECRETARY OF STATE DOCUMENTS, PUBLIC GOVERNMENT DOCUMENTS THAT WERE EITHER PRODUCED BY THE SECRETARY OF STATE IN THIS LITIGATION OR PULLED FROM THE PUBLIC SECRETARY OF STATE WEBSITE BY PLAINTIFFS.

THERE HAVE BEEN NO OBJECTIONS TO THE AUTHENTICITY OF THESE DOCUMENTS, AND SO WE ASK YOUR HONOR TO TAKE JUDICIAL NOTICE OF THE SECRETARY OF STATE DOCUMENTS AND TO ADMIT THEM INTO EVIDENCE AT THIS TIME.

THE COURT: DOES THE SECRETARY OF STATE OR THE INTERVENORS HAVE ANY OBJECTION?

MR. STRACH: NO, YOUR HONOR.

THE COURT: OKAY. 164 THROUGH 180 ARE ADMITTED WITHOUT OBJECTION.

MS. KEENAN: THE SECOND CATEGORY IS TWO FILES: PLAINTIFFS' EXHIBIT 120 AND PLAINTIFFS'

04:10p

EXHIBIT 122. THESE ARE BLOCK EQUIVALENCY FILES THAT ARE, AGAIN, PUBLIC GOVERNMENT DOCUMENTS ON THE LOUISIANA LEGISLATURE'S WEBSITE. WE'D LIKE TO ASK THE COURT TO TAKE JUDICIAL NOTICE OF THESE DOCUMENTS AND TO ADMIT THEM AS WELL. AGAIN, THERE HAVE BEEN NO OBJECTIONS TO THEIR AUTHENTICITY.

THE COURT: IS THERE ANY OBJECTION TO PLAINTIFF 120 AND 122, THE BLOCK EQUIVALENCY DATA?

MR. LEWIS: NONE FROM THE LEGISLATIVE INTERVENORS, YOUR HONOR.

THE COURT: ANY FROM THE DEFENDANT?

MR. STRACH: NOT FROM THE DEFENDANTS, YOUR HONOR.

THE COURT: ADMITTED.

MS. KEENAN: FINALLY, YOUR HONOR, AS FOR THE EXHIBITS, EXHIBITS -- THESE ARE PLAINTIFFS' EXHIBITS 181 THROUGH 183. THESE ARE AUDIO AND FILINGS FROM THE *ROBINSON* CASE THAT YOUR HONOR IS FAMILIAR WITH. THEY ARE STATEMENTS OR ADMISSIONS BY A PARTY OPPONENT REGARDING THE TIMING THAT THE STATE OF LOUISIANA WILL NEED REGARDING THE MAPS IN THIS CASE.

WE'RE HOPING THAT BECAUSE THESE ARE COURT FILINGS -- THEY'RE SPECIFICALLY FILINGS AND RECORDINGS DRAWN FROM THE FIFTH CIRCUIT'S WEBSITE, THE SUPREME COURT'S DOCKET, INCLUDING THE STATE'S

04:12p

RESPONSE TO OUR MOTION TO STAY WITH THE SUPREME COURT, AND A CERTIFIED TRANSCRIPT OF THE FIFTH CIRCUIT ARGUMENT. THESE ARE ALL COURT FILINGS THAT THE COURT CAN TAKE JUDICIAL NOTICE OF. AND WE'D ASK THE COURT TO ADMIT THESE DOCUMENTS AS WELL.

MR. STRACH: YOUR HONOR, WE HAVE A RELEVANCE OBJECTION TO THESE. AND IT'S BECAUSE THEY DEAL WITH *ROBINSON*, A DIFFERENT CASE, DIFFERENT DISTRICT, SO WE HAVE A RELEVANCE OBJECTION.

MS. KEENAN: YOUR HONOR, IF I MAY?

THE COURT: WHAT ARE YOU TRYING TO SHOW WITH THESE?

MS. KEENAN: SURE. SO IT'S OUR UNDERSTANDING -- AND IT'S I BELIEVE BEEN TALKED ABOUT BOTH AT THE STATUS CONFERENCE AND AT THE TOP OF THIS CASE --

THE COURT: THE STATUS CONFERENCE WAS IN A DIFFERENT CASE. THIS IS A DIFFERENT CASE, BUT LET'S GO AHEAD. WHAT ARE YOU TRYING TO SHOW?

MS. KEENAN: YES. JUST THAT THE TIMING THAT THE STATE WILL NEED TO IMPLEMENT THESE MAPS IS A FACT THAT WE DON'T THINK IS DISPUTED ACROSS THE CASES. IT'S THE SAME PARTIES. WE UNDERSTAND THAT REPRESENTATION TO APPLY TO BOTH. IF THAT'S NOT THE CASE, THAT IS NOT OUR CURRENT UNDERSTANDING.

04:12p

SO THE RELEVANCE IS JUST THE REPRESENTATION ABOUT THE TIMING THAT THE STATE WILL NEED TO IMPLEMENT THE MAPS. AND WE DON'T UNDERSTAND THAT TO BE DIFFERENT ACROSS THE TWO CASES.

THE COURT: IS THE TIMING THAT THE STATE NEEDS TO IMPLEMENT MAPS -- I MEAN, IT'S -- IT IS A -- IT'S A LEGISLATIVE AND THEN SECRETARY OF STATE PROCESS.

IS THE TIMING DIFFERENT, MR. STRACH?

MR. STRACH: IT COULD VERY WELL BE. BUT THOSE REPRESENTATIONS WERE MADE SPECIFICALLY ABOUT CONGRESSIONAL MAPS IN THE CONTEXT OF THAT PARTICULAR CASE. THIS CASE IS MOVING AT A DIFFERENT PACE THAN THAT ONE. WE DON'T KNOW WHEN THERE MIGHT BE AN ORDER, WHEN THERE MIGHT HAVE TO BE A REMEDIAL PROCESS. WE HAVE NO IDEA.

THE COURT: THIS IS THE REMEDIAL PROCESS. THIS IS THE TRIAL ON THE MERITS. YOU MEAN IF THE LEGISLATURE NEEDS TO RESPOND.

MR. STRACH: EXACTLY. WE HAVE NO IDEA, YOUR HONOR, IF THE --

THE COURTROOM DEPUTY: WOULD YOU GET TO A MICROPHONE, PLEASE?

MR. STRACH: YES. I'M SORRY.

THE COURT: SHARE YOUR MIC WITH MR. STRACH.

04:13p

MR. STRACH: JUDGE, WE JUST DON'T KNOW IF IT'S GOING TO BE THE SAME OR NOT, BECAUSE WE'RE DEALING WITH A LOT OF DIFFERENT TYPES OF DISTRICTS HERE. THE LEGISLATURE IS ALREADY GOING TO BE DEALING WITH THE CONGRESSIONAL MAP, AS THE COURT KNOWS. WE DON'T KNOW WHAT THE TIMING OF A RULING HERE WILL BE.

SO WE -- THERE IS -- IT WOULD NOT BE FAIR. IT WOULD BE PREJUDICIAL TO TRY TO IMPOSE A TIMELINE GIVEN FOR CONGRESSIONAL DISTRICTS ON THE LEGISLATIVE CASE. AND THAT'S WHY THE DOCUMENTS ARE JUST NOT RELEVANT HERE.

MS. KEENAN: MAY I RESPOND BRIEFLY, YOUR HONOR?

THE COURT: YES.

MS. KEENAN: I THINK THERE IS TWO STRANDS OF ARGUMENTS HERE, THOUGH. IT SEEMS LIKE DEFENDANTS ARE NOW SAYING THAT THEY MAY TRY TO SHOW THAT THE TIMING IS DIFFERENT THAN WHAT WAS OFFERED THERE. BUT THAT DOESN'T MEAN THAT THE TIMING ISN'T RELEVANT ACROSS THE TWO CASES.

CERTAINLY THE STATE'S REPRESENTATIONS ABOUT THE TIME NEEDED TO ADMINISTER ANY MAPS THAT COME OUT OF THE REMEDIAL PROCESS IS AT LEAST RELEVANT TO THESE PROCEEDINGS. AND IT DOESN'T SOUND LIKE THERE ARE OBJECTIONS TO THE AUTHENTICITY OR THE FACT

04:14p

OF THOSE STATEMENTS BEING MADE. SO I THINK WE WOULD STILL MOVE TO ADMIT THEM.

THE COURT: WHY IS IT RELEVANT? WHY IS THE TIMING RELEVANT OTHER THAN -- I GET IT.

MS. KEENAN: YEAH.

THE COURT: HURRY UP, GOT TO GO, HURRY UP. I GET IT. BUT --

MS. KEENAN: WELL, I THINK IT'S A LITTLE MORE THAN JUST THAT, YOUR HONOR. I THINK THAT IT IS IMPORTANT IN THESE CASES TO ESTABLISH A RECORD FOR THE COURT REGARDING *PURCELL*, REGARDING THE TIMING NEEDED TO SEEK REMEDIES TO EXPEDITE THIS CASE GOING FORWARD. IT'S INCREDIBLY IMPORTANT FOR US TO CREATE A RECORD ABOUT THE AMOUNT OF TIME THAT THE STATE NEEDS TO IMPLEMENT ANY MAPS THAT ARE GOING TO ARISE OUT OF THIS PROCEEDING.

THE COURT: THEY'RE GOING TO HAVE WITNESSES. CAN'T YOU ASK THEM?

MS. KEENAN: SURE, YOUR HONOR, AS LONG AS THEY CALL THE SECRETARY'S WITNESSES, WHICH ARE CURRENTLY LISTED AS MAY CALLS. SO I THINK IF THEY CALL THOSE WITNESSES, WE WILL BE ABLE TO TRY TO ELICIT THAT TESTIMONY.

THE COURT: WELL, I KNOW THAT THE PRESIDENT -- THE CURRENT PRESIDENT OF THE SENATE IS SITTING IN

04:15p

THE COURTROOM AND HE'S GOING TO BE CALLED -- SORRY, NOT TODAY, PROBABLY TOMORROW. BUT THERE IS ONE OF YOUR WITNESSES. ARE YOU GOING TO CALL THE SECRETARY OF -- YOU HAVE A MAY CALL -- I'VE FORGOTTEN HER NAME. SHERRI SOMETHING.

MR. STRACH: SHERRI HADSKEY.

THE COURT: HADSKEY, YES.

MR. STRACH: WE PROBABLY WON'T. BUT WE'RE WAITING TO SEE HOW THE EVIDENCE PLAYS OUT, BUT WE PROBABLY WON'T.

I THINK THAT THESE ISSUES WILL BECOME RELEVANT IF THERE IS AN ORDER AND A REMEDIAL PROCESS. AND THAT'S WHEN WE'LL ALL KNOW WHAT THE TIMING CAN BE. RIGHT NOW WE'RE ALL SPEAKING INTO A VACUUM. SO I DON'T SEE HOW IT CAN BE RELEVANT WHEN -- IF THERE IS A REMEDIAL PROCESS AS IN THE CONGRESSIONAL CASE, AGAIN, YOU'RE TALKING ABOUT 144 DISTRICTS HERE, MANY OF WHICH COULD BE IMPACTED. YOU'RE TALKING ABOUT DISTRICTS WHICH HAVE SPLIT PARISHES, ET CETERA, WHICH IS NOT THE CASE IN THE CONGRESSIONAL CASE. YOU'RE TALKING ABOUT A WHOLE DIFFERENT CAN OF WORMS WITH LEGISLATIVE DISTRICTS. AND THE ONE PROCESS IS COMPLETELY UNRELATED TO THE OTHER.

MS. KEENAN: MAY I RESPOND ONE MORE TIME, YOUR HONOR, JUST BRIEFLY?

04:16p

THE COURT: UH-HUH. GO AHEAD. I'M SORRY.

MS. KEENAN: I THINK ESPECIALLY IN LIGHT OF THE REPRESENTATION THAT SHERRI HADSKEY WILL LIKELY NOT BE CALLED, THESE BECOME MORE IMPORTANT. THE REASON FOR THAT IS THAT THESE ARE ARGUMENTS THAT WERE LARGELY MADE BY THE SECRETARY OF STATE AND NOT BY THE LEGISLATIVE INTERVENORS.

YOUR HONOR MAY BE AWARE THAT IN PARTICULAR AT THE SUPREME COURT STAGE THE LEGISLATIVE INTERVENORS WERE NOT A PARTY TO THAT. THIS IS SOLELY THE REPRESENTATION OF THE SECRETARY OF STATE'S OFFICE WHO NOW MAY NOT BE TESTIFYING HERE. SO WE THINK THOSE REPRESENTATIONS ARE BOTH RELEVANT AND MAY NOT COME IN THROUGH LIVE WITNESS TESTIMONY.

THE COURT: OKAY. WELL, WHAT'S HAPPENING IS, IS THAT YOU'RE TRYING TO ANTICIPATE *PURCELL* AND ESSENTIALLY COMMIT THE SECRETARY OF STATE TO A POSITION THAT THEY'VE TAKEN IN A -- WE'LL CALL IT A COMPANION CASE, FOR LACK OF A BETTER WORD. I'M GOING TO TAKE IT UNDER ADVISEMENT. I THINK IT'S A REALLY CLOSE CALL. I MEAN, YOU HAVE -- THE SECRETARY OF STATE HAS -- THE PROCESS IS THE PROCESS. I UNDERSTAND THAT IT'S DIFFERENT MAPS AND IT -- BUT THE PROCESS IS THE PROCESS.

AND THE SECRETARY OF STATE HAS MADE

04:18p

1 REPRESENTATIONS IN MULTIPLE COURTS, THIS COURT, THE
2 COURT OF APPEAL, THE SUPREME COURT. AND, YOU KNOW,
3 YES, A PARTY ADMISSION IS A PARTY ADMISSION, BUT THE
4 PROBLEM IS YOU'RE NOT GOING TO CALL MS. HADSKEY, AND
5 SO -- I'M GOING TO TAKE IT UNDER ADVISEMENT.
6 ARE THERE ANY OTHER HOUSEKEEPING
7 MATTERS?
8 **MS. KEENAN:** YES, YOUR HONOR, JUST TWO.
9 FIRST, PLAINTIFFS DO RESERVE THE RIGHT
10 TO CALL REBUTTAL WITNESSES FOLLOWING THE DEFENDANTS'
11 CASE-IN-CHIEF, WITH THE EXCEPTION OF THE HANDFUL WHO
12 WE HAVE ALREADY STIPULATED WILL NOT BE RETURNING.
13 **THE COURT:** I MEAN, YOU'RE ENTITLED TO
14 REBUTTAL, SO -- EXCEPT THE TWO, WHICH WERE MR. COOPER
15 AND --
16 **MS. KEENAN:** AND DR. BURCH.
17 **THE COURT:** -- DR. BURCH.
18 **MS. KEENAN:** THAT'S RIGHT.
19 YOUR HONOR, FINALLY, YOUR HONOR MAY OR
20 MAY NOT HAVE SEEN THAT AT THE END OF THE LUNCH BREAK
21 AT 1:25 P.M. CENTRAL --
22 **THE COURT:** YOUR HONOR SAW IT.
23 **MS. KEENAN:** OKAY. PLAINTIFFS WOULD LIKE A
24 CHANCE TO RESPOND TO THAT MOTION ON THE RECORD. WE'D
25 PREFER TO DO SO IN WRITING AFTER THE CONCLUSION OF

04:18p

TRIAL. BUT IF YOUR HONOR WISHES TO RULE BEFORE THEN, I AM PREPARED TO ADDRESS THE MOTION ORALLY ON THE RECORD NOW, JUST AT YOUR HONOR'S PREFERENCE OF THE TIMING.

THE COURT: LET'S HEAR FROM MR. STRACH. REALLY THE ONLY ISSUE IS INTERLOCUTORY APPEAL. I MEAN --

MR. STRACH: CORRECT. YOUR HONOR, WE DIDN'T ASK FOR EXPEDITED TREATMENT. WE EXPECT IT WOULD JUST BE DEALT WITH IN THE NORMAL COURSE, SO WE'D BE HAPPY FOR THEM TO HAVE THE FULL TIME TO RESPOND --

THE COURT: I'D BE VERY HAPPY FOR THAT, TOO.

MR. STRACH: -- AND THE COURT TO RULE AT YOUR CONVENIENCE.

THE COURT: I DIDN'T KNOW IF YOU WANTED TO PUNT IT UP AS A 52(C) OR SOMETHING LIKE THAT.

MR. STRACH: WELL -- SO THAT'S WHERE I'M GOING NEXT. SO WE WILL BE ASKING -- MAKING A MOTION FOR JUDGMENT ON PARTIAL FINDINGS PURSUANT TO RULE 52(C). WE WERE JUST GOING TO DO IT ORALLY AND THEN ASK THE COURT'S PLEASURE IN TERMS OF BRIEFING THAT LATER. AGAIN, IT'S -- WE JUST WANT TO MAKE SURE WE MAKE IT AT THE CLOSE OF THEIR EVIDENCE, WHETHER IT'S TODAY OR TOMORROW, AND THEN WE COULD BRIEF IT. HOWEVER, WE DON'T KNOW THERE IS A -- NEEDS TO BE A

04:19p

RUSH TO DECIDE IT.

THE COURT: I HAVEN'T HEARD YOUR 52(C). I'LL RESERVE LISTENING TO YOUR 52(C) IN -- HOWEVER, WITH RESPECT TO BRIEFING ON THE MOTION TO DISMISS, YOU CAN HAVE THE REGULAR -- THE TIME FRAME THAT'S SET FORTH IN THE LOCAL RULES. I GUESS IT'S 21 DAYS, WHATEVER IT IS.

MS. KEENAN: THANK YOU, YOUR HONOR. THAT'S ALL FROM PLAINTIFFS. WE'RE PREPARED TO REST OUR CASE-IN-CHIEF.

THE COURT: ARE YOU RESTING YOUR CASE-IN-CHIEF? AND I'M NOT PUTTING YOU IN A TRICK BAG. I'M TAKING THIS 181 TO 183 UNDER ADVISEMENT. I MEAN, IF I ADMIT THEM, I'M GOING TO ADMIT THEM EVEN IF YOU'VE RESTED, SO DON'T FEEL LIKE YOU'RE IN A BOX.

MS. KEENAN: THANK YOU, YOUR HONOR. ONE MOMENT TO CONFER WITH COUNSEL.

THE COURT: OKAY. OH, YOU MAY STEP DOWN. I AM SO SORRY. NO, YOU JUST HAVE TO SIT THERE AND WATCH THIS.

THE WITNESS: IT'S OKAY. I WAS BEING NOSY.

THE COURT: I AM SO SORRY.

MS. KEENAN: YOUR HONOR, THAT IS ALL FROM THE PLAINTIFFS. WE'RE READY TO REST OUR CASE-IN-CHIEF.

THE COURT: THE PLAINTIFFS ARE RESTING.

THE COURT WILL HEAR FROM THE DEFENDANTS IN THE DEFENDANTS' CASE-IN-CHIEF IN THE MORNING. I'LL HEAR YOUR 52(C) ARGUMENTS AT 9 A.M. SO IF YOU WANT TO HAVE -- IF PRESIDENT CORTEZ IS YOUR LEAD-UP, IF YOU WANT TO BE HERE ABOUT 9:30 -- I'D LIKE TO SAVE YOU THE TROUBLE OF BEING HERE AT 9:00, UNLESS YOU JUST WANT TO LISTEN TO THESE FINE PEOPLE TALK.

IS THERE ANYTHING ELSE THAT WE NEED TO TAKE UP THIS AFTERNOON BEFORE WE RECESS FOR THE DAY?

MR. STRACH: NOT FROM US, YOUR HONOR.

MS. KEENAN: NOT FROM PLAINTIFFS, YOUR HONOR.

THE COURT: OKAY. WE'LL SEE Y'ALL IN THE MORNING AT 9:00.

(WHEREUPON, THE PROCEEDINGS WERE ADJOURNED UNTIL NOVEMBER 30, 2023 AT 9:00 A.M.)

C E R T I F I C A T E

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE RECORD OF THE PROCEEDINGS IN THE ABOVE-ENTITLED NUMBERED MATTER.

S:/NATALIE W. BREAUX

NATALIE W. BREAUX, RPR, CRR

OFFICIAL COURT REPORTER