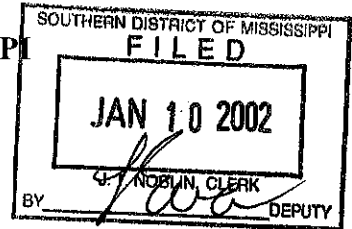


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI



JOHN ROBERT SMITH, SHIRLEY HALL,
and GENE WALKER,

Plaintiffs,

vs.

No. 3:01cv855

ERIC CLARK, Secretary of State of
Mississippi; MIKE MOORE, Attorney General
of Mississippi; RONNIE MUSGROVE, Governor
of Mississippi; MISSISSIPPI REPUBLICAN
EXECUTIVE COMMITTEE; and MISSISSIPPI
DEMOCRATIC EXECUTIVE COMMITTEE,

Defendants,

and

BEATRICE BRANCH; RIMS BARBER;
L.C. DORSEY; DAVID RULE; JAMES
WOODARD; JOSEPH P. HUDSON; and
ROBERT NORVEL,

Intervenors

SUPPLEMENTAL RESPONSE OF
INTERVENORS TO MOTION FOR PRELIMINARY INJUNCTION

In further response to the plaintiffs' motion for preliminary injunction and for relief in this case, the Branch intervenors submit the following.¹

1. Attached as exhibit A is the December 31, 2001 order of the Chancery Court of Hinds County denying the motion to vacate or amend in that case. Attached as exhibit B is the separate final judgment of that court dated December 31, 2001. Attached as exhibit C is the December 21,

¹ On January 9, 2002, consistent with this Court's schedule, the Branch intervenors filed a memorandum of law addressing certain questions posed by the Court. The present filing is separate from that and is designed to place certain matters and certain contentions in the record.

2001 opinion and order of that court adopting the congressional redistricting plan. Attached as exhibit D is the December 13, 2001 order of the Supreme Court of Mississippi denying the petition for writ of prohibition filed in the state court case. Attached as exhibit E is the December 26, 2001 certificate of compliance filed in Chancery Court by the Attorney General of Mississippi stating that the state court plan was submitted for preclearance under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c. (Exhibit 2 to that certificate of compliance is a signed statement from the Deputy Chief, Voting Section, Civil Rights Division, United States Department of Justice, confirming that the submission was received on December 26, thus commencing the 60 day administrative review period under Section 5).

2. The 60 day period for administrative review by the United States Attorney General, having commenced on December 26, 2001, expires on February 24, 2002. This allows for the plan to be precleared "in time for the primaries." *Grove v. Emison*, 507 U.S. 25, 36 (1993).

3. The language of Section 5, 42 U.S.C. § 1973c, provides that a voting change is enforceable as law if "the Attorney General has not interposed an objection within sixty days after [the] submission." Thus, if no objection has been interposed by February 24, 2002, the plan will be precleared and effective as law.

4. The plaintiffs here have argued that the United States Attorney General might not review the plan unless and until it has been affirmed on direct appeal by the Supreme Court of Mississippi. However, the language of Section 5 does not allow suspension of the 60 day period because of the absence of affirmance from an appellate court. This is particularly true in the present situation, where the Mississippi Supreme Court said, in its December 13, 2001 order, that "[a]ny congressional redistricting plan adopted by the chancery court . . . will remain in effect, subject to any congressional redistricting plan which may be timely adopted by the legislature." Thus, the

Mississippi Supreme Court is not requiring that the plan be affirmed on appeal prior to implementation. The Attorney General therefore cannot question the plan's validity as a matter of Mississippi law. As a matter of practice, the Department of Justice does not seem to require the conclusion of appellate proceedings before granting preclearance. In *Johnson v. Waldrup*, No. 2001-325-CI (Cir. Ct., Sunflower Cty., Miss. Dec. 6, 2001), the state court ordered a special election and instructed that the order be submitted for preclearance. The Attorney General precleared the special election on January 3, 2002, less than 30 days after the December 6, 2001 order, even though there was still time for the aggrieved party to appeal under the Mississippi Rules of Appellate Procedure. (Copies of the state court order and preclearance letter are attached as exhibit F). In *Grove v. Emison*, the Supreme Court held that federal courts must defer to state courts in redistricting even if the state trial court plan has yet to be reviewed on appeal. This is dictated, said the Supreme Court, because of the exigencies of redistricting. 507 U.S. at 35. Surely, if federal courts must recognize and defer to the authority of state trial courts in such situations as a matter of federalism, the Attorney General must also recognize the authority of state trial courts in his enforcement of Section 5 (particularly where, as here, the state supreme court has said the trial court plan will govern).²

² The language of 28 C.F.R. § 51.22 does not require appellate affirmance before a submission is considered. It reads:

The Attorney General will not consider on the merits: (a) Any proposal for a change affecting voting submitted prior to final enactment or administrative decision However, with respect to a change for which approval by referendum, a State or Federal court or a Federal Agency is required, the Attorney General may make a determination concerning the change prior to such approval if the change is not subject to alteration in the final approving action and if all other action necessary for approval has been taken.

The phrase "final enactment" does not necessarily require appellate review. The reference to approval by "a State . . . court" appears to describe situations where a legislative or executive authority implements a change (such as an annexation) that must then be approved by a court,

5. The Mississippi Attorney General's office and the state authorities have provided all of the information requested by and needed by the United States Department of Justice to make a decision on preclearance. There will be no need for additional information, and this would not be a valid basis to decline a decision on preclearance within the 60 day time period.

6. The only basis upon which the Attorney General can object to the state court plan is if it (to use the words of Section 5) "den[ies] or abridg[es] the right to vote on account of race or color." No one has alleged that it does.³

7. If the United States Attorney General does not timely object, the state court plan must be used in the 2002 congressional elections. If there is a timely objection, the plan must be modified by state authorities to cure the objection in time for the primaries, or if that is not possible, this Court must modify the plan to correct the conditions that brought about the objection. *Upham v. Seamon*, 456 U.S. 37, 43 (1982).

8. If preclearance is not forthcoming until the latter part of February, and this Court concludes that additional time is needed prior to the qualifying deadline, it is better — and infringes less upon state policy — for this Court to postpone the qualifying deadline than to act prior to the expiration of the preclearance period and adopt its own plan in place of the state court plan that the

rather than a state trial court decision that is subject to a possible appeal.

³ A question was raised during the recent oral argument about whether the Department of Justice might have concerns about a single judge adopting a redistricting plan. But *Grove* makes it clear that state courts have a significant role in congressional redistricting, and that even where an appeal has not occurred, a plan adopted by a state trial court must be accorded deference. Obviously, in many states, the state trial court hearing such a case will be presided over by a single judge from a single county within the state (appointed in some states, elected in others). This is not a basis under Section 5 for objecting to the plan. Moreover, in Mississippi, as in most states, single trial judges often decide important issues with statewide ramifications. In the present matter, the entire Mississippi Supreme Court said in its December 13 order that the plan adopted by the state trial court will govern the congressional elections.

Mississippi Supreme Court has said will govern congressional elections. *See, Jordan v. Winter*, 541 F.Supp. 1135, 1138 (N.D. Miss. 1982) (three-judge court) (postponing qualifying deadline and election schedule in light of timing problems created by the absence of preclearance).

9. Even though it is theoretically possible that the Attorney General could object to the plan in the latter part of February, this Court should not hold hearings or adopt its own plan prior the issuance of an objection or the expiration of the 60 day period. If, in fact, there is an objection, this Court will not have the authority to adopt an entirely new plan, but instead must simply modify the state court plan to the extent necessary to correct the grounds for the objection. *Upham v. Seamon*, 456 U.S. at 43. It will be wasteful even to hold hearings without a preclearance decision inasmuch as, under *Upham v. Seamon*, the actual grounds for any objection will necessarily govern the scope of this Court's authority and discretion in designing a remedial plan.

10. If for some reason the United States Attorney General attempts to postpone the effective expiration of the 60 day period by, for example, requesting more information, and even if this Court concludes that this is a valid postponement and that the plan has not been precleared under the terms of Section 5, the Court should postpone the qualifying deadline and allow additional time for preclearance. This would do less violence to state policies than the wholesale adoption of a new plan by this Court.

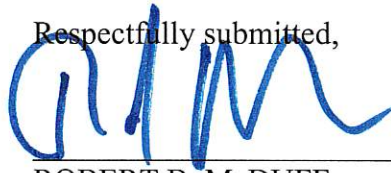
11. The qualifying deadline is March 1, 2002. Miss. Code Ann. §§ 23-15-297, 23-15-299. The first primary will not be held until June 4. *Id.* § 23-15-1031. Obviously, the qualifying deadline must be sufficiently in advance of the election to allow the printing of ballots. § 23-15-649, Miss. Code Ann., requires that elections officials begin printing absentee ballots "as soon as the deadline for the qualification of candidates has passed or forty-five (45) days of the election, *whichever is later.*" (Emphasis added). Thus, the 45 day time period is not a hard and fast rule, but instead is

shortened if the qualifying deadline is less than 45 days prior to the election. Even the 45 day time period can be maintained in this instance by a qualifying date sometime in the first half of April. Thus, elections easily can go forward under the existing schedule even if the qualifying date must be postponed in order to permit preclearance.

12. *Grove v. Emison* holds that federal courts must defer to state courts in the design of redistricting plans so long as the state court plan can be implemented “in time for the primaries.” 507 U.S. at 36. It does not speak of qualifying deadlines. Even if, for some reason, the state court plan here is not ready for implementation in time for the March 1 qualifying deadline, that deadline should be postponed to allow for the possible implementation of the plan “in time for the primaries.”

13. For reasons stated in our prior filings, the December 13 decision of the Supreme Court of Mississippi holding that the Chancery Court has jurisdiction to implement a plan is not itself a voting change. But even if it is, it has been submitted for preclearance along with the Chancery Court plan. If it is precleared prior to or contemporaneously with the preclearance of that plan, there will be no Section 5 impediment to the actual implementation of the plan (which will occur only after the plan is precleared). No valid claim to the contrary has been made by the plaintiffs. To the extent the plaintiffs have argued otherwise in their briefs, they are wrong. Any preclearance of the December 13 order and the state court plan will occur prior to any election. If those are precleared, there will be no basis under Section 5 for this Court to displace the state court plan or enjoin its use in the upcoming elections. *See, Berry v. Doles*, 438 U.S. 190, 192-193 (1978); *United States v. Louisville Municipal Separate School District*, 557 F.Supp. 1168, 1171 (N.D. Miss. 1983) (three-judge court).

Respectfully submitted,



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Counsel for Intervenors

IN THE CHANCERY COURT OF THE
FIRST JUDICIAL DISTRICT OF HINDS COUNTY, MISSISSIPPI



ATTEST A TRUE COPY
FILED

DEC 31 2001

L. GLYNN PEPPER, CHANCERY CLERK

BY Smith D.C.

BEATRICE BRANCH; RIMS BARBER;
L.C. DORSEY; DAVID RULE; MELVIN HORTON;
JAMES WOODARD; JOSEPH P. HUDSON; and
ROBERT NORVEL

PLAINTIFFS

vs.

No. G-2001-1777 W/4

ERIC CLARK, Secretary of State of
Mississippi; MIKE MOORE, Attorney General
of Mississippi; RONNIE MUSGROVE, Governor
of Mississippi

DEFENDANTS

ORDER

This matter came on for hearing on the Motion of Intervenors and Mississippi Republican Executive Committee to Vacate or Amend Judgment and for Other Relief. After reviewing the pleadings submitted and the arguments of counsel, the Court hereby finds the motion not well taken and denies same *in all respect*.

SO ORDERED AND ADJUDGED, this the 31st day of December, 2001.

[Signature]
CHANCERY COURT JUDGE

SUBMITTED BY COUNSEL FOR PLAINTIFFS

[Signature]

CARLTON W. REEVES (MSB # 8515)
PIGOTT REEVES JOHNSON & MINOR

ROBERT B. McDUFF (MSB #2532)



IN THE CHANCERY COURT OF THE
FIRST JUDICIAL DISTRICT OF HINDS COUNTY, MISSISSIPPI

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BY R. Smith D.

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vs.

No. G-2001-1777 W/4

ERIC CLARK, Secretary of State of
Mississippi; MIKE MOORE, Attorney General
of Mississippi; RONNIE MUSGROVE, Governor
of Mississippi

DEFENDANTS

JUDGMENT

In accordance with the Opinion and Order entered on December 21, 2001, judgment is hereby granted in favor of the plaintiffs. Branch Plan 2A is adopted as the Court's redistricting plan as set forth in the appendix of the December 21, 2001 opinion, a copy of which is attached and incorporated hereto. If precleared under Section 5 of the Voting Rights Act, this plan shall govern the nomination and election of the United States House of Representatives from the State of Mississippi unless and until the Mississippi Legislature adopts a lawful plan that is precleared under Section 5. The state defendants are directed to submit the Court's plan for preclearance as required by the December 21, 2001 order. If the plan is precleared, the state defendants are directed to take all necessary steps to implement the plan.

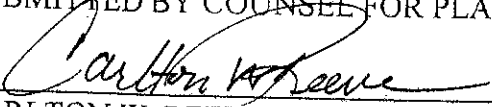
SO ORDERED AND ADJUDGED, this the 31st day of December, 2001.

Signed PATRICIA D. WISE
CHANCERY COURT JUDGE

0285



SUBMITTED BY COUNSEL FOR PLAINTIFFS


CARLTON W. REEVES (MSB # 8515)
PIGOTT REEVES JOHNSON & MINOR

ROBERT B. McDUFF (MSB #2532)

IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT
OF HINDS COUNTY, MISSISSIPPI

BEATRICE BRANCH; RIMS BARBER;
L.C. DORSEY; DAVID RULE; MELVIN HORTON;
JAMES WOODARD; JOSEPH P. HUDSON; and
ROBERT NORVEL



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DEC 21 2001

CHANCERY CLERK

D.C.
PLAINTIFFS

NO. G-2001-1777 W/4

v.

ERIC CLARK, Secretary of State of Mississippi;
MIKE MOORE, Attorney General of Mississippi;
RONNIE MUSGROVE, Governor of Mississippi

DEFENDANTS

CAROLYN MAULDIN, STACY SPEARMAN, DAVID
MITCHELL, and JAMES CLAY HAYS, JR.

INTERVENORS

OPINION AND ORDER

This cause came on for hearing before the Court on Plaintiffs' complaint for injunctive and other equitable relief. The Court, having considered all the motions and memoranda of law, having heard five (5) days of testimony and arguments, and having received into evidence and studied the exhibits offered and entered, is fully advised of all premises and hereby orders as follows:

I. Factual and Procedural Background

On October 5, 2001, the Plaintiffs in this proceeding filed a complaint naming the Secretary of State, Attorney General, and Governor (collectively, "State defendants") as proper party defendants. The complaint alleges *inter alia* that the Legislative Standing Joint Congressional Redistricting Committee failed to timely submit Mississippi's new



redistricting plan by December 3, 2001, pursuant to Miss. Code Ann. Sec. 5-3-129 (Rev. 1991). The Plaintiffs seek an injunction "adopting and directing the implementation of a congressional redistricting plan." On October 7, 2001, the Plaintiffs amended their initial complaint, adding additional parties as Plaintiffs. On November 13, 2001, the State Defendants moved to dismiss the underlying lawsuits and Carolyn Mauldin, Stacy Spearman, David Mitchell, and James Clay Hayes, Jr. (collectively "Intervenors"), by and through counsel, moved this Court to be allowed to intervene in this action. On November 19, 2001, this Court allowed the Intervenors to participate in this action. After hearing oral arguments, receiving written briefs, and being fully advised on all premises, this Court denied the Defendants' Motion to Dismiss and the Defendants' subsequent Supplemental Motion to Dismiss. This Court denied the Intervenors' Motion to Dismiss on December 11, 2001.

On December 6, 2001, this Court allowed the State Defendants to add the Mississippi Republican and Democratic Executive Committees as Defendants. After careful reconsideration, the Court found that any additional parties involuntarily joined herein who choose not to submit themselves to the Court's jurisdiction would not serve the interest of the state authorities to proceed expeditiously. This joinder included voluntary participation in the Court's Scheduling Order dated December 7, 2001.

Feeling aggrieved the Defendants and Intervenors petitioned the Mississippi Supreme Court for a Writ of Prohibition to prohibit this Court from proceeding with the triable issues of fact and law presented by Plaintiffs' complaint. The Defendants and Intervenors additionally sought a stay of the instant matter pending resolution of these issues on appeal. The Mississippi Supreme Court denied the Defendants' and

Intervenors' Writ of Prohibition and Petitions for stay in all respects on December 13, 2001. The Supreme Court's order stated specifically the following:

After due consideration, the Court finds that the Hinds County Chancery Court has jurisdiction of this matter. The Court further finds that the request to dismiss the Plaintiffs' amended complaint is denied. The Court further finds that the request to transfer this cause to circuit court is denied, as is the request for a stay of the December 14, 2001, trial date. Any congressional redistricting plan adopted by the chancery court in cause no. G-2001-1777W/4 will remain in effect, subject to any congressional redistricting plan which may be timely adopted by the Legislature.

In Re Maudlin, No. 2001-M-01891(Miss. Dec. 13, 2001).

This Court commenced the evidentiary trial of this matter on December 14, 2001. Trial continued through Tuesday, December 18, 2001 with closing arguments being conducted Wednesday, December 19, 2001. During the course of the trial, eleven (11) redistricting plans were submitted and received into evidence. Approximately twenty (20) witnesses testified at the trial of this matter. The testimony offered in this matter shed light on the contested issues involved in this litigation. However, the Court specifically notes that the State Defendants neither presented evidence, proposed any redistricting plans, nor participated in any fashion in these trial proceedings.

II. Evaluation of Proposed Plans

While this Court recognizes its obligations that any plan of reapportionment must comply with the United States Constitution and the Voting Rights Act, this Court also recognizes the right of the State of Mississippi, by and through the Joint Standing Committee on Congressional Redistricting of the Mississippi Legislature, to adopt the State of Mississippi's individualized criteria for reapportionment. This criteria was

several fold. First, the Redistricting Committee wanted to ensure that the population of each district was nearly equal as practicable. Second, the Committee desired the districts to be contiguous. Last, the Committee dictated that any plan of reapportionment must comply with both Sections 2 and 5 of the Voting Rights Act of 1965, as well as the United States Constitution. This Court also recognizes that any proposed redistricting plan must be evaluated in the light of the equitable principles of fairness and substantial justice.

A. Constitutional Requirements

The "one person, one vote" standard articulated in Article I, Section 2 of the United States Constitution guarantees the right of each citizen to an equal voice in the selection of a representative. Wesberry v. Sanders, 376 U.S. 1 (1964). Said another way, "one man's vote in a congressional election is to be worth as much as another's." Id. at 8. As a result, the population within each state's congressional districts must be as nearly equal as practicable. Id. at 7-8. This requires a good-faith effort to achieve precise mathematical equality. Any deviations from precise equality, no matter how small, must be individually justified, unless unavoidable. See Karcher v. Daggett, 462 U.S. 725 (1983).

"While it may not be possible to draw congressional districts with mathematical precision, that is no excuse for ignoring our Constitution's plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives." Wesberry, 376 U.S. at 18. The Supreme Court more precisely refined the Wesberry standard:

[T]he "as nearly as practicable" standard requires that the State make a good-faith effort to achieve precise mathematical equality. See Reynolds v. Sims, 377 U.S. 533, 577 (1964). Unless population variances among congressional districts are shown to have resulted despite such effort, the State must justify each variance no matter how small.

Kirkpatrick v. Preisler, 394 U.S. 526, 530-31 (1969). More recently, the Supreme Court "reaffirm[ed] that there are no de minimis population variations, which could practicably be avoided, but which nonetheless meet the standard of Art. I, § 2, without justification." Karcher, 462 U.S. at 734.

The several plans submitted into evidence for this Court's consideration were as follows: (1) the plan passed by the Mississippi House of Representatives (Exhibit 4); (2) the plan passed by the Mississippi Senate (Exhibit 8); (3) Branch Plaintiffs' plan 1 (Exhibit 15); (4) Branch plan 2 (Exhibit 20); (5) Branch plan 1A (zero deviation) (Exhibit 38); (6) Branch plan 2A (zero deviation) (Exhibit 40); (7) Original Kirksey plan (Exhibit 44); (8) Kirksey plan 2 (Exhibit 47); (9) Modified Kirksey plan (Exhibit 49); (10) Kirksey plan 2-no deviation (Exhibit 48); and (11) Modified Kirksey plan-no deviation (Exhibit 50). While the Court recognizes that eleven plans were introduced into evidence, at trial the parties basically advanced two plans in support of their respective positions. The Plaintiffs urged this Court to adopt Branch plan 2A with zero population deviation. On the other hand, the Intervenor urged adoption of the modified Kirksey plan with no deviation in the population.

The House plan has a total deviation of 0.02%. The Senate plan has a total deviation of 0.07%. These minor deviations apparently exist only because of the effort to avoid splitting precincts. While such minor deviations may be appropriate in a legislative plan, a court-ordered plan should contain districts with populations as equal

as practicable to fully satisfy the exacting federal constitutional standards regarding deviation in congressional plans. The Branch and Kirksey plans have been altered so that the deviation is zero.

Here, both parties have presented plans, which have been described as providing "zero deviation" or "no deviation" from equality. The State of Mississippi has 2,844,658 inhabitants according to the 2000 census. Divided by four, this results in a figure of 711,164.5. Thus, a deviation as low as possible will lead to two districts with 711,164 people and two districts with 711,165 people. The Branch plan 2A and the modified Kirksey plan do this. The maximum population deviation in any district under the Court's plan is one person. That deviation was unavoidable because Mississippi's total population is not divisible by four.

B. Voting Rights Act

Federal law also places constraints upon state plans for congressional redistricting through the provisions of the Voting Rights Act. The requirements of § 2 of the Voting Rights Act, 42 U.S.C. § 1973, are clear. Because the application of § 2 to this case has neither been pled nor proven by any party, this Court determines that § 2 has not been violated by any of the plans submitted for the Court's consideration.

Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, forbids changes in state election laws which "have the effect of denying or abridging the right to vote on account of race or color." This Court has complied with the redistricting guidance recently issued by the Department of Justice. Its published standards declare:

A proposed redistricting plan ordinarily will occasion an objection by the Department of Justice if the plan reduces minority voting strength relative

to the benchmark plan and a fairly-drawn alternative plan could ameliorate or prevent that retrogression.

Office of the Assistant Attorney General, Civil Rights Division; Guidance Concerning Redistricting and Retrogression under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, 66 Fed. Reg. 5412, 5413 (Jan. 18, 2001). In determining reduction in voting strength, the Department of Justice is guided by the most recent census data:

For redistricting after the 2000 Census, the Department of Justice will, consistent with past practice, evaluate redistricting submissions using the 2000 Census population data released by the Bureau of the Census for redistricting pursuant to Public Law 94-171, 13 U.S.C. 141(c).

Id. at 5414.

Both plans that the parties have urged for adoption have retrogression in the majority-minority District 2. The 2000 census indicates that existing District 2 has a Black voting age population of 61.1 percent. See Exhibit 26, Population Summary Report. Under the Branch plan 2A, the Black voting age population is 59.03 percent. The modified Kirksey plan gives District 2 a Black voting age population of 59.94 percent. The difference in the deviation of the Black voting age population between the Branch plan 2A and the modified Kirksey plan is of no consequence in this Court's opinion since the majority-minority status of District 2 is not affected. Thus, the Court finds that retrogression is not an issue in either plan and that both plans satisfy Section 5 of the Voting Rights Act.

C. Non Constitutional Considerations

The Court acknowledges several non constitutional considerations urged by the Intervenor. However, the Court also acknowledges the criteria of the Joint Standing

Committee on Congressional Redistricting as testified to by its attorney, Tommie Cardin, and the general principles of equity.

The neutral criteria that has evolved in the federal line of cases regarding redistricting are as follows: (1) providing geographically compact and contiguous districts; (2) adhering to traditional and historic regional and district boundaries; (3) preserving communities of interest; and (4) avoiding unnecessary or invidious outdistricting of incumbents. Balderas v. Texas, No. 6:01CV158 (E.D. Tex. Nov. 14, 2001), slip op.

1. Geographically compact and contiguous districts

Under the federal line of cases, a court may consider whether the districts are geographically compact and contiguous. Each plan urged by the Plaintiffs and the Defendants provides contiguous districts. Therefore, contiguity of the districts is not an issue.

The Court next must consider the geographical compactness of the districts within the plans. The Court finds it informative that the Intervenor's expert witness, Dr. John Alford, under cross examination, admitted that compactness is not a federal requirement that states are bound to respect during the redistricting process. At first glance, the modified Kirksey plan may appear more attractive. However, this Court must evaluate the plans beyond the mere appearances. Looks can be deceiving.

As noted earlier, contiguity, not compactness, was one of the three criteria announced by the Joint Standing Committee on Congressional Redistricting. The Court further notes that the current legislative plan is not compact. Therefore, this criteria, taken in conjunction with the testimony of the Intervenor's expert, Dr. John

Alford, and the Court's equity principles of fairness, leads this Court to the conclusion that compactness is not a priority for redistricting in the State of Mississippi. This Court rejects the Intervenor's arguments regarding the neutral consideration of compactness.

2. Traditional and Historic Regional Boundaries

The Branch plan 2A preserves the historical boundaries of Districts 3 and 4, while the modified Kirksey plan completely dismantles District 4. This, the Court finds disturbing. According to the testimony of former Congressman Wayne Dowdy, a successful candidate in District 4, "traditionally, there has been a congressional district that included Southwest Mississippi going back for decades and decades. The Southwest part of the State has been traditionally a seat in Congress." The former Congressman goes on to state "the modified Kirksey plan splits [District 4] into three parts and tacks one onto the coast, one onto the Delta district and one onto the third district. . . . It's ugly insofar as Southwest is concerned." While the Court disregards the comments on the appearance of the district, the Court found Representative Dowdy's testimony instructive with regard to the traditional and historic boundaries of the district. The Court notes that under the current congressional districts, the four major universities are in different districts. The Court further notes that the two military bases placed together in the Branch plan 2A are also placed together in the current congressional district.

The Court finds that in contrast with the modified Kirksey plan, the Branch plan 2A preserves the integrity of a Southwest Mississippi district, and it places the electorate of Southwest Mississippi in a position where it would not be ignored. The

Court notes that in the interest of preserving historical boundaries, that the Branch plan 2A most closely resembles current Districts 3 and 4.

3. Communities of Interest

While the Court recognizes that communities of interest is a non constitutional consideration, this Court will address this issue. This Court rejects the argument that placing high growth areas in the same district would jeopardize federal funding to those cities. Conversely, the Court's opinion is that it would do just the opposite since the person representing District 1 will have the opportunity to concentrate on the common issues of larger cities, much like former Congressman Sonny V. Montgomery who championed in the area of veteran and military affairs. Congressman Montgomery was able to accomplish these goals although two military bases were located in the district.

Under the Branch 2A plan, the Intervenor's assert that the plan places Desoto, Lee, and parts of Rankin and Madison Counties all in proposed District 1, and that in fact, there would be counties in competition. It is this Court's opinion that these counties in fact are high growth areas. Additionally, they are all primarily bedroom communities and have had extensive suburban growth. They all outline large metropolitan areas and have access to the best transportation system that this State has to offer, with a transportation artery of I-55 and accessibility to major airports. This Court would agree that common interests may yield common problems. Fortunately, these problems and interests can be addressed in a like and similar manner. This would give any person representing this district an opportunity to focus on issues that would be common to high growth areas within the district and in the State of Mississippi.

Regarding the issue of competition, this Court is persuaded by the testimony of former Congressmen Wayne Dowdy and Bob Livingston. Both witnesses agreed that the State Congressional delegation should work and have worked well together for the benefit of the State of Mississippi in securing federal funding. Congressman Dowdy stated that even though there may be competition for federal dollars, "[t]here's no way Rankin County with that huge mass of population and that huge tax base will ever be ignored by anybody" Additionally, the Court emphasizes that the present District 1 representative is a member of the powerful House Appropriations Committee. Further, this Court weighed the testimony of Bob Livingston, former Chairman of the House Appropriations Committee. Congressman Livingston said that it is preferable to place high-growth areas in separate congressional districts for purposes of lobbying for federal money. He also testified that no matter where the high-growth areas are situated, the state's delegation ultimately must work together. He stated that all members of the state's delegation must work through the member or members who happen to be on the Appropriations Committee, which in Mississippi's case is Congressman Roger Wicker of District 1. Congressman Livingston testified that Congressman Wicker does a good job of balancing the appropriations needs of the entire State of Mississippi; likewise, Senators Trent Lott and Thad Cochran do a good job of balancing the state's needs and obtaining federal appropriations. Finally, Congressman Livingston testified that redistricting involves many factors other than the appropriations process.

"The community of interest concept could be employed in every congressional district across the country in which a congressional incumbent feels threatened by an

impending redistricting.” Hastert v. State Bd. of Elections, 777 F. Supp. 634, 660 (N.D. Ill. 1991). This Court is of the opinion, like in Hastert, “that there is a place where particular non constitutional communities of interest should be considered . . . [and] [t]hat place is the halls and committee chambers of the State legislature.” Id. “The courtroom is not the proper arena for lobbying efforts regarding the districting concerns of local, non constitutional communities of interest.” Id. After careful consideration, this Court rejects the Intervenor’s communities of interest arguments.

4. Treatment of Incumbents

The next issue this Court will address is the equitable treatment of the two incumbents. First, this Court is mindful of the reason we are here today—the State of Mississippi is losing one of its congressional districts because the population of the State did not grow at the national rate. After reviewing the population of each current congressional district, it makes logical sense to combine the two slowest-growth, non constitutionally protected districts. Said another way, it is only equitable to combine the current Districts 3 and 4, since due to their slower growth rate, Mississippi is having to reduce its congressional delegation from five to four.

With this in mind, the Court is faced with drawing one congressional district out of two that is equitable and fair under the circumstances. The maintenance of incumbents provides the electorate with some continuity. However, this Court has not and will not concern itself with mere partisan politics. The true purpose of the redistricting process is to afford the electorate orderly, timely, and efficient elections without the flux of delays, date changes, and continuances. The Court finds most instructive Dr. Alford’s

testimony that the judiciary should not consider politics as a criterion when courts are required to act in the legislature's stead as it relates to redistricting.

Combining Districts 3 and 4 into a single district that is equitable for both incumbents is a difficult task. Both the House and Senate plans combine portions of existing Districts 3 and 4 into a single district. Although the two plans are different, each contains a combined district linking Southwest Mississippi to East Central Mississippi. Congressman Chip Pickering presently represents District 3, and District 4 is represented by Congressman Ronnie Shows. For purposes of this equitable analysis, the political affiliations of Congressmen Pickering or Shows are irrelevant. These gentlemen are the two most junior members of the Mississippi delegation. Under the present congressional scheme, their districts adjoin each other.

Like the Senate and House plans, the Branch 2A plan also contains a combination district linking Southwest Mississippi with East Central Mississippi. The modified Kirksey plan does not. The combined District 3 in the modified Kirksey plan is fully anchored in East Central Mississippi. It contains all or part of eighteen of the nineteen counties that are fully or partially in the existing District 3. By contrast, the modified Kirksey plan contains all or part of only five of the fifteen counties fully or partially in the existing District 4. The other ten counties wholly or partially in present District 4 are divided elsewhere, with five going to proposed District 2 and five to proposed District 4. Thus, under the modified Kirksey plan, the present District 4 is completely dismantled. Again, the Court finds this disturbing.

The population analysis presented by the Plaintiffs indicates that in the modified Kirksey plan, 73% of the proposed District 3 comes from existing District 3, while only

20% comes from existing District 4. Portions of each of current Districts 1, 2, 3, and 5 compose at least 60% of one of the new districts. Current District 4, however, is completely fragmented. The Senate plan suffers from the same problem. The population analysis shows that 62% of the proposed District 3 in that plan comes from the present District 3, while only 34% comes from present District 4. The House plan contains a combination district that is composed of roughly equivalent portions of present Districts 3 and 4.

The Branch plan 2A contains a balanced combination district. Forty-seven percent of the proposed District 3 in the Branch plan comes from present District 3, and 44% comes from present District 4. Most of the remaining 9% come from present District 1, which is represented by Congressman Roger Wicker. The combination district in the Branch plan 2A allows for a level playing field for the incumbents. The plaintiffs' expert, Dr. Leslie McLemore, Professor of Political Science at Jackson State University and a noted authority on Mississippi politics, testified as an expert. Dr. McLemore's testimony substantiated that under the Branch plan 2A, a congressional race between the incumbents Ronnie Shows and Chip Pickering would be competitive, and either candidate's chances of winning were more equalized under the Branch plan 2A than the modified Kirksey plan. Dr. McLemore's testimony was not refuted on this issue.

When a court adopts a redistricting plan, fairness to the incumbents is a paramount consideration. This is particularly true where a seat is lost and incumbents must be pitted against one another. This Court is of the opinion that the fundamental

principles of equity as they relate to the incumbents dictate adoption of the Branch plan 2A.

III. Conclusion

Ultimately, the key issue is equity. This problem was caused by the loss of a seat. The resolution must be one that is fair. After meeting the constitutional and Voting Rights Act requirements, the plan ordered by this Court should be based on the equitable principles of fairness.

Rather than reaching some sort of compromise between existing Districts 3 and 4, the modified Kirksey plan totally dismantles and fragments District 4. The Branch plan 2A best achieves the goals of fairness. It contains features of both the House and Senate plans, and effects a compromise. Cf., Ajamian v. Montgomery County, 639 A.2d 157, 170 (Md. App. 1994) ("Redistricting is both an art and a science; it is by its very nature founded on compromise and accommodation"). It adheres to state redistricting policies to the extent possible while also attempting to achieve fairness. See, Cook v. Lockett, 735 F.2d 912, 918 (5th Cir. 1984) ("A court must honor state policies to the greatest extent possible when choosing among available plans or fashioning its own.").

IT IS THEREFORE ORDERED AND ADJUDGED, that the Branch plan 2A be and is hereby adopted as the Court's redistricting plan as set forth in the Appendix, and said plan shall govern the nomination and election of members of the House of Representatives from the State of Mississippi; and

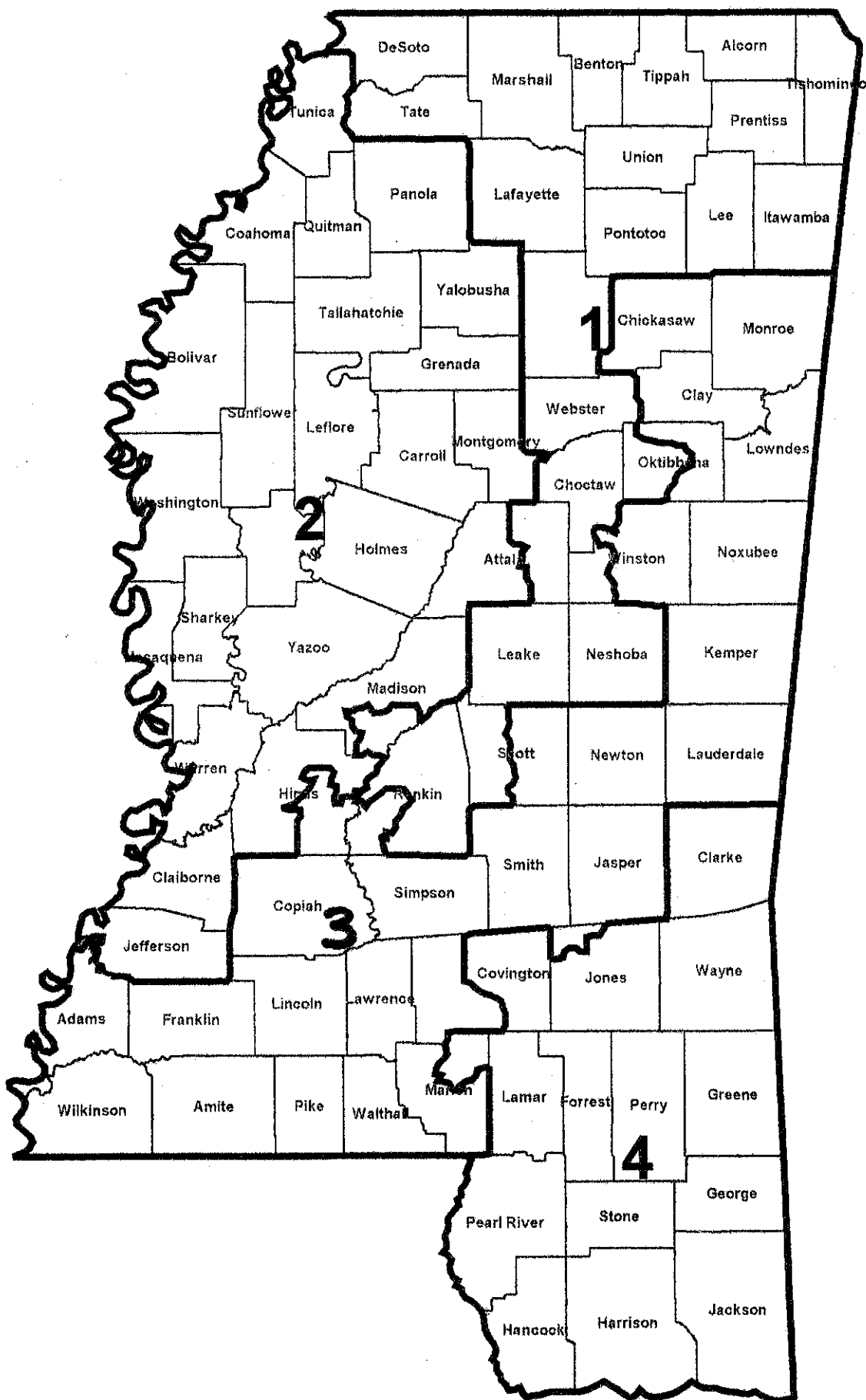
IT IS FURTHER ORDERED AND ADJUDGED, that the State Board of Elections, in accordance with its duties under the Mississippi Election Laws shall forthwith implement the terms of the Court's redistricting plan by filing said plan with the Department of Justice on or before December 26, 2001, by 5 o'clock eastern standard time and by filing a certificate of compliance with this Court on before December 26, 2001, by 5 o'clock central standard time.

The Clerk of the Chancery Court is hereby directed to enter this final judgment in accordance with the Order set forth above.

SO ORDERED, this the 21st day of December, 2001.


CHANCELLOR

Branch Plaintiffs' Plan 2A Zero Deviation



Summary Report
Branch Plaintiffs' Plan 2A Zero Deviation

District	Population	Deviation	% Dev.	Total Voting Age Population (VAP)	AP Black VAP	% AP Black VAP
1	711165	0	0	525680	94243	17.93
2	711165	0	0	502604	296696	59.03
3	711164	-1	0	519152	194829	37.53
4	711164	-1	0	522035	103226	19.77
Totals:	2844658	1	0	2069471	688994	33.29

0364

Plan: Branch Plan 2A Zero Deviation
Plan Type:
Administrator:
User:

Plan Components Report

Wednesday, December 19, 2001

11:57 AM

District	Population	[18+ Pop]	[18+ AP_Blkl]
Alcorn County	34,558	26,310	2,663
Attala County			
VTD: Berea	217	170	26
VTD: Ethel	842	614	201
VTD: Liberty Chapel	470	351	78
VTD: McCool	597	466	146
VTD: Providence	516	407	37
VTD: Thompson	269	200	12
VTD: Zama	561	418	117
Attala County Subtotal	3,472	2,626	617
Benton County	8,026	5,867	1,949
Calhoun County	15,069	11,270	2,904
Choctaw County	9,758	7,044	1,941
DeSoto County	107,199	77,005	8,132
Itawamba County	22,770	17,257	1,074
Lafayette County	38,744	31,170	6,955
Leake County	20,940	15,308	5,333
Lee County	75,755	54,793	11,974
Madison County			
VTD: Bear Creek	2,461	1,749	501
VTD: Cobblestone Church Of God	5,472	4,050	311
VTD: Gluckstadt			
BLK: 0302041004	2	2	0
BLK: 0302041005	159	128	4
BLK: 0302041006	59	46	4
BLK: 0302041007	0	0	0
BLK: 0302041019	8	5	0
BLK: 0302041020	88	58	2
BLK: 0302041021	59	43	0
BLK: 0302041022	3	3	0
BLK: 0302041023	89	53	3
BLK: 0303011000	13	9	7
BLK: 0303011001	626	549	30
BLK: 0303011002	101	52	0
BLK: 0303011003	23	13	0
BLK: 0303011004	95	58	7
BLK: 0303011005	72	45	8
BLK: 0303011006	242	167	30

Plan: Branch Plan 2A Zero Deviation
Type:

Administrator:
User:

Population [18+ Pop] [18+ AP Blk]
District 1 (continued)

Madison County (continued)

BLK: 0303011007	477	323	56
BLK: 0303011008	285	178	45
BLK: 0303011009	98	62	6
BLK: 0303011010	25	22	8
BLK: 0303011011	0	0	0
BLK: 0303011012	14	10	0
BLK: 0303011013	0	0	0
BLK: 0304002048	0	0	0
BLK: 0304002049	0	0	0
BLK: 0304002052	12	6	6
BLK: 0304002072	16	12	12
BLK: 0304002120	6	4	0
BLK: 0304002121	32	32	0
BLK: 0304002122	54	46	4
BLK: 0304002123	0	0	0
BLK: 0304002124	0	0	0
BLK: 0304002125	15	12	0
BLK: 0304002126	3	2	0
BLK: 0304002127	7	7	0
BLK: 0304002128	0	0	0
BLK: 0304002129	7	6	0
BLK: 0304002130	30	29	0
BLK: 0304002131	11	11	0
BLK: 0304002132	14	10	0
BLK: 0304002133	0	0	0
BLK: 0304002134	0	0	0
BLK: 0304002135	0	0	0
BLK: 0304002136	0	0	0
BLK: 0304002137	2	2	0
BLK: 0304002162	0	0	0
BLK: 0304002163	0	0	0
BLK: 0304002164	0	0	0
BLK: 0304002165	0	0	0
BLK: 0304002166	0	0	0
BLK: 0304002167	6	6	0
BLK: 0304002168	0	0	0
BLK: 0304002169	0	0	0
BLK: 0304002170	2	2	0
BLK: 0304002172	33	25	1
BLK: 0304002185	23	20	0
BLK: 0304002186	45	43	0
BLK: 0304002187	56	50	1
BLK: 0304002188	0	0	0
BLK: 0304002189	3	2	0
BLK: 0304002190	38	27	6
BLK: 0304002191	4	4	0
BLK: 0304002192	3	2	0
BLK: 0304002193	12	7	0
BLK: 0304002194	1	1	0

Plan: Branch Plan 2A Zero Deviation
Type:

Administrator:
User:
Population

District 1 (continued)		[18+ Pop]	[18+ AP Blk]
Madison County (continued)			
BLK: 0304002195	5	3	0
BLK: 0304002196	0	0	0
BLK: 0304002197	0	0	0
BLK: 0304002198	15	12	11
BLK: 0304002199	339	235	50
BLK: 0304002200	18	11	2
BLK: 0304002201	19	14	0
BLK: 0304002270	4	2	0
BLK: 0304002274	0	0	0
BLK: 0304002275	24	22	20
BLK: 0304002276	15	12	0
BLK: 0304002988	0	0	0
BLK: 0304002989	0	0	0
BLK: 0304002990	0	0	0
BLK: 0304002991	0	0	0
BLK: 0304002992	0	0	0
BLK: 0304002993	0	0	0
BLK: 0304002994	0	0	0
BLK: 0304002995	0	0	0
BLK: 0304002996	0	0	0
BLK: 0304002997	0	0	0
BLK: 0304002998	0	0	0
VTD Gluckstadt Subtotal	3,412	2,505	323
VTD: Highland Colony Bap. Ch.	2,137	1,440	294
VTD: Madison 1	1,651	1,149	19
VTD: Madison 2	3,585	2,582	65
VTD: Madison 3	3,853	2,658	173
VTD: Madisonville	427	323	82
VTD: Main Harbor	1,953	1,574	53
VTD: Ridgeland 1	3,565	2,836	510
VTD: Ridgeland 3	3,990	3,138	1,033
VTD: Ridgeland 4	2,571	2,221	474
VTD: Ridgeland First Meth. Ch.	2,941	1,964	531
VTD: Trace Harbor	1,820	1,277	34
VTD: Victory Baptist Church	3,788	2,449	69
VTD: Whisper Lake	1,968	1,383	128
Madison County Subtotal	45,594	33,298	4,600
Marshall County	34,993	25,695	12,241
Neshoba County	28,684	20,583	3,647
Oktibbeha County			
VTD: Adaton	861	612	141
VTD: Bradley	330	253	58
VTD: Craig Springs	262	202	7
VTD: Double Springs	492	386	18
VTD: Maben	677	465	216
VTD: North Longview	982	732	134
VTD: Self Creek	624	482	68
VTD: South Longview	427	320	69

Plan: Branch Plan 2A Zero Deviation
Type:

Administrator:
User:

	Population	[18+ Pop]	[18+ AP Blk]
District 1 (continued)			
Oktibbeha County (continued)			
VTD: South Starkville	7,044	5,813	1,235
VTD: Sturgis	1,327	996	261
VTD: West Starkville	4,838	3,722	920
Oktibbeha County Subtotal	17,864	13,983	3,127
Pontotoc County	26,726	19,351	2,543
Prentiss County	25,556	19,170	2,352
Rankin County			
VTD: Antioch	356	262	9
VTD: Castletwoods	6,303	4,600	432
VTD: Cato	1,375	964	242
VTD: Crest Park	2,890	2,096	123
VTD: Crossroads	1,121	816	66
VTD: Cunningham Heights	1,552	1,150	87
VTD: Dry Creek	1,785	1,267	426
VTD: East Brandon	1,580	1,174	106
VTD: East Crossgates	3,238	2,432	44
VTD: Eldorado	3,122	2,417	369
VTD: Fannin	4,067	2,913	419
VTD: Flowood	1,473	1,243	161
VTD: Grants Ferry	4,142	2,890	140
VTD: Holbrook	4,525	3,390	277
VTD: Johns	763	570	90
VTD: Leesburg	1,255	911	113
VTD: Mayton	344	227	58
VTD: Mullins	1,088	746	429
VTD: North Brandon	4,300	3,167	297
VTD: North McLaurin	1,879	1,410	63
VTD: North Pearson	503	381	41
VTD: North Richland	2,141	1,630	122
VTD: Northeast Brandon	1,272	880	302
VTD: Oakdale	1,289	920	58
VTD: Patton Place	1,702	1,255	141
VTD: Pearl	1,624	1,203	59
VTD: Pelahatchie	3,708	2,706	636
VTD: Pisgah	2,301	1,603	713
VTD: Puckett	1,220	870	212
VTD: Reservoir	4,468	3,512	90
VTD: Shiloh	323	239	78
VTD: South Brandon	2,289	1,672	46
VTD: South Crossgates	1,574	1,366	67
VTD: South McLaurin	2,694	1,994	69
VTD: Star	1,675	1,248	270
VTD: West Crossgates	2,184	1,662	92
VTD: West Pearl	3,351	2,449	428
Rankin County Subtotal	81,476	60,235	7,375
Scott County			
VTD: Clifton	208	140	18

Plan: Branch Plan 2A Zero Deviation

Administrator:

Type:

User:

Population

[18+ Pop]

[18+ AP_Bl]

District 1 (continued)

Scott County (continued)

VTD: Contrell	752	481	354
VTD: Cooperville	541	424	26
VTD: East-West Morton	3,146	2,331	509
VTD: Forkville	398	314	8
VTD: Liberty (28123405)	1,068	752	142
VTD: Ludlow	815	608	165
VTD: North Morton	2,327	1,629	709
VTD: Pulaski	606	474	38
VTD: Springfield	643	496	4

Scott County Subtotal

10,504	7,649	1,973
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Tate County

25,370	18,502	5,404
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Tippah County

20,826	15,620	2,310
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Tishomingo County

19,163	14,724	478
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Union County

25,362	18,783	2,573
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Webster County

10,294	7,607	1,410
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Winston County

VTD: Calvary	339	258	80
VTD: Ford School	427	332	46
VTD: Hinze	69	52	1
VTD: Liberty	594	413	239
VTD: Lobutchia	292	206	96
VTD: Mars Hill	343	262	43
VTD: Vowell	263	201	99

VTD: Zion Ridge

BLK: 9502001005	1	1	0
BLK: 9502001006	40	34	11
BLK: 9502001007	51	40	31
BLK: 9502001008	0	0	0
BLK: 9502001009	1	1	1
BLK: 9502001010	3	3	1
BLK: 9502001012	14	8	4
BLK: 9502001014	3	3	0
BLK: 9502001015	0	0	0
BLK: 9502001025	19	14	14
BLK: 9502001027	3	2	2

VTD Zion Ridge Subtotal

135	106	64
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Winston County Subtotal

2,462	1,830	668
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District 1 Subtotal

711,165	525,680	94,243
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District 2

Attala County

VTD: Aponaug	514	390	81
VTD: Carmack	399	317	0
VTD: East	1,561	1,212	121
VTD: Hesterville	516	363	47
VTD: McAdams	556	407	223
VTD: Newport	656	489	230

Plan: Branch Plan 2A Zero Deviation
Type:

Administrator:
User:

Population

[18+ Pop]

[18+ AP_Blk]

District 2 (continued)

Attala County (continued)

VTD: North Central	492	374	32
VTD: Northeast	2,711	1,887	1,323
VTD: Northwest	2,029	1,535	543
VTD: Possumneck	378	273	95
VTD: Sallis	1,519	1,026	658
VTD: South Central	2,007	1,511	494
VTD: Southwest	885	674	422
VTD: Williamsville	1,966	1,478	460

Attala County Subtotal

16,189	11,936	4,729
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Bolivar County	40,633	28,587	17,177
Carroll County	10,769	8,134	2,801
Claiborne County	11,831	8,724	7,172
Coahoma County	30,622	20,514	13,244
Grenada County	23,263	16,945	6,408

Hinds County

VTD: 1	297	251	146
VTD: 10	731	546	529
VTD: 11	984	745	698
VTD: 12	1,062	764	761
VTD: 13	1,309	955	944
VTD: 14	1,672	1,476	201
VTD: 15	488	410	68
VTD: 16	2,132	1,530	1,122
VTD: 17	853	694	42
VTD: 18	1,227	899	863
VTD: 19	1,148	854	846
VTD: 2	940	710	697
VTD: 20	1,880	1,237	1,222
VTD: 21	1,022	637	576
VTD: 22	2,605	1,817	1,775
VTD: 23	2,484	1,680	1,678
VTD: 24	2,382	1,345	1,201
VTD: 25	2,463	1,511	1,401
VTD: 26	1,328	844	709
VTD: 27	1,931	1,512	1,492
VTD: 28	2,053	1,630	1,615
VTD: 29	1,037	804	800
VTD: 30	1,426	995	987
VTD: 31	1,939	1,452	1,448
VTD: 32	1,362	1,038	62
VTD: 33	1,252	934	16
VTD: 34	2,184	1,700	10
VTD: 35	2,401	1,773	164
VTD: 36	1,739	1,383	437
VTD: 37	1,636	1,306	421
VTD: 38	1,442	1,007	568

Plan: Branch Plan 2A Zero Deviation

Administrator:

Type:

User:

Population

[18+ Pop]

[18+ AP Blk]

District 2 (continued)

Hinds County (continued)

VTD: 39	1,695	1,154	1,072
VTD: 4	1,121	743	736
VTD: 40	2,391	1,752	1,686
VTD: 41	2,818	2,004	1,973
VTD: 42	3,156	2,319	1,800
VTD: 43	4,359	2,968	2,360
VTD: 44	3,002	2,290	465
VTD: 45	2,789	2,281	78
VTD: 46	2,367	1,875	268
VTD: 47	3,107	2,444	2,024
VTD: 5	1,995	1,702	731
VTD: 50	968	706	650
VTD: 51	1,013	677	664
VTD: 52	2,319	1,598	1,546
VTD: 53	585	391	380
VTD: 54	1,149	887	745
VTD: 55	1,848	1,226	1,132
VTD: 56	1,027	610	592
VTD: 57	1,436	940	914
VTD: 58	2,025	1,477	1,431
VTD: 59	3,079	1,797	1,742
VTD: 6	2,314	1,751	946
VTD: 60	987	597	549
VTD: 61	2,406	1,524	1,439
VTD: 62	2,545	1,631	1,439
VTD: 63	1,062	772	767
VTD: 64	1,101	821	805
VTD: 66	231	160	158
VTD: 67	2,186	1,408	1,194
VTD: 68	4,122	2,842	1,780
VTD: 69	2,083	1,340	846
VTD: 70	1,230	774	393
VTD: 71	2,069	1,391	706
VTD: 72	2,477	1,506	869
VTD: 73	1,887	1,367	573
VTD: 74	1,597	1,099	413
VTD: 75	1,430	943	425
VTD: 78	4,337	3,674	435
VTD: 79	2,990	2,289	876
VTD: 8	1,412	1,211	148
VTD: 80	3,625	2,332	2,147
VTD: 81	2,131	1,614	1,493
VTD: 82	2,252	1,564	1,501
VTD: 83	4,481	3,123	2,860
VTD: 84	420	326	295
VTD: 85	3,943	2,759	2,738
VTD: 86	2,615	1,506	1,421
VTD: 87	2,085	1,371	952
VTD: 88	2,937	2,101	1,630

	Population	[18+ Pop]	[18+ AP Blk]
District 2 (continued)			
Hinds County (continued)			
VTD: 89	2,114	1,433	907
VTD: 9	1,836	1,585	75
VTD: 90	1,666	1,213	498
VTD: 92	3,598	2,481	1,109
VTD: 94	3,657	2,442	1,835
VTD: 95	910	657	180
VTD: Bolton	1,894	1,406	943
VTD: Brownsville	754	556	315
VTD: Cayuga	495	379	221
VTD: Chapel Hill	1,378	980	454
VTD: Cynthia	753	536	409
VTD: Edwards	3,711	2,548	1,901
VTD: Jackson State	1,658	1,596	1,588
VTD: Learned	924	661	309
VTD: Pinehaven	2,749	1,932	828
VTD: Pocahontas	620	483	310
VTD: Raymond 1	3,346	2,237	913
VTD: Tinnin	1,153	789	252
VTD: Utica 1	1,297	953	388
VTD: Utica 2	1,396	965	737
Hinds County Subtotal	190,522	135,908	90,458
Holmes County	21,609	14,670	10,951
Humphreys County	11,206	7,541	5,069
Issaquena County	2,274	1,645	968
Jefferson County	9,740	6,937	5,864
Leflore County	37,947	26,667	16,922
Madison County			
VTD: Bible Church	964	509	495
VTD: Camden	1,703	1,112	919
VTD: Cameron	120	96	47
VTD: Canton Pct. 7	707	519	464
VTD: Canton Precinct 1	2,644	1,824	1,195
VTD: Canton Precinct 2	2,511	1,886	799
VTD: Canton Precinct 3	603	413	265
VTD: Canton Precinct 4	3,332	2,263	1,830
VTD: Canton Precinct 5	1,732	1,082	1,072
VTD: Couparle	60	48	40
VTD: Flora	1,756	1,301	349
VTD: Gluckstadt			
BLK: 0304002116	17	11	11
BLK: 0304002119	1	1	1
BLK: 0304002157	0	0	0
BLK: 0304002158	2	2	1
VTD Gluckstadt Subtotal	20	14	13
VTD: Liberty	2,118	1,426	1,262
VTD: Lorman-Cavalier	1,531	1,148	410

Plan: Branch Plan 2A Zero Deviation

Administrator:

Type:

User:

Population

[18+ Pop]

[18+ AP_Blk]

District 2 (continued)

Madison County (continued)

VTD: Luther Branson School	1,207	800	658
VTD: Mad. Co. Bap. Fam. Lf.Ct.	2,013	1,188	1,186
VTD: Magnolia Heights	1,916	1,308	1,007
VTD: New Industrial Park	577	378	315
VTD: Ratliff Ferry	1,075	795	411
VTD: Sharon	855	553	455
VTD: Smith School	499	380	39
VTD: Tougaloo	605	584	581
VTD: Virilia	532	369	173

Madison County Subtotal

Montgomery County	12,189	8,925	3,634
Panola County	34,274	24,193	10,547
Quitman County	10,117	6,880	4,396
Sharkey County	6,580	4,409	2,848
Sunflower County	34,369	24,775	16,416
Tallahatchie County	14,903	10,427	5,688
Tunica County	9,227	6,324	4,081
Warren County	49,644	35,476	14,219
Washington County	62,977	43,144	25,872
Yalobusha County	13,051	9,711	3,353
Yazoo County	28,149	20,136	9,894

District 2 Subtotal

	711,165	502,604	296,696
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District 3

Adams County	34,340	25,149	12,370
Amite County	13,599	10,068	3,984
Chickasaw County	19,440	13,874	5,214
Clay County	21,979	15,643	8,157
Copiah County	28,757	21,014	9,976
Franklin County	8,448	6,142	1,990
Hinds County			
VTD: 76	2,526	1,891	479
VTD: 77	2,601	1,798	597
VTD: 91	3,212	2,090	1,651
VTD: 93	1,845	1,293	776
VTD: 96	2,828	2,143	716
VTD: 97	659	486	109
VTD: Byram 1	4,541	3,264	472
VTD: Byram 2	2,063	1,567	173
VTD: Clinton 1	4,406	3,713	549
VTD: Clinton 2	5,308	3,722	562
VTD: Clinton 3	4,439	3,352	744
VTD: Clinton 4	2,201	1,602	192

	Population	[18+ Pop]	[18+ AP_Bl]
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District 3 (continued)**Hinds County (continued)**

VTD: Clinton 5	1,590	1,231	60
VTD: Clinton 6	3,697	2,710	720
VTD: Dry Grove	1,076	798	222
VTD: Old Byram	2,665	1,975	173
VTD: Raymond 2	4,257	3,590	1,321
VTD: Spring Ridge	4,297	3,046	1,077
VTD: St. Thomas	560	390	374
VTD: Terry	5,507	4,166	1,476

Hinds County Subtotal

60,278	44,827	12,443
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Jasper County

18,149	13,077	6,400
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Jefferson Davis County

13,962	9,998	5,292
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Jones County

VTD: Gitano	447	335	84
VTD: Hebron	1,201	838	543
VTD: Matthews	867	627	61
VTD: Soso	1,600	1,175	504

Jones County Subtotal

4,115	2,975	1,192
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Kemper County

10,453	7,795	4,253
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Lauderdale County

78,161	57,370	19,778
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Lawrence County

13,258	9,635	2,872
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Lincoln County

33,166	24,324	6,748
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Lowndes County

61,586	43,963	16,599
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Marion County

VTD: Balls Mill	1,071	806	171
VTD: City Hall Beat 3	828	598	205
VTD: Courthouse Beat 4	1,324	1,018	126
VTD: Darbun	447	347	47

VTD: East Columbia

BLK: 9504003077	29	22	19
BLK: 9504003078	0	0	0
BLK: 9504003079	0	0	0
BLK: 9504003080	0	0	0
BLK: 9504003081	58	40	37
BLK: 9504003082	0	0	0
BLK: 9504003083	3	3	3
BLK: 9504004059	0	0	0
BLK: 9504004060	0	0	0
BLK: 9504004061	0	0	0
BLK: 9504004994	0	0	0
BLK: 9505001006	6	6	0
BLK: 9505001007	13	11	3
BLK: 9505001008	19	15	0
BLK: 9505001009	6	4	4
BLK: 9505001010	0	0	0
BLK: 9505001011	5	4	0

Plan: Branch Plan 2A Zero Deviation

Administrator:

Type:

User:

Population

[18+ Pop]

[18+ AP Blk]

District 3 (continued)

Marion County (continued)

BLK: 9505001012	0	0	0
BLK: 9505001013	5	3	0
BLK: 9505001014	36	18	12
BLK: 9505001015	12	8	8
BLK: 9505001016	9	6	0
BLK: 9505001017	43	23	23
BLK: 9505001018	13	9	9
BLK: 9505001019	20	18	0
BLK: 9505001020	9	7	0
BLK: 9505001021	5	5	0
BLK: 9505001048	0	0	0
BLK: 9505001049	13	10	0
BLK: 9505001997	0	0	0
BLK: 9505001998	0	0	0
BLK: 9505001999	0	0	0
BLK: 9505002000	19	13	1
BLK: 9505002001	4	3	0
BLK: 9505002002	0	0	0
BLK: 9505002003	0	0	0
BLK: 9505002004	22	18	12
BLK: 9505002005	5	5	0
BLK: 9505002006	10	9	7
BLK: 9505002007	2	2	0
BLK: 9505002008	0	0	0
BLK: 9505002009	13	10	0
BLK: 9505002010	50	35	0
BLK: 9505002011	74	54	35
BLK: 9505002030	47	39	6
BLK: 9505002033	0	0	0
BLK: 9505002034	0	0	0
BLK: 9505002035	11	9	0
BLK: 9505002036	3	3	0
BLK: 9505002037	23	18	0
BLK: 9505002038	5	5	0
BLK: 9505002039	2	2	2
BLK: 9505002040	0	0	0
BLK: 9505002041	4	2	2
BLK: 9505002042	23	21	9
BLK: 9505002043	56	43	25
BLK: 9505002044	0	0	0
BLK: 9505002045	0	0	0
BLK: 9505002046	0	0	0
BLK: 9505002047	26	22	22
BLK: 9505002048	0	0	0
BLK: 9505002049	4	3	3
BLK: 9505002050	15	14	14
BLK: 9505002051	2	2	0
BLK: 9505002052	0	0	0
BLK: 9505002053	2	2	2

Plan: Branch Plan 2A Zero Deviation
Type:

Administrator:
User:

Population	[18+ Pop]	[18+ AP_Bl]
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District 3 (continued)

Marion County (continued)

BLK: 9505002054	132	92	85
BLK: 9505002055	209	134	134
BLK: 9505002056	5	1	1
BLK: 9505002057	0	0	0
BLK: 9505002058	33	24	24
BLK: 9505002059	95	60	52
BLK: 9505002060	14	8	8
BLK: 9505002061	20	12	12
BLK: 9505002062	16	12	12
BLK: 9505002063	15	10	10
BLK: 9505002064	46	29	29
BLK: 9505002065	34	19	19
BLK: 9505002066	52	27	25
BLK: 9505002067	0	0	0
BLK: 9505002068	144	60	54
BLK: 9505002069	28	16	14
BLK: 9505002070	42	19	19
BLK: 9505002071	11	9	9
BLK: 9505002072	58	41	28
BLK: 9505002073	0	0	0
BLK: 9505002074	0	0	0
BLK: 9505002075	109	63	61
BLK: 9505002076	0	0	0
BLK: 9505002077	0	0	0
BLK: 9505002078	62	40	39
BLK: 9505002079	0	0	0
BLK: 9505002080	13	8	4
BLK: 9505002081	11	8	8
BLK: 9505002082	5	3	3
BLK: 9505002083	60	37	37
BLK: 9505002084	5	2	0
BLK: 9505002085	0	0	0
BLK: 9505002086	0	0	0
BLK: 9505002087	0	0	0
BLK: 9505002088	10	7	5
BLK: 9505002089	0	0	0
BLK: 9505002090	0	0	0
BLK: 9505002091	37	23	23
BLK: 9505002092	10	7	6
BLK: 9505002093	10	7	7
BLK: 9505002094	0	0	0
BLK: 9505002095	0	0	0
BLK: 9505002096	0	0	0
BLK: 9505002097	0	0	0
BLK: 9505002098	3	3	0
BLK: 9505002099	0	0	0
BLK: 9505002112	0	0	0
BLK: 9505002992	0	0	0
BLK: 9505002994	0	0	0

Plan: Branch Plan 2A Zero Deviation

Administrator:

Type:

User:

Population

[18+ Pop]

[18+ AP Blk]

District 3 (continued)**Marion County (continued)**

BLK: 9505002995	0	0	0
BLK: 9505002997	0	0	0
BLK: 9505002998	0	0	0
BLK: 9505002999	0	0	0

VTD East Columbia Subtotal	2,015	1,327	986
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VTD: Foxworth	1,691	1,187	348
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VTD: Goss	837	614	105
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VTD: Hub	919	662	325
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VTD: Jefferson Middle School	688	437	421
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VTD: Kokomo	971	706	191
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VTD: Morgantown	777	581	8
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VTD: Pinebur	956	691	168
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VTD: Pittman	933	681	11
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VTD: Sandy Hook	535	408	108
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VTD: South Columbia	860	713	571
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VTD: Stovall	907	607	253
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VTD: Union	440	329	14
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VTD: White Bluff	139	96	2
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Marion County Subtotal	16,338	11,808	4,060
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Monroe County	38,014	27,673	7,795
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Newton County	21,838	16,126	4,515
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Noxubee County	12,548	8,697	5,774
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Oktibbeha County

VTD: Bell Schoolhouse	536	377	277
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VTD: Center Grove	639	449	225
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VTD: Central Starkville	3,375	2,529	1,313
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VTD: East Starkville	3,586	3,316	736
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VTD: Gillespie Street Center	3,132	2,340	657
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VTD: Hickory Grove	2,644	2,140	872
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VTD: North Starkville	3,491	2,727	890
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VTD: Northeast Starkville	2,967	2,795	865
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VTD: Oktoc	1,301	915	669
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VTD: Osborn	1,805	1,243	881
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VTD: Sessums	1,562	1,063	732
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Oktibbeha County Subtotal	25,038	19,894	8,117
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Pike County	38,940	28,154	12,385
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Rankin County

VTD: Clear Branch	1,574	1,159	175
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VTD: Cleary	1,564	1,226	42
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VTD: East Steens Creek	2,584	1,889	339
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VTD: Monterey	3,285	2,344	518
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VTD: Mountain Creek	546	389	69
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VTD: South Pearson	1,466	1,043	382
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VTD: South Richland	4,187	2,976	216
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VTD: Springhill	3,286	2,274	810
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VTD: West Brandon	6,432	4,537	1,057
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VTD: West Steens Creek	4,364	3,061	332
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Plan: Branch Plan 2A Zero Deviation
Type:

Administrator:
User:

	Population	[18+ Pop]	[18+ AP Blk]
District 3 (continued)			
Rankin County (continued)			
VTD: Whitfield	4,563	4,319	2,683
Rankin County Subtotal	33,851	25,217	6,623
Scott County			
VTD: Harpersville	1,851	1,313	662
VTD: High Hill	629	448	225
VTD: Hillsboro	1,394	914	520
VTD: Homewood	550	416	90
VTD: Lake	640	448	210
VTD: Langs Mill	1,433	1,053	326
VTD: North Forest	2,586	1,724	1,127
VTD: Northeast Forest	946	723	71
VTD: Northwest Forest	694	526	60
VTD: Salem	1,184	795	401
VTD: Sebastapol	913	664	50
VTD: South Forest	3,112	2,240	991
VTD: Steele	1,273	889	516
VTD: Usry	714	491	59
Scott County Subtotal	17,919	12,644	5,308
Simpson County	27,639	19,920	6,138
Smith County	16,182	11,731	2,367
Walthall County	15,156	10,853	4,266
Wilkinson County	10,312	7,648	5,014
Winston County			
VTD: American Legion	1,989	1,338	1,063
VTD: Bethany	242	186	21
VTD: Betheden-Loakfoma	363	278	89
VTD: Bond	915	673	166
VTD: County Agent	1,794	1,190	945
VTD: Crystal Ridge	385	287	65
VTD: Dean Park	404	269	239
VTD: E.M.E.P.A.	1,357	1,007	269
VTD: Elementary School	834	610	288
VTD: Ellison Ridge	436	343	76
VTD: Fairground	2,044	1,583	586
VTD: Gum Branch	134	103	12
VTD: Louisville Electric	224	158	40
VTD: Louisville High School	429	305	68
VTD: Lovorn Tractor	297	244	16
VTD: Nanih Waiya	1,378	1,005	170
VTD: Nanih Waiya-Handle	573	410	88
VTD: New Hope	271	222	13
VTD: Noxapater	1,618	1,200	344
VTD: Old National Guard Armory	904	750	61
VTD: Sinai	369	276	147
VTD: Zion Ridge			
BLK: 9502001011	0	0	0
BLK: 9502001013	9	9	4

0318

Plan: Branch Plan 2A Zero Deviation

Administrator:

Type:

User:

	Population	[18+ Pop]	[18+ AP Blk]
District 3 (continued)			

Winston County (continued)

BLK: 9502001016	7	6	0
BLK: 9502001017	212	150	146
BLK: 9502001018	0	0	0
BLK: 9502001019	34	20	16
BLK: 9502001020	0	0	0
BLK: 9502001021	0	0	0
BLK: 9502001022	0	0	0
BLK: 9502001023	0	0	0
BLK: 9502001024	46	28	10
BLK: 9502001026	71	47	46
BLK: 9502001028	16	11	11
BLK: 9502001034	0	0	0
BLK: 9502001035	4	2	2
BLK: 9502001036	112	70	70
BLK: 9502001037	1	1	0
BLK: 9502001038	11	5	5
BLK: 9502001044	4	3	3
BLK: 9502001045	40	29	29
BLK: 9502001046	37	24	22
BLK: 9502001047	50	29	28
BLK: 9502001048	0	0	0
BLK: 9502001049	45	32	11
BLK: 9502001050	28	21	21
BLK: 9502001051	0	0	0
BLK: 9502001064	11	9	9
BLK: 9502001065	0	0	0
BLK: 9502001998	0	0	0
BLK: 9502001999	0	0	0
VTD Zion Ridge Subtotal	738	496	433
Winston County Subtotal	17,698	12,933	5,199
District 3 Subtotal	711,164	519,152	194,829

District 4

Clarke County	17,955	13,147	4,193
Covington County	19,407	13,813	4,372
Forrest County	72,604	54,801	16,479
George County	19,144	13,560	1,080
Greene County	13,299	10,088	2,778
Hancock County	42,967	32,163	2,026
Harrison County	189,601	140,213	27,051
Jackson County	131,420	95,072	18,112
Jones County			
VTD: Anthonys Florist	927	582	415
VTD: Antioch	753	595	0
VTD: Blackwell	135	93	3
VTD: Bruce	559	449	14

Plan: Branch Plan 2A Zero Deviation

Administrator:

Type:

User:

Population

[18+ Pop]

[18+ AP Blk]

District 4 (continued)

Jones County (continued)			
VTD: Calhoun	3,275	2,525	47
VTD: Cameron Center	709	515	131
VTD: Centerville	475	354	2
VTD: Cooks Ave. Comm. Ctr.	824	582	568
VTD: County Barn	1,861	1,498	317
VTD: Currie	270	185	169
VTD: Ellisville Court House	1,507	1,216	256
VTD: Erata	642	485	233
VTD: Glade School	1,894	1,451	23
VTD: Johnson	1,001	706	4
VTD: Lamar School	1,768	1,292	358
VTD: Landrum Comm. Ctr.	740	570	2
VTD: Laurel Courthouse	1,771	1,291	358
VTD: Maple Street YWCA	472	329	304
VTD: Mason School	2,078	1,668	39
VTD: Moselle	1,757	1,311	186
VTD: Myrick	1,716	1,275	8
VTD: National Guard Armory	2,353	1,606	1,159
VTD: Nora Davis School	1,790	1,293	1,146
VTD: Oak Park School	1,859	1,153	1,125
VTD: Old Health Dept.	499	307	271
VTD: Overt	1,301	954	12
VTD: Pendorf	646	493	14
VTD: Pinegrove	1,510	1,168	84
VTD: Pleasant Ridge	892	694	5
VTD: Powers Comm. Ctr.	1,633	1,187	237
VTD: Rainey	1,581	1,185	1
VTD: Roosevelt	601	427	323
VTD: Rustin	1,148	855	1
VTD: Sandersville Civic Center	1,386	1,042	92
VTD: Sandhill	924	716	1
VTD: Shady Grove	4,332	3,150	573
VTD: Sharon	3,508	2,604	376
VTD: Shelton	1,116	843	180
VTD: South Jones	1,357	1,047	191
VTD: Stainton	1,882	1,445	464
VTD: Tuckers	1,642	1,223	33
VTD: Twenty-Sixth St. Fire Stn	803	655	76
VTD: Union	1,279	942	28
VTD: West Jones	1,667	1,262	240
Jones County Subtotal	60,843	45,223	10,069
Lamar County	39,070	28,134	3,262
Marion County			
VTD: Broom	831	590	202
VTD: Carley	1,389	1,016	129
VTD: Cedar Grove	820	573	167
VTD: East Columbia			
BLK: 9505002029	47	34	1

Plan: Branch Plan 2A Zero Deviation
Type:

Administrator:
User:

	Population	[18+ Pop]	[18+ AP Blk]
District 4 (continued)			
Marion County (continued)			
BLK: 9505002031	6	5	5
BLK: 9505002032	39	24	3
VTD East Columbia Subtotal	92	63	9
VTD: Morris	1,545	1,129	308
VTD: National Guard Beat 1	2,666	1,866	117
VTD: Popetown Beat 2	1,914	1,434	304
Marion County Subtotal	9,257	6,671	1,236
Pearl River County	48,621	35,515	3,961
Perry County	12,138	8,655	1,697
Stone County	13,622	9,966	1,779
Wayne County	21,216	15,014	5,131
District 4 Subtotal	711,164	522,035	103,226
State totals	2,844,658	2,069,471	688,994

Serial: 92338

IN THE SUPREME COURT OF MISSISSIPPI

No. 2001-M-01891

***IN RE: CAROLYN MAULDIN, STACY
SPEARMAN, DAVID MITCHELL,
JAMES C. HAYS AND MISSISSIPPI
REPUBLICAN EXECUTIVE
COMMITTEE***

FILED

Petitioners

DEC 13 2001

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

ORDER

This matter came before the Court sitting en banc on the Petition for Writ of Mandamus filed by Carolyn Mauldin, Stacy Spearman, David Mitchell, James C. Hays and the Mississippi Republican Executive Committee, the Response filed by Beatrice Branch, Rims Barber, L.C. Dorsey, David Rule, Melvin Horton, James Woodard, Joseph P. Hudson and Robert Norvel, the Petition for Writ of Prohibition filed by the State of Mississippi, the Supplemental Petition for Writ of Prohibition filed by Carolyn Mauldin, Stacy Spearman, David Mitchell, James C. Hays and the Mississippi Republican Executive Committee, the Supplement to Petition for Writ of Prohibition filed by the State, and the Responses filed by the Honorable Pat Wise and other respondents. Petitioners ask that this Court order that the Plaintiffs' Amended Complaint filed in cause no. G-2001-1777 W/4, Hinds County Chancery Court, be dismissed, or that cause no. G-2001-1777 W/4 be transferred to Hinds County Circuit Court. Petitioners also ask that this Court stay the trial set in cause no. G-2001-1777 W/4 for December 14, 2001. After due consideration the Court finds that the Hinds County Chancery Court has jurisdiction of this matter. The Court further finds that the request to

0322



dismiss the Plaintiffs' Amended Complaint is denied. The Court further finds that the request to transfer this cause to circuit court is denied, as is the request for stay of the December 14, 2001, trial date. Any congressional redistricting plan adopted by the chancery court in cause no. G-2001-1777 W/4 will remain in effect, subject to any congressional redistricting plan which may be timely adopted by the Legislature.


IT IS THEREFORE ORDERED that the Petition for Writ of Mandamus filed by Carolyn Mauldin, Stacy Spearman, David Mitchell, James C. Hays and the Mississippi Republican Executive Committee be and the same is hereby denied.

IT IS FURTHER ORDERED that the Petition for Writ of Prohibition filed by the State of Mississippi be and the same is hereby denied.

IT IS FURTHER ORDERED that the Supplemental Petition for Writ of Prohibition filed by Carolyn Mauldin, Stacy Spearman, David Mitchell, James C. Hays and the Mississippi Republican Executive Committee be and the same is hereby denied.

IT IS FURTHER ORDERED that the Supplement to Petition for Writ of Prohibition filed by the State of Mississippi be and the same is hereby denied.

SO ORDERED, this the 13th day of December, 2001.


EDWIN LLOYD PITTMAN, CHIEF JUSTICE
FOR THE COURT

Smith, P.J., would dismiss Plaintiffs' Amended Complaint, or in the alternative, transfer to circuit court.

Cobb, J., not participating.

IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT
OF HINDS COUNTY, MISSISSIPPI

BEATRICE BRANCH; RIMS BARBER;
L.C. DORSEY; DAVID RULE; MELVIN HORTON;
JAMES WOODARD; JOSEPH P. HUDSON; and
ROBERT NORVEL

FILED
DEC 26 2001

PLAINTIFFS

V.

L. GLYNN PEPPER, CHANCERY CLERK

NO. G-2001-1777 W/4

BY _____

D.C.

ERIC CLARK, Secretary of State of Mississippi;
MIKE MOORE, Attorney General of Mississippi;
RONNIE MUSGROVE, Governor of Mississippi

DEFENDANTS

CAROLYN MAULDIN, STACY SPEARMAN, DAVID
MITCHELL, and JAMES CLAY HAYS, JR.

INTERVENORS

CERTIFICATE OF COMPLIANCE

COME NOW the State Defendants in the above-styled matter and file with this Court a Certificate of Compliance pursuant to the direction of the Opinion and Order of the Court dated December 21, 2001, and in so doing would show unto this Honorable Court the following, to-wit:

1. That due to significant disruptions in the receipt of mail by the U.S. Department of Justice, Civil Rights Division, Voting Section, that entity has prescribed special temporary procedures to be utilized in making submissions for administrative review under Section 5 of the Voting Rights Act of 1965. A copy of those special temporary procedures is attached hereto as Exhibit 1.



0324

2. That, pursuant to those special temporary procedures, the State of Mississippi has communicated with the U.S. Department of Justice, Civil Rights Division, Voting Section, regarding its submission to that entity of the plan adopted by the Court and supporting documentation.

3. That the State of Mississippi is proceeding with its submission based upon directions as received from the Voting Section. Those directions instructed our office to transmit to the Voting Section, by facsimile transmission, certain initial documentation, which included the Opinion and Order of the Court, dated December 21, 2001, and the attachments thereto; the Order of the Mississippi Supreme Court dated December 13, 2001; the current congressional districts as established by Section 23-15-1037; and the existing statute regarding at-large districts.

4. That, as a result of this initial facsimile transmission, the Voting Section has advised that the statutory sixty (60) day period for review will begin today, December 26, 2001. The Court should note that while the Attorney General of Mississippi requested expedited consideration of this submission, the Justice Department is not bound to honor that request, and is only mandated to complete its review within sixty (60) days. Please see the attached correspondence which is included as Exhibit 2 to this certificate, acknowledging the receipt of the State's submission and the beginning of administrative review pursuant to Section 5.

5. Again, following guidance provided by the Justice Department, the State intends to finalize its submission on Thursday, December 27, 2001, by hand-delivering remaining materials to the U.S. Justice Department, Civil Rights Division, Voting Section, at its offices in Washington, D.C. The State will include election data from prior years elections, the entire transcript of the proceedings in Chancery Court, all exhibits considered by the Court and the Court file. At the time the information was sent by facsimile, that information from the Court had not yet been received from officers of the Court. Separation of that information into separate transmissions may result in

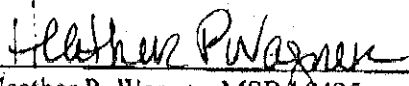
confusion or loss of data. The Court will be advised upon the completion of delivery of this additional information to the Voting Section.

RESPECTFULLY SUBMITTED, this the 26th day of December, 2001.

ERIC CLARK, Secretary of State of Mississippi;
MIKE MOORE, Attorney General of Mississippi;
RONNIE MUSGROVE, Governor of Mississippi,
Defendants

By: MIKE MOORE, ATTORNEY GENERAL

By:


Heather P. Wagner, MSB# 9425
Assistant Attorney General

Office of the Attorney General
Post Office Box 220
Jackson, Mississippi 39205-0220
(601) 359-3680

CERTIFICATE OF SERVICE

This is to certify that I, Heather P. Wagner, Assistant Attorney General for the State of Mississippi, have this date caused to be delivered by facsimile transmission a true and correct copy of the foregoing **Certificate of Compliance** to the following:

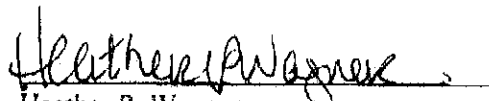
Robert B. McDuff, Esq.
767 North Congress Street
Jackson, Mississippi 39202
Fax Number: (601) 969-0804

Carlton Reeves, Esq.
Piggott, Reeves, Johnson & Minor, P.A.
775 North Congress Street
Jackson, Mississippi 39202
Fax Number: (601) 354-7854

Grant Fox, Esq.
Fox & Fox, P.A.
Post Office Box 797
Tupelo, Mississippi 38802-0797
Fax Number: (662) 844-1068

F. Keith Ball, Esq.
Post Office Box 539
Louisville, Mississippi 39339
Fax Number: (662) 779-0077

This the 26th day of December, 2001.


Heather P. Wagner

NOV-26-2001 16:07

DOJ/CRD/VOTING

P. 02/05



Civil Rights Division

Voting Section
P.O. Box 66178
Washington, DC 20033-6178

November 6, 2001

Attorneys General of the Several States

Dear Attorney General:

You may be aware that the Department is experiencing significant disruptions to its mail delivery service. As a result, the Department of Justice has adopted temporary procedures that will allow your state to request preclearance, pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c, of changes affecting voting during this time. I am writing to inform you of these procedures and to request your help in notifying other jurisdictions within your state of these procedures.

At the present time, no United States Postal Service or private carrier (e.g., Federal Express and UPS) mail or parcels handled by a courier service are being delivered to our staff in Washington, D.C. As a result, Section 5 submissions mailed to the Attorney General are not being received. To minimize the disruption caused by interruption in mail service and attendant delays in obtaining preclearance of voting changes, we have instituted the enclosed procedures. We have also posted these procedures on the web site for the Division's Voting Section; the address is www.usdoj.gov/crt/voting.

This Department is committed to doing our best during this time. Thank you very much for your assistance. Should any questions arise, I can be reached at 202/514-6018.

Sincerely,

Joseph D. Rich
Chief, Voting Section
Civil Rights Division

EXHIBIT

1

0328

NOV-06-2001 16:07

DOJ/CRD/VOTING

P.03/05

**Temporary Procedures for the Submission
of Voting Changes under Section 5 of the
Voting Rights Act, 42 U.S.C. 1973c**

November 5, 2001

The Civil Rights Division of the Department of Justice is currently experiencing significant disruption in both United States Postal Service mail and courier deliveries. Neither mail delivery nor courier service is available at present for the administrative submission of voting changes pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. Although jurisdictions may continue to send Section 5 submissions by mail or by courier, their receipt by the Attorney General cannot presently be assumed under current circumstances. We regret any inconvenience this may cause.

Because mail and courier services may continue to suffer disruptions of unknown duration, the Attorney General has established temporary procedures designed to ensure that Section 5 submissions can be received by the Attorney General. These procedures are effective as of November 8, 2001. We emphasize that these procedures are temporary in nature and are expected to be modified or eliminated when regular mail and courier services have resumed.

These procedures concern only the form in which voting changes are submitted; they do not affect the information needed for a complete submission or the substantive standards applied to the review of voting changes as provided by Section 5 and in the Attorney General's Procedures for the Administration of Section 5, 28 C.F.R. Part 51.

If you have sent a Section 5 submission by mail or courier after October 15, 2001, please contact the Voting Section through its toll-free number to determine whether your submission has been received; press prompt number 4 for submission information. In addition, the Notices of Section 5 activity posted on the Voting Section's web site will continue to identify those Section 5 submissions that have been received by the Department of Justice.

Please check this web page regularly or telephone the Voting Section toll-free at 800/253-3931 before making a submission to ensure that these temporary procedures are still in effect.

NOV-06-2001 16:07

DOJ/CRD/VOTING

P. 04/05

**TEMPORARY PROCEDURES FOR SUBMISSION
OF VOTING CHANGES UNDER SECTION 5 OF
THE VOTING RIGHTS ACT, 42 U.S.C. 1973c**

November 8, 2001

The following Section 5 submission procedures are temporary and will be eliminated when regular mail and courier services have resumed.

Please check this web page regularly or telephone the Voting Section, toll-free, at 800/253-3931 before making a submission to ensure that these temporary procedures are still in effect.

A. COVER LETTER REQUIRED

All submissions made under these temporary procedures must include a cover letter describing the submission and the supporting materials that are being submitted. All cover letters should be sent by telefacsimile to the Voting Section at the following temporary number: 202/305-4719. This number will be in service only while these temporary procedures remain in effect. Please send only letter size (8½ x 11 or A4) pages. **Because of the volume of traffic expected, please keep the length of each transmission to forty pages or less.**

B. SUBMISSIONS UNDER 40 PAGES

If the total number of printed pages in the submission (including the cover letter) is forty pages or less and contains no data in electronic format, please make the entire submission by telefacsimile to telephone number provided in Section A, above.

C. SUBMISSIONS OVER 40 PAGES

If the total number of printed pages in the submission (including the cover letter) is more than forty pages or contains data in an electronic format, please send the cover letter by telefacsimile and the individuals assigned to analyze the submission will contact you promptly to discuss the procedures for the electronic transmission of any additional information you wish to provide.

NOV-06-2001 16:08

DOJ/CRD/VOTING

P.05/05

D. ELECTRONIC MAIL PROCEDURES

- **The email address for the additional information will be in service only while these temporary procedures remain in effect.**
 - **The subject line of the e-mail must contain the submission number you will receive from Department staff and the name of the jurisdiction making the submission.**
 - **Do not e-mail executable files (.exe, .com) of any type.**
 - **Do not send any files prior to contacting the individual(s) assigned to reviewing the submission.**
1. **Electronic text files:** Please send electronic text files in either generic text (.txt) or rich text (.rtf) formats.
 2. **Electronic tabular database files:** Please send tabular electronic data files (e.g., redistricting plan block correspondence tables, election returns, voter registration data or population data) in the formats specified in the Attorney General's Procedures, 28 C.F.R. 51.28.
 3. **Electronic geographic data files:** Please contact the civil rights analyst or attorney working on your submission before sending electronic geographic data files (ArcInfo, Mapinfo, etc.).

E. COMPLEX AND VOLUMINOUS SUBMISSIONS

For very complex or voluminous submissions, such as statewide redistricting plans, other special procedures for providing information may be appropriate. Each Section 5 submission is handled by one or more attorneys and/or civil rights analysts, through whom such special procedures can be arranged.

F. OUTGOING CORRESPONDENCE

Outgoing Section 5 correspondence will continue to be sent according to the pre-existing procedures. If requested, Section 5 correspondence will be sent by telefacsimile where a reply number has been provided.

TOTAL P.05

0331

DEC-26-2001 15:03

J/CRD/VOTING

U.S. Department of Justice

P.01/02



Civil Rights Division

Voting Section
P.O. Box 66128
Washington, DC 20035-6128

December 26, 2001

TRANSMITTAL SHEET**TO:**

NAME: Heather P. Wagner, Assistant Attorney General
OFFICE: Office of the Attorney General for the State
of Mississippi
TELEFACSIMILE: 601/359-5025

FROM:

Robert S. Berman
Deputy Chief, Voting Section
Civil Rights Division
Department of Justice
Room 7243 NWB
950 Pennsylvania AV N.W.
Washington DC 20530
202/514-8690 (office)
202/307-2569 (telefacsimile)

RE: Submission of congressional redistricting plan for
administrative review under Section 5 of the Voting Rights
Act of 1965, 42 U.S.C. 1973c

This transmittal consists of 2 pages including the cover page.

The original of this document will not be sent.

The documents accompanying this telefacsimile transmission contain confidential, legally privileged information belonging to the sender. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this telefacsimile in error, please immediately notify the sender by telephone to arrange for

EXHIBIT2

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DEC-26-2001 15:03

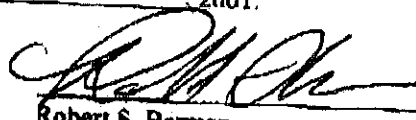
JJ/CRD/VOTING

P.02/02

**STATEMENT ACKNOWLEDGING RECEIPT OF SUBMISSION OF THE
REDISTRICTING PLAN FOR THE STATE OF MISSISSIPPI
FOR ADMINISTRATIVE REVIEW PURSUANT TO SECTION 5
OF THE VOTING RIGHTS ACT OF 1965**

I, Robert S. Berman, Deputy Chief, Voting Section, Civil Rights Division, U.S. Justice Department, acknowledge receipt, from and on behalf of the sovereign State of Mississippi, the plan for congressional redistricting of the State of Mississippi as ordered by Chancery Court of the First Judicial District of Hinds County, Mississippi, for the purpose of administrative review pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. This submission has been made according to special temporary procedures adopted by the Voting Section for receiving Section 5 submissions. I also acknowledge that the receipt of this redistricting plan on this date will commence the sixty (60) day time period for administrative review under Section 5 of the Voting Rights Act.

This the 26th day of December, 2001.



Robert S. Berman
Deputy Chief, Voting Section
Civil Rights Division
U.S. Department of Justice

TOTAL P.02

0333

IN THE CIRCUIT COURT OF SUNFLOWER COUNTY, MISSISSIPPI

JOHNNIE MAE JOHNSON
Petitioner-Contestant

vs.

No. 2001-0325-CI

CHARLES WALDRUP
Respondent-Contestee

JUDGMENT

These Causes came on for a trial on the Petition of Johnnie Mae Johnson to contest the election of Charles Waldrup to the position of Alderman at Large for the City of Drew, Mississippi, and the Answer and Counterclaims of Charles Waldrup. Upon the waiver of Waldrup's right to have a jury trial on the petition, the matter was heard by this Court without a jury. After hearing the testimony, motions and arguments of the parties, the Court finds that certain ballots cast in the June 5, 2001 general election for the office of Alderman at Large of the City of Drew should have been counted. After counting those ballots the court finds that the will of the qualified electors voting at the June 5, 2001, general election for the office of Alderman at Large of the City of Drew is now impossible to ascertain, and the Court having heard and considered all of the same does now find and adjudicate the following:

1.

Based upon the testimony, evidence received, arguments of counsel and the counting of the ballots which occurred at the conclusion of the hearing, the Court does now find and adjudicate that the will of the qualified electors of the City of Drew, Mississippi, in its June 5, 2001, general election for the Office of Alderman at Large of said City is now impossible to ascertain and, as a consequence thereof, that a Special Election must be held to determine the true holder of said office. See Fillingane v. Breland, 212 Miss. 423, 437 54 So.2d 747, 750

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881

(1951).

2.

The Special Election to fill the office of Alderman at Large for the City of Drew, Mississippi, shall be held and conducted pursuant to the General and Special Election Laws of the State of Mississippi, on January 15, 2002, using the same polling places and the same voting procedures as used in the general election of June 5, 2001.

3.

At the general election of June 5, 2001, the Contestant Johnnie Mae Johnson and Contestee Charles Waldrup were the only candidates who have properly qualified for said general election for the office of Alderman at Large. The Court therefore specifically finds that there is no need for a qualifying deadline for other candidates as prescribed by Miss. Code Ann. § 23-15-857 as the Court hereby affirmatively finds and adjudicates that the only two candidates qualified for said Special Election called hereby are the said Johnnie Mae Johnson and Charles Waldrup.

4.

The City Clerk of the City of Drew is hereby ordered, directed and empowered to order immediately the printing of a sufficient number of applications for absentee ballots in the form and in the manner prescribed by Miss. Code Ann. § 23-15-625.

5.

The Municipal Election Commissioners are ordered, directed and empowered to prepare and have printed the municipal special election ballots naming as the candidates for the office of Alderman at Large of the City of Drew, Johnnie Mae Johnson and Charles Waldrup, as prescribed by Miss. Code Ann. § 23-15-361, and for absentee ballots in compliance with Miss.

Code Ann. § 23-15-649.

6.

The City Clerk of the City of Drew, Mississippi, shall give at least three (3) weeks notice of the date of said Special Election published in a newspaper, which is of general circulation in the municipality, once each week for three weeks next preceding the date of such election, the first of which notices must be published thirty (30) days before the date of the special election, and said City Clerk shall post a copy of the notice at three (3) public places in the City of Drew, all of which shall be posted not less than twenty-one (21) days prior to the date of the special election and one of which shall be posted at the City Hall of the City of Drew, all pursuant to Miss. Code Ann. § 23-15-857 and 23-15-859.

7.

The City of Drew, Mississippi shall immediately submit a certified copy of this Order, a certified copy of the Order of the City of Drew directing the submission of the Special Election Order to the United States Department of Justice, Civil Rights Division, for preclearance thereof pursuant to Section 5 of the 1965 Voting Rights Act and a letter of submission to the United States Department of Justice, Chief Voting Section, Civil Rights Division. The City shall request expedited review of its submission from the United States Department of Justice as authorized by law. It, however, is the intention of the Court that the Special Election not be held until the same is precleared by the United States Attorney General's Office as prescribed by said Section 5.

8.

Charles Waldrup, having been previously certified as the Alderman at Large, shall remain in office until the results of the special election have been certified by the Election Commission

and a Certificate of Election given by the Election Commission to the person elected and the Commission of Election issued by the Governor of the State of Mississippi pursuant to Miss. Code Ann. § 23-15-857, to the candidate receiving the most legal votes cast in said special election.

IT IS THEREFORE ORDERED AND ADJUDGED that a Special Election for the Office of Alderman at Large for the City of Drew, Mississippi, be held on Tuesday, January 15, 2002, in the manner and methods hereinabove ordered and directed and in compliance with the general election laws of the State of Mississippi.

SO ORDERED AND ADJUDGED, this the 5^B day of December, 2001.

Pat Carey-McCoy
CIRCUIT JUDGE

Submitted By:
Carlton W. Reeves (MSB# 8515)
Pigott Reeves Johnson & Minor
P. O. Box 22725
Jackson, MS 39225-2725
COUNSEL FOR PETITIONER-CONTESTANT

FILED

DEC 06 2001

SHARON McFADDEN
CIRCUIT CLERK

By _____ D.C.

MB 105
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STATE OF MISSISSIPPI, COUNTY OF SUNFLOWER

I, Sharon McFadden, Clerk of the Circuit Court in and for County and State hereby certify that the foregoing contains a whole true and correct copy of Judgment as the same appears on the file in my office, at Indianola, Mississippi.

Witness my hand and official Seal, this the 17th day of Dec. A.D. 2001

Sharon McFadden, Circuit Clerk
BY: [Signature] D.C.



U.S. Department of Justice

Civil Rights Division

JDR:TCH:TL:par
DJ 166-012-3
2001-3924

Voting Section - GS
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

January 3, 2002

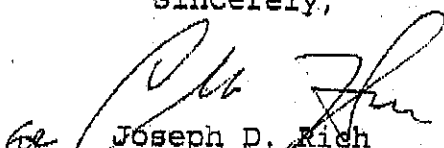
John H. McWilliams, Esq.
Townsend, McWilliams & Holladay
P.O. Box 288
Drew, Mississippi 38737-0288

Dear Mr. McWilliams:

This refers to the procedures for conducting the January 15, 2002, special alderman election for the City of Drew in Sunflower County, Mississippi, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on December 7, 2001.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Sincerely,


for Joseph D. Rich
Chief, Voting Section

Enclosure

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been delivered to the following by hand or by fax and mail to:

T. Hunt Cole, Jr.
Office of the Attorney General
P.O. Box 220
Jackson, MS 39205

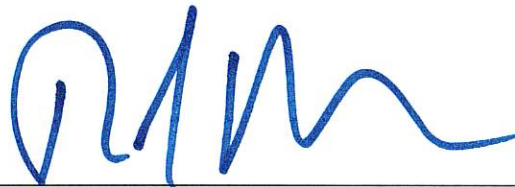
Arthur F. Jernigan, Jr.
P.O. Box 23546
Jackson, MS 39225-3546

Michael B. Wallace
P.O. Box 23066
Jackson, MS 39225-3066

John Griffin Jones
P.O. Box 13960
Jackson, MS 39286-3960

Herbert Lee, Jr.
2311 West Capitol St.
Jackson, MS 39209

This 10th day of January, 2002.

A handwritten signature in blue ink, consisting of a large initial 'R' followed by a series of loops and a long horizontal stroke.

Counsel for Intervenors