

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

JOHN ROBERT SMITH, ET AL.

Plaintiffs,

vs.

No. 3:01cv855 HTW-DCB

ERIC CLARK, ET AL.,

Defendants,

and

BEATRICE BRANCH, ET AL,

Intervenors

**RESPONSE OF INTERVENORS
TO MOTION TO AMEND FINAL JUDGMENT**

The intervenors, Beatrice Branch, et al, respond as follows to the motion of the Mississippi Republican Executive Committee to amend the final judgment in this case.¹

This case was brought to cure malapportionment in congressional redistricting as reflected by the 2000 census. The case should not become the vehicle for all further voting rights challenges involving congressional redistricting in subsequent decades after subsequent censuses. Instead, the matter should be addressed as the result of a new lawsuit based on the new census filed by parties who live and vote in overpopulated districts.

This Court's remedial order was never intended to govern congressional elections held after the 2011 release of the 2010 census data. The existence of this Court's judgment does not prevent the court in a new lawsuit for ordering a new plan that redistricts the State in light of the new census data. *See*, Fed. R. Civ. Proc. 60(d)(1).

¹ The intervenors and the Secretary of State both filed unopposed motions to extend the time for responding until October 13. No order has been entered on either motion. The Secretary of State filed his response on October 10. This response is being filed on October 12.

The Republican Executive Committee cites *Jackson v. DeSoto Parish School Bd.*, 585 F.2d 726 (5th Cir. 1978). But that was a challenge to a court-approved redistricting plan later in the same decade. The challenge was based on something other than the fact that the census data required a new redistricting plan for the new decade.

Accordingly, this Court should not undertake renewed responsibility for fashioning a congressional redistricting plan but instead should leave the matter to a new lawsuit filed by parties living in the overpopulated districts.

Respectfully submitted,

s/Robert B. McDuff
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CERTIFICATE OF SERVICE

I hereby certify that on October 12, 2011, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification to all counsel:

s/Robert B. McDuff
Counsel for Intervenors