

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

**JOHN ROBERT SMITH, SHIRLEY HALL
and GENE WALKER**

PLAINTIFFS

vs.

CIVIL ACTION NO. 3:01-CV-855HTW-DCB

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

DEFENDANTS

vs.

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

INTERVENORS

RESPONSE TO PROPOSED REDISTRICTING PLAN

In accordance with the Court's Minute Entry dated November 22, 2011, Secretary of State of the State of Mississippi Delbert Hosemann¹ ("Secretary") respectfully submits this response to the proposed redistricting plan submitted in the case of Buck, et al. v. Barbour, et al., Civil Action No. 3:11cv717-HTW-LRA, and a statement of the Secretary's position on whether this Panel has the authority to address the merits of redistricting.

The Secretary takes no position regarding whether the proposed redistricting plan of Congressman Bennie G. Thompson submitted in the case of Buck, et al. v. Barbour, et al., Civil Action No. 3:11cv717-HTW-LRA, is consistent with the Constitutional, statutory, and/or secondary criteria for redistricting enumerated by this Panel in its prior opinion dated February

¹ At the time that this action was commenced, Eric Clark was the Secretary of State of the State of Mississippi. Mr. Clark no longer holds that office. Pursuant to Fed. R. Civ. Pro. 25(d), the Honorable Delbert Hosemann, the current Secretary of State of the State of Mississippi, should be "automatically substituted as a party" to this action.

19, 2002. See Smith v. Clark, 189 F.Supp.2d 529 (S.D. Miss. 2002). The Secretary's paramount concern is that a new map be drawn by this Panel sufficiently in advance of the January 13, 2012 qualifying deadline in order to hold this deadline and avoid the costs to the State of Mississippi associated with a special election. Accordingly, in order for potential candidates to have sufficient time to make a decision regarding whether they will seek office prior to the January 13, 2012 deadline, the Secretary respectfully requests that this Panel complete the process of drawing a new map on or before January 3, 2012.

Moreover, as this Panel previously recognized, "because no preclearance with the Department of Justice is required for any plan that this three-judge federal district court implements," see Smith v. Clark, 189 F.Supp.2d 502, 503 (S.D. Miss. 2002), the only realistic option that will enable the January 13, 2012 qualifying deadline to remain unchanged is for this Panel to draw its own map. The Secretary requests the Panel reject maps proposed by any party and issue its redistricting map as its own in accordance with its prior decision in Smith v. Clark, 189 F.Supp.2d at 503. Any map drawn by one of the parties will require preclearance by the Department of Justice, a process that normally takes sixty (60) days. Thus, the Secretary believes this preclearance process cannot be completed by the January 13, 2012 qualifying deadline. In drawing a new map, the Secretary respectfully requests the secondary criteria of respect for county and municipal boundaries, as well as the preservation of historical and regional interests be given careful consideration by this Panel. In considering these secondary criteria, the Secretary requests the Panel limit the number of split precincts in the new map and eliminate the potential for voter ballot confusion at the polls on election day.

As stated in the Secretary's Response to Motion to Amend Final Judgment [Docket No. 101], and again during the November 22, 2011 status conference, because the Standing Joint

Congressional Redistricting Committee and the Mississippi Legislature have failed to meet statutory deadlines in the redistricting process, this Panel has the authority to take whatever action it deems necessary to insure the completion of the redistricting process prior to January 13, 2012. The map draw by this Panel should be in effect only for the upcoming party primary elections and only the November 2012 general election. The incoming Mississippi Legislature will then have sufficient time to draw and adopt a new Congressional map and obtain preclearance from the Department of Justice for such a new map drawn by the Mississippi Legislature for use in future elections.

Dated: December 12, 2011.

Respectfully submitted,

By: /s/ Delbert Hosemann
Secretary of State of the State of Mississippi

-and-

By: /s/ Joseph Anthony Sclafani
One of His Attorneys

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following registered users:

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Dated: December 12, 2011.

/s/ Joseph Anthony Sclafani