

# **EXHIBIT 18**

*Excerpts of Expert Reply Report of  
Anthony E. Fairfax, dated October 17,  
2024*

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA**

SHAUNA WILLIAMS, et al.,

*Plaintiffs,*

v.

REPRESENTATIVE DESTIN HALL, in his  
official capacity as Chair of the House Standing  
Committee on Redistricting, et al.,

*Defendants.*

Civil Action No. 23 CV 1057

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NORTH CAROLINA STATE CONFERENCE OF  
THE NAACP, et al.,

*Plaintiffs,*

v.

PHILIP BERGER, in his official capacity as the  
President Pro Tempore of the North Carolina  
Senate, et al.,

*Defendants.*

Civil Action No. 23 CV 1104

**EXPERT REPLY REPORT OF ANTHONY E. FAIRFAX  
on the Development of Demonstrative Plans for  
State Senate and House Districts for the State of North Carolina**

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October 17, 2024

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## VI. Race & Partisan Analysis

14. Dr. Barber also provides a type of scatter plot graph in Figure 16 of his report, which depicts population, partisan, and racial data on the House and Senate districts located in four clusters. On the left side, the graph shows the relationship between district population and partisanship (percent Republican) for both the House and Senate districts within each cluster. On the right, it shows the relationship between district population and race (percent Black) for both the House and Senate districts within each cluster.
15. Figure 1 shows evidence from Dr. Barber's own report that disputes his claim that "there is not a relationship between the population deviation of the district and demographic factors such as race or party."<sup>9</sup> I have added a red line to indicate the 50% Republican percentage for the districts and 50% Black percentage for the districts. Figure 1 below depicts only the bottom two graphs which present the Mecklenburg and New Hanover Senate clusters that are included in Dr. Barber's Figure 16.<sup>10</sup>



**Figure 1 - Dr. Barber's Report's Figure 16 – Mecklenburg & New Hanover Cluster Districts**

<sup>9</sup> Barber September 26, 2024 Report, pg 37. I assume without endorsing or accepting the accuracy and appropriateness of Dr. Barber's partisanship figures, which appear to come from DRA, for the purposes of responding to his Report.

<sup>10</sup> The Mecklenburg cluster includes Iredell and Mecklenburg counties. New Hanover cluster includes the counties of Brunswick, New Hanover, and Columbus.

16. Dr. Barber's graph shows that there in fact "is" a relationship in the Mecklenburg County cluster between race and overpopulation<sup>11</sup> and partisanship and overpopulation within the cluster. Figure 1 demonstrates that every district in the Mecklenburg cluster is significantly overpopulated except for SD42, which is both the Whitest district in the cluster and almost 5% less populated than every other district in the cluster. This is further exacerbated by the fact that the only other significantly overpopulated district in the cluster with a similarly low BVAP is SD37, which contains all of Iredell County and as a result was guaranteed to be significantly more White than any of the Mecklenburg-based districts. Figure 1 reveals that the Mecklenburg County districts also show a pattern of overpopulation for the Democratic districts (i.e., low Republican percentage). Four Senate districts are below 40% Republican and are near to 5% population deviation. Only one district with a majority Republican percentage is overpopulated near 5% (the Iredell-based district).
17. But the Mecklenburg-Iredell County cluster contains only one district, SD42, that is near the ideal population size while the other districts are over 4% with the majority near 5% population deviation. SD42 contains the lowest percentage of the Black population shown on the right graph with the orange circle located in the bottom center. The graphs are revealing. On the right, SD42 is the only orange circle in the middle of the graph, and also the furthest down the chart – indicating that it is both the least populated and has the fewest Black residents of all the Mecklenburg cluster districts. On the left, SD42 is again the only orange circle in the center of the graph, showing it is a borderline Republican performing district. Thus, it appears that the other districts SD37, SD38, SD39, SD40, and SD41 are packed in order for SD42 to remain lower in population.<sup>12</sup> Thus, this lower population appears to be due to keeping SD42 as white as possible, and thus making it as Republican as possible. In essence, since SD42 is a borderline Republican district, if it adds additional areas from the adjacent districts (all of which have much higher BVAPs), it will become a less White district and most likely become a Democratic district.
18. On the other hand, in the New Hanover cluster, SD7, which is the left blue triangle shown on the left graph, is underpopulated. SD7 is also a borderline Republican performing district. One of the reasons why it is underpopulated is that SD8 carves out a portion of SD7 in the city of Wilmington, that is the highest BVAP portion of the city. This cracks a compact Black population in downtown Wilmington between two districts, thus producing two districts with roughly similar populations of Black voters instead of unifying the community in a single district. Thus, once again, this lower population appears to be due to removing Black population in order to keep SD7 a Republican district. See Appendix A at A-8–A-10, A-14.

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<sup>11</sup> In the context of this analysis, overpopulation refers to greater than the ideal population size while underpopulation is lower than the ideal population size.

<sup>12</sup> SD37 is compelled to be overpopulated due to encompassing the whole county of Iredell within the district. However, the other districts, SD38, SD39, SD40, and SD41 could be reduced by adding population to SD42.

19. Reviewing Dr. Barber’s graph using race (i.e., Black percentage) on the right, the districts with the highest Black percentage consistently show overpopulation. The three Senate districts with close to 40% Black and one close to 30% Black are overpopulated by almost 5%.

## **VII. The Illustrative Plans**

### **A. Adherence to *Stephenson’s* County Clusters**

20. The State of North Carolina includes redistricting guidance for developing the State Senate and House Plans to follow a set of county clusters. The county clusters are “largely algorithmically determined through an optimization procedure outlined by the NC Supreme Court in *Stephenson v. Bartlett*.”<sup>13</sup>
21. The guidance for these county clusters requires the map drawer to create North Carolina legislative districts within the clusters. Dr. Barber and Dr. Trende state that all of my Illustrative Plans contain districts that cross county clusters and violate *Stephenson’s* Criteria.<sup>14</sup> Dr. Barber states, “Mr. Fairfax’s Illustrative Senate and House maps violate the *Stephenson* Criteria.”<sup>15</sup>
22. However, the exception to crossing the county cluster boundaries was accomplished in order to adhere to the VRA.<sup>16</sup> Careful consideration was given to follow the cluster groups of the state’s Enacted Plan as much as possible and only alter the districts that were impacted by establishing the VRA districts. Thus, the statements by Dr. Barber and Dr. Trende of some districts in my Illustrative Plan crossing county clusters, while accurate, do not recognize that these crossings are acceptable given the overriding need to comply with the VRA.

### **B. Black Population Compactness and Race Predominance**

23. Dr. Barber and Dr. Trende use dot density maps of the Black population throughout their reports. Their reports present dot density maps to reflect the compactness of the Black population and race predominance. The primary implications Dr. Barber and Dr. Trende draw from these maps are that, in their opinions, the Illustrative Plan’s majority Black districts do not meet the “geographically compact” component of *Gingles* I.<sup>17</sup>

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<sup>13</sup> Christopher Cooper et al., *NC General Assembly County Clusterings from the 2020 Census*, Quantifying Gerrymandering, <https://sites.duke.edu/quantifyinggerrymandering/files/2021/08/countyClusters2020.pdf>.

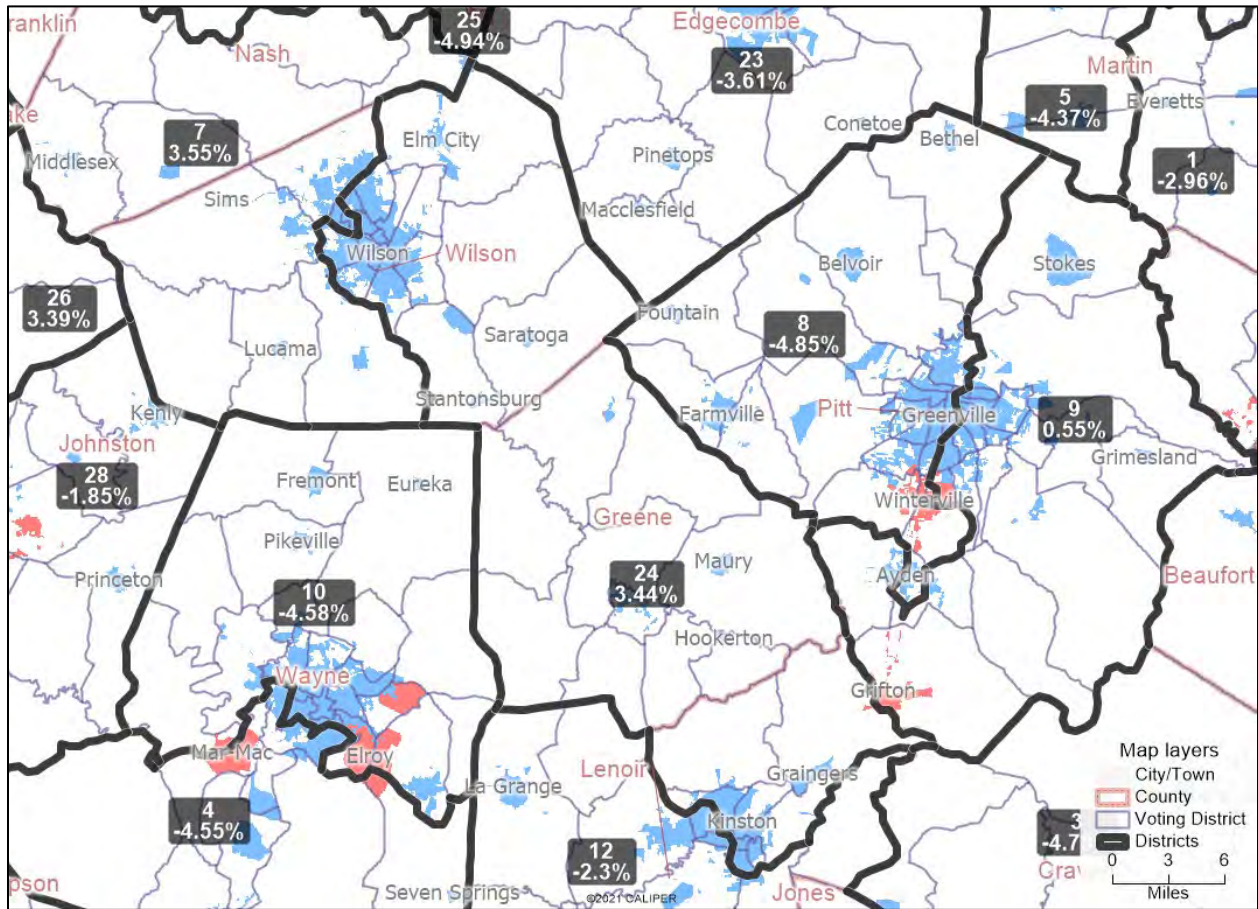
<sup>14</sup> Barber September 26, 2024 Report, pgs 46-47; Trende September 26, 2024 Report, pg 74-79.

<sup>15</sup> Barber September 26, 2024 Report, pg 5.

<sup>16</sup> See *supra* note 1.

<sup>17</sup> Despite this suggestion, however, neither Dr. Barber nor Dr. Trende ever conclude that any of my illustrative districts are not reasonably configured.





**Figure 21 - Illustrative Plan B HD24 – Census Places**

## **XI. Conclusion**

72. After reviewing the analysis and responses from Dr. Barber and Dr. Trendle, my opinions remain the same as in my August 1, 2024 Report.

Dated: 10/17/24

Signed: Anthony E. Fairfax  
Anthony Fairfax