

Attachment 8

**IN THE UNITED STATES DISTRICT COURT
FOR THE 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

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 REPORT OF JOHN R. ALFORD, Ph.D.

September 26, 2024

nonlinear least-squares.² Finally, in 2007 Lau and colleagues, taking advantage of advancements in computing technology, implemented the fully Bayesian estimation procedure outlined by King, et al., and provided a software module called “eiPack” that included the module ‘ei.MD.bayes’ that allowed for the estimation of the true Bayesian approach.³ This is the implementation of EI R x C that I have relied on here.⁴ Dr. Palmer relies on the same implementation of EI RxC that I used. Dr. Oskooii provides results for both the earlier iterative estimation technique and the more current EI RxC technique. My discussions of Dr. Oskooii’s results will all be based on the more recent RxC estimations that are comparable to Dr. Palmer’s estimations and my own.

GENERAL ELECTION ANALYSIS

DR. OSKOOII’S REPORT

Dr. Oskooii conducts his Racially Polarized Voting (RPV) analysis using the complete set of 49 contested statewide North Carolina general elections for the years 2016 to 2022. He provides a separate analysis focusing on a selected set of State Senate Districts, followed by a set of State House Districts, and concluding with a set of Congressional Districts, including two Districts in the 2022 enacted plan and five selected Districts in the 2023 enacted plan. I will deal with each of these in turn below.

On page 11 of his report, Dr. Oskooii offers his working definition of Racially Polarized Voting, stating that for a two-person contest, “In general, RPV occurs when a minority racial group or groups favor candidates (“candidates of choice”) that are disfavored by the majority racial group. Put differently, Dr. Oskooii alleges that RPV exists when minority and majority voters

² See Rosen, Jiang, King, and Tanner., *Bayesian and Frequentist Inference for Ecological Inference: The R x C Case*, 55 STATISTICA NEERLANDICA 134 (2001).

³ See Lau, Olivia, Ryan T. Moore, and Michael Kellermann. “eiPack: Ecological Inference and Higher-Dimension Data Management,” R News, vol.7, no. 2 (October 2007).

⁴ The EI analysis provided here was conducted by my Rice colleague Prof. Randy Stevenson under my direction and control.

choose different candidates. Thus, if a majority of voters from both the minority and majority demographic groups vote for the same candidate in a contest, RPV is not present in that contest.” This is obviously a very minimal definition. In terms of minority cohesion, it simply requires that minority voters have a preferred candidate, even if only by a single vote. Since in a two-candidate election that is true in every election except one in which the minority vote is exactly tied, this suggests that the *Gingles* 2 threshold would always be met, and a threshold test that is met by definition is not a threshold test. Similarly, if White bloc voting requires at a minimum nothing more than 50% plus one of White voters favoring the opponent of the candidate favored by 50% plus one of minority voters, then the *Gingles* 3 threshold test would be met as often as not even if Whites were voting entirely at random. In my view, this definition of RPV is too far removed from the issues the Court faces in assessing *Gingles* 2 and 3 to be appropriate here.

STATE SENATE DISTRICTS

Dr. Oskooii begins by focusing on assessing Racially Polarized Voting (RPV) in a cluster of State Senate Districts that he labels as Northeast Districts (consisting of 2023 enacted Districts 1, 2, 5, and 11). He summarizes his RPC analysis as indicating that “Black voters voted cohesively for candidates disfavored by White voters in all 49 out of 49 contests across all districts, and White voters vote as a bloc against Black-preferred candidates in at least 48 (and in 3 districts all) of the 49 contests (or 98%) I examined” (page 4).

Dr. Oskooii displays his EI RxC Senate District 1 results for the 2022 and 2020 elections in bar graph form in his Figure 4, and for the 2018 and 2016 in Figure 5. The results for Senate District 2 are reported in Appendix Figures B-1 and B-2, for Senate District 5 in Appendix Figures B-3 and B-4, and for Senate District 11 in Appendix Figures B-5 and B-6.

Tables 1 through 4 below provide EI RxC results for the same elections, in the same geography, and relying on the ‘R’ program code and election data provided by Dr. Oskooii. The results closely match those provided by Dr. Oskooii in his report and his Appendix, typically

varying only by a fraction of a percentage point with no substantive differences.⁵ They are provided here in table form rather than graph form to facilitate comparison. Two pieces of information not included on Dr. Oskooii's bar charts have been added to the tables below: the party of the candidates as indicated on the ballot and the race of the candidates.

In all of the contests, Black voters are highly supportive of the Democratic candidate, and White voters are typically giving majority support to the Republican candidate. This is consistent with a polarized response to the party affiliation of the candidates as indicated on the ballot. In contrast to the strong impact of candidate party affiliation, the race of the candidates does not appear to have a polarizing impact on vote choice. If voters were responding to the race of the candidates, we would expect Black voters to provide significantly more support to a Black candidate than to a White candidate. Instead, we see that Black voters are no more supportive of the Black Democrat than they are of the White Democrat in any of the areas. Similarly, we would expect White voters to show increased opposition to a Black candidate over a White candidate; however, White voters are no more likely to oppose a Black Democrat than they are a White Democrat. In each of the years we see a pattern of clearly polarized voting by party, but no indication of any significant difference in voter behavior based on the racial status of the contest.

The 2016 contests are the only ones that show any consistent tendency for White voters to crossover at lower levels for Black Democratic candidates, but even here the magnitude of the effect is only 2 to 3 percentage points, and even this slight difference disappears by 2018 and is not evident in any subsequent year. Note also that in the one non-partisan contest in 2016 for Supreme Court Seat 2, the voting patterns are much different, and the White crossover is high.

Table 1: EI RxC for 2016 Elections in Oskooii's Four State Senate Districts

⁵ If Dr. Oskooii had provided his estimates in a tabular form that could be directly imported, as opposed to graphical bar charts, I would have based my tables on his results rather than replication results.

Year	Office	Candidate	Party	Race	District 1		District 2		District 5		District 11	
		Name			Black	White	Black	White	Black	White	Black	White
2016	A. G.	Josh Stein	DEM	White	96%	28%	97%	24%	97%	28%	97%	24%
2016	A. G.	Buck Newton	REP	White	4%	72%	3%	76%	3%	72%	3%	76%
2016	Auditor	Beth A. Wood	DEM	White	97%	30%	98%	27%	97%	32%	97%	29%
2016	Auditor	Chuck Stuber	REP	White	3%	70%	2%	73%	3%	68%	3%	71%
2016	Agri. Comm	Walter Smith	DEM	White	96%	25%	96%	20%	98%	21%	97%	14%
2016	Agri. Comm	Steve Troxler	REP	White	4%	75%	4%	80%	2%	79%	3%	86%
2016	Ins. Comm.	Wayne Goodwin	DEM	White	97%	30%	97%	27%	97%	28%	96%	26%
2016	Ins. Comm.	Mike Causey	REP	White	3%	70%	3%	73%	3%	72%	4%	74%
2016	Labor Comm.	Charles Meeker	DEM	White	97%	24%	97%	21%	97%	21%	97%	20%
2016	Labor Comm.	Cherie Berry	REP	White	3%	76%	3%	79%	3%	79%	3%	80%
2016	Apps. Ct. 2	Margaret Eagles	DEM	White	97%	27%	98%	23%	97%	25%	97%	22%
2016	Apps. Ct. 2	Hunter Murphy	REP	White	3%	73%	2%	77%	3%	75%	3%	78%
2016	Apps. Ct. 1	Linda Stephens	DEM	White	97%	30%	97%	25%	97%	28%	97%	25%
2016	Apps. Ct. 1	Phil Berger, Jr.	REP	White	3%	70%	3%	75%	3%	72%	3%	75%
2016	Gov.	Roy Cooper	DEM	White	95%	27%	97%	22%	96%	27%	96%	23%
2016	Gov.	Pat McCrory	REP	White	5%	73%	3%	78%	4%	73%	4%	77%
2016	Sec. of St.	Elaine Marshall	DEM	White	97%	32%	97%	30%	97%	33%	96%	32%
2016	Sec. of St.	Michael LaPaglia	REP	White	3%	68%	3%	70%	3%	67%	4%	68%
2016	Super. Pub. Instr.	June Atkinson	DEM	White	96%	29%	97%	27%	97%	29%	96%	28%
2016	Super. Pub. Instr.	Mark Johnson	REP	White	4%	71%	3%	73%	3%	71%	4%	72%
2016	Pres.	Hillary Clinton	DEM	White	97%	24%	97%	20%	97%	26%	97%	19%
2016	Pres.	Donald J. Trump	REP	White	3%	76%	3%	80%	3%	74%	3%	81%
2016	US Sen.	Deborah K. Ross	DEM	White	97%	24%	97%	20%	97%	23%	97%	19%
2016	US Sen.	Richard Burr	REP	White	3%	76%	3%	80%	3%	77%	3%	81%
		White vs White	Dem. Average		97%	28%	97%	24%	97%	27%	97%	23%
		White vs White	Rep. Average		3%	72%	3%	76%	3%	73%	3%	77%
2016	Apps. Ct. 4	Vince Rozier	DEM	Black	97%	25%	97%	21%	97%	24%	97%	20%
2016	Apps. Ct. 4	Richard Dietz	REP	White	3%	75%	3%	79%	3%	76%	3%	80%
2016	Apps. Ct. 3	Abe Jones	DEM	Black	97%	24%	97%	19%	97%	23%	97%	17%
2016	Apps. Ct. 3	Bob Hunter	REP	White	3%	76%	3%	81%	3%	77%	3%	83%
2016	Apps. Ct. 5	Ricky McKoy-Mitchell	DEM	Black	97%	25%	97%	21%	98%	23%	97%	18%
2016	Apps. Ct. 5	Valerie Zachary	REP	White	3%	75%	3%	79%	2%	77%	3%	82%
2016	Lt. Gov.	Linda Coleman	DEM	Black	97%	25%	97%	21%	97%	23%	97%	18%
2016	Lt. Gov.	Dan Forest	REP	White	3%	75%	3%	79%	3%	77%	3%	82%
2016	Treas.	Dan Blue III	DEM	Black	97%	26%	97%	22%	97%	25%	97%	22%
2016	Treas.	Dale R. Folwell	REP	White	3%	74%	3%	78%	3%	75%	3%	78%
		Black vs White	Dem. Average		97%	25%	97%	21%	97%	24%	97%	19%
		Black vs White	Rep. Average		3%	75%	3%	79%	3%	76%	3%	81%
2016	S. C. Seat 2	Michael Morgan	NON	Black	71%	52%	83%	44%	73%	42%	80%	39%
2016	S. C. Seat 2	Robert Edmunds	NON	White	29%	48%	17%	56%	27%	58%	20%	61%

Table 2: EI RxC for 2018 Elections in Oskooii's Four State Senate Districts

Year	Office	Candidate	Party	Race	District 1		District 2		District 5		District 11	
		Name			Black	White	Black	White	Black	White	Black	White
2018	Apps. Ct. 1	John S. Arrowood	DEM	White	96%	28%	97%	24%	96%	29%	96%	21%
2018	Apps. Ct. 1	Andrew T. Heath	REP	White	4%	72%	3%	76%	4%	71%	4%	79%
2018	Apps. Ct. 2	Tobias (Toby) Hampson	DEM	White	94%	28%	96%	22%	94%	28%	95%	20%
2018	Apps. Ct. 2	Griffin+Ray	REP	White	6%	72%	4%	78%	6%	72%	5%	80%
2018	Apps. Ct. 3	Allegra Katherine Collins	DEM	White	97%	29%	97%	23%	97%	28%	96%	21%
2018	Apps. Ct. 3	Chuck Kitchen	REP	White	3%	71%	3%	77%	3%	72%	4%	79%
		White vs White	Dem. Average		96%	28%	96%	23%	96%	28%	96%	21%
		White vs White	Rep. Average		4%	72%	4%	77%	4%	72%	4%	79%
2018	S. C. Seat 1	Anita Earls	DEM	Black	94%	29%	95%	23%	94%	28%	94%	22%
2018	S. C. Seat 1	Jackson+Anglin	REP	White	6%	71%	5%	77%	6%	72%	6%	78%

Table 3: EI RxC for 2020 Elections in Oskooii's Four State Senate Districts

Year	Office	Candidate	Party	Race	District 1		District 2		District 5		District 11	
		Name			Black	White	Black	White	Black	White	Black	White
2020	A. G.	Josh Stein	DEM	White	97%	22%	97%	19%	97%	23%	97%	17%
2020	A. G.	Jim O'Neill	REP	White	3%	78%	3%	81%	3%	77%	3%	83%
2020	Auditor	Beth A. Wood	DEM	White	96%	25%	97%	22%	97%	30%	97%	25%
2020	Auditor	Anthony Street	REP	White	4%	75%	3%	78%	3%	70%	3%	75%
2020	Agri. Comm	Jenna Wadsworth	DEM	White	96%	20%	97%	14%	97%	17%	98%	6%
2020	Agri. Comm	Steve Troxler	REP	White	4%	80%	3%	86%	3%	83%	2%	94%
2020	Ins. Comm.	Wayne Goodwin	DEM	White	96%	23%	96%	18%	97%	21%	97%	12%
2020	Ins. Comm.	Mike Causey	REP	White	4%	77%	4%	82%	3%	79%	3%	88%
2020	Apps. Ct. 4	Tricia Shields	DEM	White	96%	22%	96%	16%	97%	20%	97%	12%
2020	Apps. Ct. 4	April C. Wood	REP	White	4%	78%	4%	84%	3%	80%	3%	88%
2020	Apps. Ct. 6	Gray Styers	DEM	White	97%	22%	97%	16%	97%	20%	97%	12%
2020	Apps. Ct. 6	Chris Dillon	REP	White	3%	78%	3%	84%	3%	80%	3%	88%
2020	Apps. Ct. 13	Chris Brook	DEM	White	96%	22%	97%	17%	97%	21%	97%	13%
2020	Apps. Ct. 13	Jefferson Griffin	REP	white	4%	78%	3%	83%	3%	79%	3%	87%
2020	Gov.	Roy Cooper	DEM	White	97%	25%	97%	20%	97%	25%	97%	18%
2020	Gov.	Dan Forest	REP	White	3%	75%	3%	80%	3%	75%	3%	82%
2020	Sec. of St.	Elaine Marshall	DEM	White	96%	25%	97%	21%	97%	26%	97%	19%
2020	Sec. of St.	E.C. Sykes	REP	White	4%	75%	3%	79%	3%	74%	3%	81%
2020	Super. Pub. Instr.	Jen Mangrum	DEM	White	96%	22%	96%	17%	97%	22%	97%	13%
2020	Super. Pub. Instr.	Catherine Truitt	REP	White	4%	78%	4%	83%	3%	78%	3%	87%
2020	S. C. Seat 2	Lucy Inman	DEM	White	96%	23%	96%	18%	97%	22%	97%	12%
2020	S. C. Seat 2	Phil Berger, Jr.	REP	White	4%	77%	4%	82%	3%	78%	3%	88%
2020	S. C. Seat 4	Mark Davis	DEM	White	96%	23%	97%	18%	97%	23%	97%	15%
2020	S. C. Seat 4	Tamara Barringer	REP	White	4%	77%	3%	82%	3%	77%	3%	85%
2020	Treas.	Ronnie Chatterji	DEM	South A	96%	22%	95%	17%	95%	22%	97%	12%
2020	Treas.	Dale R. Folwell	REP	White	4%	78%	5%	83%	5%	78%	3%	88%
2020	Pres.	Joseph R. Biden	DEM	White	96%	22%	97%	16%	97%	21%	97%	12%
2020	Pres.	Donald J. Trump	REP	White	4%	78%	3%	84%	3%	79%	3%	88%
2020	US Sen.	Cal Cunningham	DEM	White	96%	21%	97%	18%	97%	21%	97%	14%
2020	US Sen.	Thom Tillis	REP	White	4%	79%	3%	82%	3%	79%	3%	86%
		White vs White	Dem. Average		96%	23%	97%	18%	97%	22%	97%	14%
		White vs White	Rep. Average		4%	77%	3%	82%	3%	78%	3%	86%
2020	Labor Comm.	Jessica Holmes	DEM	Black	96%	23%	97%	18%	97%	22%	97%	13%
2020	Labor Comm.	Josh Dobson	REP	White	4%	77%	3%	82%	3%	78%	3%	87%
2020	Apps. Ct. 7	Reuben Young	DEM	Black	96%	22%	97%	16%	97%	21%	97%	12%
2020	Apps. Ct. 7	Jeff Carpenter	REP	White	4%	78%	3%	84%	3%	79%	3%	88%
2020	Sup. Ct. C. J.	Cheri Beasley	DEM	Black	96%	23%	97%	18%	96%	24%	96%	16%
2020	Sup. Ct. C. J.	Paul Newby	REP	White	4%	77%	3%	82%	4%	76%	4%	84%
		Black vs White	Dem. Average		96%	23%	97%	17%	97%	22%	97%	14%
		Black vs White	Rep. Average		4%	77%	3%	83%	3%	78%	3%	86%
2020	Lt. Gov.	Yvonne Lewis Holley	DEM	Black	97%	21%	97%	16%	97%	19%	97%	11%
2020	Lt. Gov.	Mark Robinson	REP	Black	3%	79%	3%	84%	3%	81%	3%	89%
2020	Apps. Ct. 5	Lora Christine Cabbage	DEM	Black	96%	23%	97%	17%	97%	21%	97%	11%
2020	Apps. Ct. 5	Fred Gore	REP	Black	4%	77%	3%	83%	3%	79%	3%	89%
		Black vs Black	Dem. Average		96%	22%	97%	16%	97%	20%	97%	11%
		Black vs Black	Rep. Average		4%	78%	3%	84%	3%	80%	3%	89%

Table 4: EI RxC for 2022 Elections in Oskooii's Four State Senate Districts

Year	Office	Candidate	Party	Race	District 1		District 2		District 5		District 11	
		Name			Black	White	Black	White	Black	White	Black	White
2022	Apps. Ct. 9	Brad A. Salmon	DEM	White	95%	21%	96%	17%	96%	23%	97%	14%
2022	Apps. Ct. 9	Donna Stroud	REP	White	5%	79%	4%	83%	4%	77%	3%	86%
2022	Apps. Ct. 11	Darren Jackson	DEM	White	95%	22%	96%	18%	96%	25%	96%	17%
2022	Apps. Ct. 11	Michael J. Stading	REP	White	5%	78%	4%	82%	4%	75%	4%	83%
2022	S. C. Seat 3	Lucy Inman	DEM	White	94%	23%	96%	18%	96%	24%	96%	19%
2022	S. C. Seat 3	Richard Dietz	REP	White	6%	77%	4%	82%	4%	76%	4%	81%
2022	S. C. Seat 5	Sam J. Ervin IV	DEM	White	94%	24%	96%	19%	96%	26%	96%	18%
2022	S. C. Seat 5	Trey Allen	REP	White	6%	76%	4%	81%	4%	74%	4%	82%
		White vs White	Dem. Average		95%	23%	96%	18%	96%	25%	96%	17%
		White vs White	Rep. Average		5%	77%	4%	82%	4%	75%	4%	83%
2022	Apps. Ct. 8	Carolyn Thompson	DEM	Black	95%	23%	96%	19%	95%	26%	96%	17%
2022	Apps. Ct. 8	Julee Tate Flood	REP	White	5%	77%	4%	81%	5%	74%	4%	83%
2022	Apps. Ct. 10	Gale Murray Adams	DEM	Black	95%	23%	97%	18%	96%	25%	96%	17%
2022	Apps. Ct. 10	John M. Tyson	REP	White	5%	77%	3%	82%	4%	75%	4%	83%
2022	US Sen.	Cheri Beasley	DEM	Black	95%	23%	96%	19%	96%	26%	97%	18%
2022	US Sen.	Ted Budd	REP	White	5%	77%	4%	81%	4%	74%	3%	82%
		Black vs White	Dem. Average		95%	23%	96%	19%	96%	26%	96%	17%
		Black vs White	Rep. Average		5%	77%	4%	81%	4%	74%	4%	83%

Dr. Oskooii then provides a similar RPV analysis for Senate Districts 2 and 5 in plaintiffs' demonstrative Plan A. The RxC estimates for both are displayed for the 2022 and 2020 elections in bar graph form in Appendix Figure B-7 and for 2018 and 2016 in B-8. Tables 5 through 8 below provide EI RxC results for the same elections, and again in the same geography, and relying on the 'R' program code and election data provided by Dr. Oskooii.

The results again show the same pattern of partisan polarization rather than racial polarization that was seen above. Again, only in 2016 is there any indication of a difference larger than a single percentage point. Note also that in the one non-partisan contest in 2016 for Supreme Court Seat 2, the voting patterns are much different, and the White crossover is high.

Table 5: EI RxC for 2016 Elections in Oskooii's Two Demonstrative State Senate Districts

Year	Office	Candidate	Party	Race	District 2		District 5	
		Name			Black	White	Black	White
2016	A. G.	Josh Stein	DEM	White	98%	23%	98%	24%
2016	A. G.	Buck Newton	REP	White	2%	77%	2%	76%
2016	Auditor	Beth A. Wood	DEM	White	98%	27%	98%	29%
2016	Auditor	Chuck Stuber	REP	White	2%	73%	2%	71%
2016	Agri. Comm	Walter Smith	DEM	White	98%	16%	98%	16%
2016	Agri. Comm	Steve Troxler	REP	White	2%	84%	2%	84%
2016	Ins. Comm.	Wayne Goodwin	DEM	White	98%	27%	98%	26%
2016	Ins. Comm.	Mike Causey	REP	White	2%	73%	2%	74%
2016	Labor Comm.	Charles Meeker	DEM	White	98%	19%	98%	18%
2016	Labor Comm.	Cherie Berry	REP	White	2%	81%	2%	82%
2016	Apps. Ct. 2	Margaret Eagles	DEM	White	98%	22%	98%	23%
2016	Apps. Ct. 2	Hunter Murphy	REP	White	2%	78%	2%	77%
2016	Apps. Ct. 1	Linda Stephens	DEM	White	98%	24%	98%	24%
2016	Apps. Ct. 1	Phil Berger, Jr.	REP	White	2%	76%	2%	76%
2016	Gov.	Roy Cooper	DEM	White	98%	17%	98%	21%
2016	Gov.	Pat McCrory	REP	White	2%	83%	2%	79%
2016	Sec. of St.	Elaine Marshall	DEM	White	98%	31%	98%	31%
2016	Sec. of St.	Michael LaPaglia	REP	White	2%	69%	2%	69%
2016	Super. Pub. Instr.	June Atkinson	DEM	White	98%	27%	98%	27%
2016	Super. Pub. Instr.	Mark Johnson	REP	White	2%	73%	2%	73%
2016	Pres.	Hillary Clinton	DEM	White	98%	16%	98%	20%
2016	Pres.	Donald J. Trump	REP	White	2%	84%	2%	80%
2016	US Sen.	Deborah K. Ross	DEM	White	98%	16%	98%	18%
2016	US Sen.	Richard Burr	REP	White	2%	84%	2%	82%
		White vs White	Dem. Average		98%	22%	98%	23%
		White vs White	Rep. Average		2%	78%	2%	77%
2016	Apps. Ct. 4	Vince Rozier	DEM	Black	98%	19%	98%	20%
2016	Apps. Ct. 4	Richard Dietz	REP	White	2%	81%	2%	80%
2016	Apps. Ct. 3	Abe Jones	DEM	Black	98%	16%	98%	18%
2016	Apps. Ct. 3	Bob Hunter	REP	White	2%	84%	2%	82%
2016	Apps. Ct. 5	Ricky McKoy-Mitchell	DEM	Black	98%	18%	98%	19%
2016	Apps. Ct. 5	Valerie Zachary	REP	White	2%	82%	2%	81%
2016	Lt. Gov.	Linda Coleman	DEM	Black	98%	18%	98%	19%
2016	Lt. Gov.	Dan Forest	REP	White	2%	82%	2%	81%
2016	Treas.	Dan Blue III	DEM	Black	98%	21%	98%	21%
2016	Treas.	Dale R. Folwell	REP	White	2%	79%	2%	79%
		Black vs White	Dem. Average		98%	18%	98%	20%
		Black vs White	Rep. Average		2%	82%	2%	80%
2016	S. C. Seat 2	Michael R. (Mike) Morgan	NON	Black	79%	41%	77%	38%
2016	S. C. Seat 2	Robert H. (Bob) Edmunds	NON	White	21%	59%	23%	62%

Table 6: EI RxC for 2018 Elections in Oskooii's Two Demonstrative State Senate Districts

Year	Office	Candidate	Party	Race	District 2		District 5	
		Name			Black	White	Black	White
2018	Apps. Ct. 1	John S. Arrowood	DEM	White	98%	18%	98%	21%
2018	Apps. Ct. 1	Andrew T. Heath	REP	White	2%	82%	2%	79%
2018	Apps. Ct. 2	Tobias (Toby) Hampson	DEM	White	97%	17%	97%	20%
2018	Apps. Ct. 2	Griffin+Ray	REP	White	3%	83%	3%	80%
2018	Apps. Ct. 3	Allegra Katherine Collins	DEM	White	98%	19%	98%	22%
2018	Apps. Ct. 3	Chuck Kitchen	REP	White	2%	81%	2%	78%
		White vs White	Dem. Average		98%	18%	98%	21%
		White vs White	Rep. Average		2%	82%	2%	79%
2018	S. C. Seat 1	Anita Earls	DEM	Black	97%	18%	97%	21%
2018	S. C. Seat 1	Jackson+Anglin	REP	White	3%	82%	3%	79%

Table 7: EI RxC for 2020 Elections in Oskooii's Two Demonstrative State Senate Districts

Year	Office	Candidate	Party	Race	District 2		District 5	
		Name			Black	White	Black	White
2020	A. G.	Josh Stein	DEM	White	98%	14%	98%	19%
2020	A. G.	Jim O'Neill	REP	White	2%	86%	2%	81%
2020	Auditor	Beth A. Wood	DEM	White	98%	18%	98%	30%
2020	Auditor	Anthony (Tony) Street	REP	White	2%	82%	2%	70%
2020	Agri. Comm	Jenna Wadsworth	DEM	White	98%	7%	98%	10%
2020	Agri. Comm	Steve Troxler	REP	White	2%	93%	2%	90%
2020	Ins. Comm.	Wayne Goodwin	DEM	White	98%	14%	98%	15%
2020	Ins. Comm.	Mike Causey	REP	White	2%	86%	2%	85%
2020	Apps. Ct. 4	Tricia Shields	DEM	White	98%	11%	98%	14%
2020	Apps. Ct. 4	April C. Wood	REP	White	2%	89%	2%	86%
2020	Apps. Ct. 6	Gray Styers	DEM	White	98%	11%	98%	14%
2020	Apps. Ct. 6	Chris Dillon	REP	White	2%	89%	2%	86%
2020	Apps. Ct. 13	Chris Brook	DEM	White	98%	12%	98%	15%
2020	Apps. Ct. 13	Jefferson G. Griffin	REP	white	2%	88%	2%	85%
2020	Gov.	Roy Cooper	DEM	White	98%	16%	98%	20%
2020	Gov.	Dan Forest	REP	White	2%	84%	2%	80%
2020	Sec. of St.	Elaine Marshall	DEM	White	98%	17%	98%	22%
2020	Sec. of St.	E.C. Sykes	REP	White	2%	83%	2%	78%
2020	Super. Pub. Instr.	Jen Mangrum	DEM	White	98%	12%	98%	16%
2020	Super. Pub. Instr.	Catherine Truitt	REP	White	2%	88%	2%	84%
2020	S. C. Seat 2	Lucy Inman	DEM	White	98%	12%	98%	15%
2020	S. C. Seat 2	Phil Berger, Jr.	REP	White	2%	88%	2%	85%
2020	S. C. Seat 4	Mark Davis	DEM	White	98%	14%	98%	17%
2020	S. C. Seat 4	Tamara Barringer	REP	White	2%	86%	2%	83%
2020	Treas.	Ronnie Chatterji	DEM	S. Asian	98%	11%	97%	15%
2020	Treas.	Dale R. Folwell	REP	White	2%	89%	3%	85%
2020	Pres.	Joseph R. Biden	DEM	White	98%	10%	98%	14%
2020	Pres.	Donald J. Trump	REP	White	2%	90%	2%	86%
2020	US Sen.	Cal Cunningham	DEM	White	98%	12%	98%	16%
2020	US Sen.	Thom Tillis	REP	White	2%	88%	2%	84%
		White vs White	Dem. Average		98%	13%	98%	17%
		White vs White	Rep. Average		2%	87%	2%	83%
2020	Labor Comm.	Jessica Holmes	DEM	Black	98%	13%	98%	16%
2020	Labor Comm.	Josh Dobson	REP	White	2%	87%	2%	84%
2020	Apps. Ct. 7	Reuben F. Young	DEM	Black	98%	11%	98%	15%
2020	Apps. Ct. 7	Jeff Carpenter	REP	White	2%	89%	2%	85%
2020	Sup. Ct. C. J.	Cheri Beasley	DEM	Black	98%	13%	98%	17%
2020	Sup. Ct. C. J.	Paul Newby	REP	White	2%	87%	2%	83%
		Black vs White	Dem. Average		98%	12%	98%	16%
		Black vs White	Rep. Average		2%	88%	2%	84%
2020	Lt. Gov.	Yvonne Lewis Holley	DEM	Black	98%	10%	98%	13%
2020	Lt. Gov.	Mark Robinson	REP	Black	2%	90%	2%	87%
2020	Apps. Ct. 5	Lora Christine Cubbage	DEM	Black	98%	12%	98%	15%
2020	Apps. Ct. 5	Fred Gore	REP	Black	2%	88%	2%	85%
		Black vs Black	Dem. Average		98%	11%	98%	14%
		Black vs Black	Rep. Average		2%	89%	2%	86%

Table 8: EI RxC for 2022 Elections in Oskooii's Two Demonstrative State Senate Districts

Year	Office	Candidate	Party	Race	District 1		District 2	
		Name			Black	White	Black	White
2022	Apps. Ct. 9	Brad A. Salmon	DEM	White	98%	11%	98%	16%
2022	Apps. Ct. 9	Donna Stroud	REP	White	2%	89%	2%	84%
2022	Apps. Ct. 11	Darren Jackson	DEM	White	98%	13%	97%	18%
2022	Apps. Ct. 11	Michael J. Stading	REP	White	2%	87%	3%	82%
2022	S. C. Seat 3	Lucy Inman	DEM	White	98%	14%	98%	18%
2022	S. C. Seat 3	Richard Dietz	REP	White	2%	86%	2%	82%
2022	S. C. Seat 5	Sam J. Ervin IV	DEM	White	98%	14%	97%	19%
2022	S. C. Seat 5	Trey Allen	REP	White	2%	86%	3%	81%
		White vs White	Dem. Average		98%	13%	97%	18%
		White vs White	Rep. Average		2%	87%	3%	82%
2022	Apps. Ct. 8	Carolyn Thompson	DEM	Black	98%	13%	98%	18%
2022	Apps. Ct. 8	Julee Tate Flood	REP	White	2%	87%	2%	82%
2022	Apps. Ct. 10	Gale Murray Adams	DEM	Black	98%	12%	98%	17%
2022	Apps. Ct. 10	John M. Tyson	REP	White	2%	88%	2%	83%
2022	US Sen.	Cheri Beasley	DEM	Black	98%	14%	97%	19%
2022	US Sen.	Ted Budd	REP	White	2%	86%	3%	81%
		Black vs White	Dem. Average		98%	13%	98%	18%
		Black vs White	Rep. Average		2%	87%	2%	82%

STATE HOUSE DISTRICTS

Dr. Oskooii next focuses on assessing Racially Polarized Voting (RPV) in a cluster of State House Districts that he labels as the “HLD ‘cluster’” (consisting of enacted House Districts 4, 5, 7, 8, 9, 10, 12, 23, 24, 25, 27, and 32). As he notes on page 47 “dividing a larger dataset into smaller units can reduce the precision of RPV estimates due to the limited information available in each unit— fewer precincts and less variation in racial composition. Consequently, analyzing a cluster of districts, which encompasses more data, generally yields more robust and reliable estimates.”

Dr. Oskooii's RxC estimates for his House ‘cluster’ are displayed for the 2022 and 2020 elections in bar graph form in his Figure 25 and for 2018 and 2016 in Figure 27. Tables 9 through 12 below provide EI RxC results for the same elections, and again in the same geography, and relying on the ‘R’ program code and election data provided by Dr. Oskooii.

District Performance

Both Dr. Oskooii and Dr. Palmer comment on the performance of various adopted and demonstration districts. As noted above, all of the Black-preferred candidates are also the Democratic candidates in the general elections. As such, the assessment of the election performance of a district is simply the expected Democratic share of the general election vote in the district. Therefore, all Democratic majority districts will ‘perform,’ and any Republican majority districts will not.

Understanding the partisan, rather than racial, nature of the voting patterns illuminates the discussion of district performance. Dr. Oskooii. On page 90 of his report, Dr. Oskooii summarizes his analysis of the changes in the 2023 enacted version of Congressional District 1 compared to its 2022 Enacted version:

The difference in performance for Black-preferred candidates in terms of rates and margins of victory and loss in the 2022 election between the 2022 Interim CLD 1 and the 2023 Enacted CLD 1 is likely attributable to difference in White bloc voting rates of those who were removed from and added to the 2023 enacted district. This is particularly the case since the racial composition of the Black and White populations did not substantially change. Under the 2022 plan, the VAP in CLD 1 was 50.07% White and 41.23% Black. Under the 2023 plan, the White VAP slightly increased to 50.70%, and the Black VAP decreased to 40.42%.

He goes on to conclude on page 91:

Overall, the analysis reveals that the precincts added to the 2023 Enacted CLD 1 exhibit much higher levels of White bloc voting compared to the removed precincts. While Black voter cohesion remains strong in the added precincts, the increased 92 White bloc voting likely contributed to the reduced electoral success of Black-preferred candidates in the new 2023 district.

Recognizing that his ‘White bloc voting’ is a preference for Republican candidates rather than an opposition to Black candidates clarifies what he is describing. What changed in Congressional District 1 was that Democratic performance was reduced largely, if we accept Dr. Oskooii’s analysis, by removing areas with weaker White Republican support and adding areas with relatively higher White Republican voting. In other words, changes made for partisan gain. Exactly what previous

plaintiffs had alleged about the previous maps and what the State Court had agreed was the case. That decision was upheld on partisan lines by the State Supreme Court and subsequently overturned on partisan lines after an intervening election altered the party majority on the court. In turn, the new Court, in a party-line split, ruled that partisan gerrymanders were not covered by the State Constitution.

In any case, these typically 50% plus Black VAP districts are not required to elect Black-preferred Democratic candidates, including Black-preferred Democratic candidates that are themselves Black. Table 23 below lists the 26 Black State House members elected in 2022: 25 Black Democrats and 1 Black Republican. Only three of the Black members were elected from majority-Black VAP districts, while fully 17 (including 16 Black Democrats) were elected from districts that were below 40% Black VAP. Five of the Black Democrats were elected from districts where the Black VAP is below 25%.

Table 23: Black Elected State House Members 2022 Election

District	BCVAP	2022 Incumbent
HD 107	62.6%	Kelly Alexander, Jr. (BD)
HD 99	59.6%	Nasif Majeed (BD)
HD 101	58.4%	Carolyn Logan (BD)
HD 23	54.5%	Shelly Willingham (BD)
HD 58	53.2%	Amos Quick (BD)
HD 72	47.6%	Amber Baker (BD)
HD 38	47.6%	Abe Jones (BD)
HD 31	47.0%	Zack Hawkins (BD)
HD 92	41.3%	Terry Brown (BD)
HD 42	41.2%	Marvin Lucas (BD)
HD 24	40.5%	Ken Fontenot (BR)
HD 106	39.8%	Carla Cunningham (BD)
HD 33	39.1%	Rosa Gill (BD)
HD 60	39.0%	Cecil Brockman (BD)
HD 48	38.0%	Garland Pierce (BD)
HD 8	37.9%	G. Brown (BD)
HD 45	36.8%	Frances Jackson (BD)
HD 29	36.0%	Vernetta Alston (BD)
HD 71	35.1%	Kanika Brown (BD)
HD 39	34.9%	James Roberson (BD)
HD 2	32.9%	Ray Jeffers (BD)
HD 73	25.4%	Diamond Staton-Williams (BD)
HD 50	18.3%	Renee Price (BD)
HD 54	12.9%	Robert Reives (BD)
HD 56	12.1%	Allen Buansi (BD)
HD 104	10.2%	Brandon Lofton (BD)

The same clear evidence of performance for minority preferred candidates in districts well below 50% BVAP can be seen in the performance figures for various versions of the House, Senate, and Congressional districts in Dr. Oskooii's report.. Table 24 below summarizes Dr. Oskooii's Table 3 (page 36) and Table 4 (page 40) and provides the District's Black Voting Age Percentage (BVAP) and the percentage of election wins out of the 49 total elections Dr. Oskooii examined. Senate Districts 5 and 11 in the 2023 Enacted plan both show that Black-preferred candidates (Democrats) can win more often than not in districts as low as 37% BVAP, and win every contest at 40% BVAP.

Table 24: State Senate District Performance from Oskooii Tables 3 and 4

State Senate - Oskooii Table 3			State Senate - Oskooii Table 4		
2023 Enacted			Demonstrative A		
District	BVAP	Win %	District	BVAP	Win %
SLD5	40%	100%	SLD5	50%	100%
SLD11	37%	65%	SLD11	31%	16%
SLD1	29%	16%	SLD1	13%	2%
SLD2	30%	14%	SLD2	50%	100%

Table 25 below summarizes Dr. Oskooii's Table 6 (page 70), Table 7 (page 74), and Table 8 (page 77) and provides the Black Voting Age Percentage (BVAP) and the percentage of election wins out of the 49 total elections Dr. Oskooii examined. As was true for Senate districts, there are multiple districts below 50% BVAP in the 2023 Enacted plan where Black-preferred candidates (Democrats) can win more often than not, including in districts at or below 40% BVAP. Further, both the 2023 Enacted plan and Demonstrative B have the same number of districts performing more often than not.

Table 25: State House District Performance from Oskooii Tables 6, 7 and 8

State House - Oskooii Table 6			State House - Oskooii Table 7			State House - Oskooii Table 8		
2023 Enacted			Demonstrative A			Demonstrative B		
District	BVAP	Win %	District	BVAP	Win %	District	BVAP	Win %
HLD 23	53%	100%	HLD 23	50%	100%	HLD 23	51%	100%
HLD27	52%	100%	HLD27	51%	100%	HLD27	50%	100%
HLD8	45%	100%	HLD8	32%	96%	HLD8	50%	100%
HLD32	40%	88%	HLD32	31%	49%	HLD32	31%	49%
HLD25	40%	78%	HLD25	51%	100%	HLD25	51%	100%
HLD24	39%	78%	HLD24	50%	100%	HLD24	50%	100%
HLD5	39%	47%	HLD5	50%	100%	HLD5	50%	100%
HLD12	38%	20%	HLD12	50%	100%	HLD12	21%	2%
HLD7	27%	14%	HLD7	21%	0%	HLD7	21%	0%
HLD9	26%	6%	HLD9	27%	2%	HLD9	23%	6%
HLD10	32%	4%	HLD10	22%	2%	HLD10	32%	4%
HLD4	27%	4%	HLD4	26%	2%	HLD4	27%	2%

Table 26 below summarizes Dr. Oskooii's Table 10 (page 80) and Table 12 (page 89) and provides the district's Black Voting Age Percentage (BVAP) and the percentage of election wins for the 49 total elections Dr. Oskooii examined. Both of the districts in the 2022 Enacted are well below 50% BVAP, but the Black-preferred candidates (Democrats) are winning in almost all the elections.

Similarly, in the 2023 Enacted plan the Black-preferred candidates are winning over 80% of the time with a BVAP of only 40%.

Table 26: Congressional District Performance from Oskooii Tables 10 and 12

Congressional - Oskooii Table 10			Congressional - Oskooii Table 12		
2022 Enacted			2023 Enacted		
District	BVAP	Win %	District	BVAP	Win %
CLD1	41%	90%	CD 1	40%	82%
CLD6	32%	98%	CD 6	19%	4%
			CD 5	19%	6%
			CD 9	22%	6%
			CD 10	17%	6%

SUMMARY CONCLUSIONS

Both Dr. Palmer’s and Dr. Oskooii’s reports provided a limited analysis that fails to consider nonracial causes of voting preferences. The RPV analysis in these reports shows only that Black voters cohesively support Democratic candidates and that those candidates do not receive support from the majority of White voters who provide majority support to Republican candidates. Considering the EI estimations provided by both Dr. Palmer and Dr. Oskooii in light of information on the party affiliation and race of candidates, the election analysis clearly demonstrates that the party affiliation of the candidates best explains the divergent voting preferences of Black and White voters in North Carolina elections.

Simply put, the election analysis provides no support for the conclusion that Black voters cohesively support Black candidates on account of race, as they are no more likely to support a Black Democratic candidate than they are to support a White Democratic candidate. Similarly, the election analysis provides no support for the conclusion that White voters vote as a bloc in opposition to Black candidates, as they are no more likely to oppose a Black Democratic candidate than they are to oppose a White Democratic candidate, and similarly, no less likely to support a

Black Republican candidate than they are to support a White Republican candidate. The fight here, as its history would suggest, is over the partisan tilt of the various district plans, not the racial tilt.

In 2020, a Black candidate, Mark K. Robinson, won the Republican primary for Lt. Governor, besting numerous White candidates. Yvonne Lewis Holly, a Black woman, won the Democratic primary for Lt. Governor that same year in a primary field that also included multiple White candidates. In November, Robinson won the general election. This year, Robinson was a candidate in the Republican primary for Governor and easily won over two White opponents. In the November general election, he faces Josh Stein, a White Democrat who easily won his Democratic primary over multiple Black candidates. None of this seems likely if we accept the conclusion that voting in North Carolina elections is racially polarized. In contrast, these events are entirely compatible with the fact, as demonstrated here, that the polarization evident in North Carolina elections is party polarization rather than racial polarization.

September 26, 2024.

A handwritten signature in black ink, appearing to read 'John R. Alford', is written over a horizontal line.

John R. Alford, Ph.D.