

A**Ohio Redistricting Commission - 9-14-2021 - Part 2**

<https://www.ohiochannel.org/video/ohio-redistricting-commission-9-14-2021-part-2>

Co-Chair Senator Vernon Sykes [00:00:04] At this time, we're going to close off the virtual testimony that's available at the Washington State Community College in Marietta at this time.

Clerk [00:00:17] The next witness is Senator Teresa Fedor, speaking on behalf of Terrilyn Copland.

Sen. Teresa Fedor [00:00:35] Thank you very much.

Co-Chair Senator Vernon Sykes [00:00:36] Can you please pronounce and spell your name, please, for the record,

Sen. Teresa Fedor [00:00:41] Senator Teresa Fedor representing the Toledo area.

Co-Chair Senator Vernon Sykes [00:00:48] Thank you.

Sen. Teresa Fedor on behalf of Terrilyn Copeland [00:00:50] And this is for my constituent, Terrilyn Copeland. Dear Sir, Madam, I am writing to implore you to act in accordance with the will of the voters of Ohio. The map proposed and submitted by the committee last week is unacceptable. It fell short of the spirit and letter of the voter mandate. I cannot tell you how disappointed I am in the map you presented. After studying your map, it appears that someone spent a considerable amount of time constructing a map more gerrymandered than the current one. The proposed map is a slap in the face to Ohio voters who expected committee members to take their charge seriously. Ohioans have voted overwhelmingly on two occasions for better maps. It appears that request fell on deaf ears. Simple software programs are available to assist in the complicated process of developing fair maps that meet specific criteria for fairness. In addition, collaborating with experts in a bipartisan fashion would foster transparency and ensure an ethical and fair process for all. Dave's Redistricting App was used by a number of people to offer much better maps than the one you proposed and adopted along party lines. Since we have many important critical deadlines, collaboration would have fostered expediency. Dave's Redistricting App required maps consider to the following key elements and yields a score with 100 percent perfect: proportionality or representational fairness, minority representation, compactness, splitting of political subdivisions, competitiveness. The proposed Ohio Senate map falls far too low on the score for Competitiveness 26, and Proportionality, 43. Proportionality representative fairness, 43. Minority Representation, 49. Compactness, 49. Splitting of Political Subdivisions, 91. Competitiveness, 26. For me, competitiveness and proportionality are two elements critical to fair elections. These two elements are central to eliminating gerrymandering so that elections reflect the will of the people. Competitive elections allow for more robust debate and a winner who is more likely to look to represent all of the people. Of the 20 maps submitted to fair districts for consideration, three had better scores for competitiveness and 20 had better scores for proportionality. I would strongly recommend that you consider the Senate map developed by Geoff Wise. His score for competitiveness is 36. He found twelve competitive districts. Your map actually resulted in a reduction in competitive seats. In addition, his proportionality score of 98 far exceeded yours. Lastly, and of critical importance, Mr. Wise wisely chose to draw a map that was compliant with the federal Voting Rights Act. See below. And you can read that, because my time's running out. During the Thursday meeting, it was found that your map did not even consider such a critical element, minority

House Minority Leader Emilia Sykes [00:29:50] Any additional questions. Thank you very much. Thank you. [applause] The next witness?

Clerk [00:30:00] Gwendolyn Short, followed by Harriet Slive.

House Minority Leader Emilia Sykes [00:30:09] Next, witness.

Clerk [00:30:11] Sameena So --.

Co-Chair Senator Vernon Sykes [00:30:12] I think we have them. They're leaving?

Clerk [00:30:19] Samina Sohail, followed by Percy Squire.

Co-Chair Senator Vernon Sykes [00:30:35] Please state and spell your name, please.

Percy Squire [00:30:40] Good afternoon, Mr. Chairman. My name is Percy Squire. Mr. Chairman, I am here on behalf of the class of voters protected by the provisions of the Voting Rights Act, certified in the case of Armour v. The State of Ohio, 775F.SUPP 1044 Sixth Circuit from 1991. I'm here the state my objection to the map proposed by this commission with respect to both House and Senate districts in the state of Ohio. My objection has multiple components to it. But most notably, I'd like to state that notwithstanding the fine work that's been done by Chairman Sykes and others and coming up with proposed and adopted amendments to the Ohio Constitution in relation to redistricting. The supreme law of the land still remains the United States Constitution and the statutes enacted by the federal legislature, one of which is the Voting Rights Act of 1965 as amended. That's why it was particularly alarming to me when I saw in the press that it was stated by the staff of this commission that race was not considered in connection with the creation of these districts, and the other was deliberately left out at the direction of legislative leaders in the state legislature. This is significant, not only from the standpoint of it being a direct violation of the procedure mandated by the Voting Rights Act, that this commission engaged in an intensely local appraisal of indigenous political reality in connection with discharging its duties in relation to redistricting. But this statement, that race was intentionally and deliberately omitted, brings this out of a mere violation of the Voting Rights Act, but into the realm of an intentional violation, which violates the 15th Amendment. And the jeopardy that the state faces with respect to an admission of this nature, is that you have a map here that is to use the legal jargon per se, unlawful. This map is per se unlawful because the Voting Rights Act requires that this commission engage in an intensive... intensely local appraisal of indigenous political reality and to consider the Senate report factors. We are particularly interested, in the case of my clients, with the districts in the Mahoning Valley, because there's been a previous determination by the 6th Circuit that the state engaged in intentional discrimination in the connection with redistricting in Mahoning County. The Senate report factors that this commission has a duty to undertake in connection with its process here include, among others, the history of official discrimination in the jurisdiction. The black population in the state of Ohio is pretty much localized into seven or eight major metropolitan districts. It was the duty of this commission to look at what extent there's been official discrimination in each of these situations. And in each of these locales, just about every school district has been found to have been traditionally and historically discriminatory in the way it was set up, leading to discrimination claims and most of the major school districts. In the Mahoning Valley, we have the Armour case. The other thing that this commission has the duty to look at was the extent that voting behavior is racially polarized in the various jurisdictions,

the extent to which minority candidates have won election. Going again, back to Mahoning and Trumbull County. If the commission had looked, it what have seen, there's never been a black elected to countywide office in either Mahoning or Trumbull County, separate and apart from a specific judicial finding that the state engaged in intentional discrimination. I dare say that these districts are going to have the unfortunate impact of sowing the seeds that are going to bear the fruits of racial unrest, chaos and polarization in the state in the future. And that it's a violation of not only the Voting Rights Act but the 15th Amendment as the candid representation by this commission staff that they were instructed not to consider race in connection with the construct of these districts. So I would ask that you reject the map and that you undertake your responsibilities as stated in the 15th Amendment, the Voting Rights Act, as interpreted by the United States Supreme Court and *Thornburg v. Gingles* and in the *Armour* case. Thank you very much.

Co-Chair Senator Vernon Sykes [00:36:10] Thank you. Are there any questions? Leader Sykes?

House Minority Leader Emilia Sykes [00:36:15] Thank you, Mr. Chair. Attorney Squires, thank you for your testimony today. In the court case that you're referring to, *Armour v. Ohio*. Is there any... Are there any tests or rules that we must follow as a commission or as map drawers to help meet the goals of that ruling?

Percy Squire [00:36:38] Mr. Chairman? Yes, Ms. Sykes, there is. What's referred to expressly, and there's a textually demonstrable requirement in the language of the Voting Rights Act that a violation of section A as established, based on the totality of circumstances, the totality of circumstances is talismanic language used by the Senate committees. If you go back and look at the legislative history of the Voting Rights Act, for the Senate report factors, there were nine of them that were set forth, that this commission had a duty to undertake and engage in, in connection with this process. One, the history of official discrimination in the jurisdiction, the degree to which voting in the jurisdiction is racially polarized, the extent to which the jurisdictions use a majority vote requirements or at large voting has been a factor. In Ohio in the past, prior to the creation of the reapportionment commission. Going back to the 60s, Ohio elected state representatives at large, a violation of *Reynolds v. Sims*. One person, one vote. The issue here is not only in the configuration of the districts, but also vote the basement. And what I mean by that is when you carve up these districts and these cock-eyed manners in which this has been done, it causes a vote cast in one jurisdiction to have less weight than the vote cast in another district. And that's why they call it vote dilution. And what's happened here, when you do things like separate Youngstown from Warren, that dilutes the vote of those members protected by the provisions of the Voting Rights Act. When you group a man with people like from Columbiana County and so forth, where in order to try to achieve the representative ratio, they have these unnecessary variances and the number of people in one district versus another. The votes end up having less weight in addition to creating these gerrymandered districts. And another important, and I think necessary factor, is the degree that elected officials are unresponsive to the concerns of the minority group. And what you have here is you create districts where you put people in Youngstown with people in Columbiana County, which is in south of Youngstown, outside of Mahoning County. You get officials who represent that district who aren't concerned about all the murders occurring in Youngstown. They aren't concerned about all the murders occurring in Columbus because their election doesn't depend upon appealing to the people who live in the neighborhoods where this crime and so forth is occurring. So there's been a dramatic and very unfortunate failure in this case to comply with federal law. The state constitution and the amendments that Mr. Sykes and others were responsible for causing

to come into being are to be commended. But unfortunately, the supreme law of the land still is the federal constitution and statutes. And there's been zero compliance here and it's been admitted. Which means that if these maps are attacked, not only will it be the violation of the totality of circumstances and the use of the results tests, this is evidence that this was intentional which constitutes a violation of the 15th Amendment. So any way you cut it, the state's gonna have a big problem with these maps. And I would urge you to give this a second look and do whatever you need to do to correct this.

Co-Chair Senator Vernon Sykes [00:40:47] Thank you. Sounds like we need to hire you for our counsel.

Percy Squire [00:40:49] Thank you Mr. Chairman.

Co-Chair Senator Vernon Sykes [00:40:52] Any additional questions? If not, thank you very much.

Percy Squire [00:40:57] Thank you, Mr. Chairman.

Co-Chair Senator Vernon Sykes [00:40:57] Next, witness, please.

Clerk [00:41:07] The next witness is Cheena Srinivasan, followed by Melissa Sull.

Co-Chair Senator Vernon Sykes [00:41:20] Next witness.

Clerk [00:41:21] The next witness is Paul Simonowski, followed by Richard Topper.

Richard Topper [00:41:32] Well, I guess that's me.

Co-Chair Senator Vernon Sykes [00:41:34] You can state your name.

Richard Topper [00:41:37] Good afternoon, my name is Richard Topper.

Co-Chair Senator Vernon Sykes [00:41:38] Could you spell it, please?

Richard Topper [00:41:40] Thank you very much, Chairman Sykes and. Representative Carfagna sitting in for...

Richard Topper [00:41:49] Could you spell your name, please? Yeah, thank you.

Richard Topper [00:41:54] I was going to be addressing, because I'm a lawyer, I was going to be addressing the lawyers on the committee, but the lawyers on the committee, except for Leader Sykes, are not here. But what I would like you to do is go back to the four out of the five lawyers and the Republicans and tell them when we took the oath as lawyers, we agreed to support the U.S. Constitution. Not aspire to it. Not follow it, but support the U.S. Constitution, and this includes the 15th, 19th and 26th Amendments, which command that the right to vote shall not be denied or abridged on the basis of race, color, sex or anybody over the age of 18. And our obligation as lawyers is not only to the US Constitution, it is to the Ohio Constitution, and in particular in this case, Article 11, Section 6. The map submitted by my colleague, Senator Huffman, gives one party advantage over the other. Yes, no question about it. And this flies in the face of article... Of Section six. In no way does it support the U.S. Constitution, the Ohio Constitution or our citizens right to vote. Nor would be a map that this esteemed committee should ever