

Exhibit 22

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

THE SOUTH CAROLINA
STATE CONFERENCE OF
THE NAACP, et al,

Plaintiffs,

vs.

CASE NO.

3:21-CV-03302-MBS-TJH-RMG

THOMAS C. ALEXANDER,
et al,

Defendants.

VIDEOCONFERENCE

DEPOSITION OF: WILLIAM ROBERTS

DATE: July 7, 2022

TIME: 9:35 a.m.

LOCATION: 1310 Gadsden Street
Mahogany Conference Room
Columbia, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: ERIC GLAZIER, Court Reporter

1 drawing?

2 A. My understanding is that race can be a
3 factor, but cannot be the predominant factor in
4 drawing maps.

5 Q. What are some examples of racial
6 gerrymandering, based on your experience and work
7 on redistricting?

8 A. Are you looking for district-specific
9 examples?

10 Q. Can you say that again?

11 A. Could you clarify the question for me?

12 Q. What are some examples in your 20 years
13 of redistricting of examples of racial
14 gerrymandering?

15 A. There's been several court cases. I
16 know some out of North Carolina that involve racial
17 gerrymandering.

18 Q. Do you have any examples of what type
19 of maps or how districts might be drawn that might
20 implicate racial gerrymandering concerns?

21 A. Bizarre shapes.

22 Q. Anything else outside of bizarre
23 shapes?

24 A. Not that I can recall at this moment.

25 Q. What steps did you take to ensure that

1 the maps weren't drawn in a way that might
2 implicate racial gerrymandering concerns?

3 A. We didn't use race as a factor in
4 developing the maps.

5 Q. So as a senate cartographer, your --
6 your testimony is that race was not factored into
7 any of the maps that were created or drawn by the
8 senate for congressional redistricting?

9 A. When we were drawing maps, never did we
10 look at race as a deciding factor into putting a
11 certain VTD or area into a district.

12 Q. I hear you on the deciding factor, but
13 I want to make sure the record's clear. I think
14 you testified initially that race did not play a
15 factor.

16 Could you explain what role race played
17 in drawing districts that you drew for
18 congressional redistricting?

19 A. Can you repeat the question for me?

20 Q. What role did race play in the maps
21 that you drew for congressional redistricting maps
22 or districts?

23 A. I'd say race played very minimal or
24 none at all in the factors that we used to draw the
25 districts.

1 Q. Can you describe why it played a
2 minimal role?

3 A. Because the factors that we were given
4 to use were, don't touch the seventh congressional
5 district, Congressman Clyburn wanted minimal-change
6 plan, and Congressman Wilson wanted to keep Fort
7 Jackson and not go to Beaufort.

8 Q. But you're aware that other criteria --
9 or let me rephrase that.

10 Before redistricting in the senate, do
11 you consider race in any of the other 75 or 100
12 districts that you worked with in drawing maps?

13 A. Yes.

14 Q. And why did you consider race?

15 A. That was really the only data we had,
16 was the Census Bureau that had population and race
17 and demographic information.

18 Q. And so you reviewed the congressional
19 redistricting guidelines, and the three
20 instructions that you were given are not within any
21 of those guidelines, correct?

22 A. That's correct.

23 Q. In congressional districts, under C, it
24 says, race can be a permissible use in
25 redistricting. And you were given instruction that

1 it must play a minimal or no role?

2 A. No, I mean, that's -- that's just the
3 way it worked out. There was no discussion --
4 minimal discussion on race. It really revolved
5 around other data that we had.

6 Q. I guess, how would you assess, then, if
7 maps might -- I mean, let me rephrase that.

8 Did you repeatedly hear concerns in the
9 public record about racial gerrymandering?

10 A. Can you repeat the question?

11 Q. Did you hear concerns in the public
12 record about the maps that were drawn and proposed
13 by the senate and -- sorry.

14 (Off-the-record conference to address a
15 technical issue)

16 BY MR. CUSICK:

17 Q. Just so it's clean for the record,
18 Mr. Roberts, the instruction not to touch
19 Congressional District Seven is not in the
20 congressional redistricting guidelines for the
21 senate, correct?

22 A. That's correct.

23 Q. Nor is a minimal-change map?

24 A. I believe that would be in the
25 guidelines.

1 else from that organization?

2 A. Not that I can recall.

3 Q. And what was the specific request for
4 data?

5 A. We were trying to get election results
6 to map and see the republican-democratic breakdown
7 in the latest elections.

8 Q. Why was that important for
9 congressional redistricting?

10 A. To see what the political make-ups of
11 the districts were under the benchmark as well as
12 what they were going to be under any proposed plan
13 we did.

14 Q. And why was that relevant for you
15 drawing maps?

16 A. With -- that's going to be a question
17 that the members were going to ask, as far as the
18 political make-up of the districts, so we were
19 going to get that information for them before they
20 asked for it.

21 Q. Did members make that ask?

22 A. Can you repeat that? You broke up a
23 little.

24 Q. Did members ask for those breakdowns?

25 A. Yes, multiple times.

1 Q. Did you expect members to ask for BVAP
2 breakdowns?

3 A. Yes. We produce those reports as well.

4 Q. Who made the request for breakdowns for
5 the data -- for the partisan breakdown data from
6 the subcommittee?

7 A. I know for a fact that Senator Campsen
8 requested it, but I believe -- I'd have to go back
9 and look at the notes. I think everybody is
10 provided with the same information. But there was
11 some specific request from Senator Campsen for the
12 information.

13 Q. Did you make it aware to all
14 subcommittee members that you had access to this
15 data?

16 A. Yes.

17 Q. Was that conveyed via email or other
18 means?

19 A. I don't remember how it was conveyed to
20 the members, but everybody knew that we had
21 political data.

22 Q. I think you mentioned that you saw data
23 for the most recent election returns. Did I hear
24 that right?

25 A. Yes. We had election data for the 2020

1 Q. Did anybody else make specific requests
2 for certain data like the one you mentioned with
3 Senator Campsen throughout the process?

4 A. When we discussed maps with members,
5 that was something we typically discussed with
6 them, was the 2020 election performance in each of
7 the districts.

8 Q. You recall discussions with Senator
9 Campsen. Any other discussions about political
10 performance that you participated in with other
11 members?

12 A. Yeah. I had a conversation with
13 Senator Grooms. We had two maps that we were
14 looking at, trying to get some feedback on from
15 him. There was two maps. One of them had a
16 smaller Trump -- republican percentage number in
17 the first congressional district than the other.
18 We showed Senator Grooms both maps. He said he
19 liked both of them very much, but only one of them
20 was going to pass the South Carolina general
21 assembly.

22 Q. Do you have any sense why he liked one
23 map more than the other?

24 A. He said he liked both maps the same,
25 but one was going to pass the South Carolina

1 general assembly and one wasn't.

2 Q. Did he explain why one was and one
3 wasn't?

4 A. He did. He said that the map that had
5 the lower republican -- the lower Trump number
6 would not have passed the South Carolina general
7 assembly.

8 Q. Was this the only political data that
9 you had access to for congressional redistricting,
10 was what was provided by Mr. Benson -- or was it
11 Mr. Benson? Sorry.

12 A. That was the only data that we actually
13 loaded into the mapping system. The state election
14 commission has a large database of previous
15 election results that we downloaded but never
16 pulled into a mapping format.

17 Q. Did you have any other contact with any
18 other senators outside of Senator Grooms who are
19 not part of the redistricting subcommittee about
20 congressional redistricting?

21 A. Not that I can recall at this moment.

22 Q. Do you know if Mr. Terreni or other
23 folks were involved in any, and then you received
24 information about those conversations or contact?

25 A. You'd have to ask them.

1 Q. You said you didn't look at race in the
2 populations that you were moving in and out of CD
3 One and CD Six?

4 A. That's correct. We looked at partisan
5 numbers.

6 Q. Were there any discussions concerning
7 maintaining a majority minority district in CD Six?

8 A. Not that I recall at this point.

9 Q. What about -- you mentioned discussions
10 about political data. Were there any discussions
11 about districts being politically competitive in
12 this initial staff plan?

13 A. Yes, there was.

14 Q. And what did those discussions entail?

15 A. Making the first congressional district
16 a more republican-leaning district than what it was
17 under the benchmark.

18 Q. And who -- who gave that instruction?

19 A. I don't recall who that came from.

20 Q. Is that anywhere in the redistricting
21 criteria?

22 A. Not that I'm aware of.

23 Q. Who would recall where that instruction
24 came from?

25 A. Anyone that's on the mapping team, the

1 core redistricting team.

2 Q. How did you receive instructions such
3 as this, to draw a district a certain way?

4 A. Well, the issue we were running into
5 is, we had to get a large population out of
6 District One. And so we looked at the political
7 information to make the determination of where we
8 were going to pull the population from, which
9 resulted in a more republican-leaning district.

10 Q. But you -- did you say that you got an
11 instruction to make CD One more republican-leaning?

12 A. I wouldn't say it was an instruction.
13 It was just a natural occurrence of what happened
14 when we moved the population that we did.

15 Q. Just so we're on the same page, so did
16 you receive any instruction to make CD One more
17 republican-leaning in this initial staff plan?

18 A. Not specific direction to do that, but
19 given the choice that we made, that was what
20 occurred.

21 Q. Got it. I think I heard you say -- did
22 you use the term, organic?

23 A. I don't think so, but possibly.

24 Q. Did you set out in drawing this first
25 map to make CD One more republican-leaning?

1 A. We had to move a large population out
2 of District One, and we weren't going to pull a lot
3 of republicans out of District One and put them
4 into District Six, so we pulled a lot of democrats
5 out of District One, putting them into District
6 Six, which increased the performance of District
7 One.

8 Q. I hear you on that, but my question is
9 just, did you set out in drawing this initial staff
10 plan to make CD One more republican-leaning?

11 A. Given the fact that we had to remove a
12 large portion of the population from District One
13 to District Six, we did look at the republican and
14 democratic numbers to make a determination of which
15 population to put into District Six.

16 Q. And so just so we're clear, just a yes
17 or no, did you initially set out in drawing this
18 staff plan to make CD One more republican-leaning?

19 A. Yes.

20 Q. Okay. And if you set out to do so,
21 what was that basis on?

22 A. That we had a republican-controlled
23 legislature, and movement of republicans into
24 District Six would make District One a more
25 competitive district, which would then lead to a

1 plan that might not have the votes to pass the
2 general assembly.

3 Q. And so who -- and how did you make that
4 determination or...

5 A. That was discussed amongst staff.

6 Q. And which staff?

7 A. The core redistricting team.

8 Q. Any outside counsel?

9 A. Charlie Terreni.

10 Q. Anyone else?

11 A. Not that I can recall.

12 Q. Can you walk me through how generally
13 you made CD One more competitive, or more
14 republican-leaning?

15 A. Do you have a copy of the benchmark
16 that I can compare to so that I can see exactly
17 what changed between the two?

18 Q. Yes. I can pull up -- give me one
19 second.

20 MR. CUSICK: Mr. Gore, I'm just going
21 to go to the senate home page that lists the
22 benchmark, just to give you a heads-up that that's
23 what I'm going to pull up on the screen, and for
24 your awareness, too, Mr. Roberts.

25 And I'll introduce this as Exhibit 13.

1 (Off-the-record conference)

2 DEFENSE COUNSEL: John, I gave Will my
3 laptop and just put it on the senate page, so you
4 tell him where you want him to go, and just pull it
5 up for him.

6 MR. CUSICK: Oh, yeah.

7 BY MR. CUSICK:

8 Q. Well, I guess, maybe -- maybe if it's
9 easier, Mr. Roberts, if you want to keep up the
10 benchmark plan, and then I can keep up the -- what
11 was Plaintiff's Exhibit 12, I haven't introduced
12 the other one, and then -- would that be helpful
13 for you, looking at -- at the two?

14 A. Yeah, let me get this pulled up real
15 quick.

16 Q. Okay. I think I should have the staff
17 plan back up. And, I guess, you let me know if
18 there's anything else helpful. I'll try to zoom in
19 on CD One here.

20 (Off-the-record conference to address a
21 technical issue)

22 (PLF. EXHIBIT 13, SOUTH CAROLINA
23 CONGRESSIONAL DISTRICTS, was marked for
24 identification.)

25 MR. CUSICK: Let me just put that in

1 right now. Mr. Roberts has it up on his screen.
2 And then I have Plaintiff's Exhibit 12 up on my
3 screen, which is the senate staff plan.

4 DEFENSE COUNSEL: Okay, John. He's got
5 it pulled up now.

6 MR. CUSICK: Great.

7 BY MR. CUSICK:

8 Q. And so, I guess, can you walk me
9 through how you made CD One more
10 republican-leaning?

11 A. Certainly. So the issue we were
12 running into with redrawing the districts is
13 getting a large portion of the population out of CD
14 One into CD Six. Under the benchmark, there was an
15 original -- under the benchmark, there was a cut
16 down through Berkeley County, down on the north
17 side, in between Daniel Island and Hanahan, leading
18 to North Charleston and the peninsula of
19 Charleston.

20 So what we did under the staff plan was
21 reverse that, including more of Berkeley County
22 into the first congressional district, and then
23 pulling the sixth congressional district into
24 Charleston by running through the Saint Andrews,
25 West Ashley area to get to the downtown Charleston

1 peninsula as well as the North Charleston area.

2 Q. Now, did you have some constraints at
3 all with any of the other instructions you were
4 given about CD Seven or Beaufort County being in CD
5 Two, based on what we discussed earlier about the
6 ripple effects of CD districts?

7 A. Yeah, that's correct. Without being
8 able to take Two down to Beaufort or messing with
9 the seventh, I couldn't put people into the ocean,
10 so I had to put them into the sixth.

11 Q. Right.

12 So would it be fair to say there really
13 could only be at least for CD One and Six primarily
14 voters from those areas moved in and out?

15 A. That's correct.

16 Q. In your work in local redistricting --
17 let me rephrase that.

18 Who made the determinations that you
19 just discussed about specific areas to move in and
20 out? For example, who made the decision to move
21 parts of Charleston into CD Seven versus for them
22 to -- or CD Six versus them to stay in CD One?

23 A. Can you repeat that? You've got me a
24 little confused.

25 Q. I guess, who made the determines on

1 which geographical areas to focus on for moving
2 voters? How did you focus on the areas in
3 Charleston County to go into --

4 A. That would have been a group decision
5 that would have been made. Typically when we did
6 the redistricting of the maps, we had a large
7 screen. It was in Senator Rankin's office. I'd be
8 sitting at the computer, drawing, while the
9 attorneys in the back were making recommendations
10 or giving me suggestions on what to do.

11 Q. The attorneys were making suggestions
12 to maximize republican-leaning district CD One?

13 A. Not necessarily. We still had to get
14 the population out of CD One into CD Six.

15 Q. And so who was involved in the
16 decisions for the changes made in moving those in
17 and out?

18 A. That would have been the core
19 redistricting team of Charlie Terreni, Andy
20 Fiffick, myself, Breeden John, and Paula Benson.

21 Q. Do you recall who made any of the
22 suggestions to focus specifically on certain areas
23 in Charleston?

24 A. I don't recall if it was a single
25 individual or a group consensus of what changed.

1 Q. As you were drawing these, did you look
2 at any statewide or county-level voting patterns?

3 A. We looked at the political information
4 typically at the VTD level when making these
5 changes.

6 Q. Did you share with any redistricting
7 subcommittee members that there was a goal to
8 maximize CD One as republican-leaning?

9 A. Can you repeat that question?

10 Q. Did you share with any of the
11 redistricting subcommittee members a goal to
12 maximize CD One to be republican-leaning compared
13 to the benchmark plan?

14 A. I don't recall.

15 Q. Do you think it would have been
16 helpful?

17 A. Possibly.

18 Q. And why?

19 A. To explain some of the questions we got
20 about the way the map worked.

21 Q. Do you recall your testimony earlier
22 about the process being rigged that you heard
23 during public comments?

24 A. Could you repeat that again?

25 Q. Do you recall what we discussed earlier

1 about the redistricting process being rigged that
2 members of the public expressed at different
3 hearings?

4 A. Yes.

5 Q. Do you think it would have been helpful
6 to share that a goal of CD One was maximizing it
7 being republican-leaning?

8 A. I wouldn't say the goal is for us to
9 maximize this. There's other ways to draw it which
10 we could have maximized the republican -- I
11 wouldn't say this is the maximization republican
12 plan from the first, but it was drawn not to dilute
13 the republican percentage in the first.

14 Q. And how did you go on about assessing
15 dilution of republican voters?

16 A. We looked at the benchmark performance
17 compared to the map that we were putting together.

18 Q. When you were looking at specific VTDs
19 that you were moving in and out, did you at all
20 look at race of the voters within those VTDs?

21 A. No, we did not. We looked strictly at
22 the 2020 presidential election results.

23 Q. Was it possible to look at race based
24 on the software you were using?

25 A. That was possible, yes.

1 Q. Was there an instruction not to use or
2 to look at race?

3 DEFENSE COUNSEL: Objection. Asked and
4 answered.

5 A. No, there was no direction not to look
6 at it.

7 Q. And this just might be my own naivety
8 with the software, but is this there -- do you have
9 to turn on displays of different demographic
10 categories that are included in the Maptitude
11 software when you're making changes?

12 A. Yes, it's possible to do that.

13 Q. And so, I guess, what's displayed on
14 the screen when you're making the changes for
15 potential demographic categories that could be
16 shown?

17 A. What we used was basically the total
18 population and the percent -- yeah, percent Biden
19 number, the percent Trump number when we were
20 drawing.

21 Q. And so after this initial proposal was
22 finalized, was there any discussion of BVAP among
23 the districts before it was publicly posted?

24 A. Not that I can recall right now.

25 Q. Who do you consider the primary

1 and moved the lines to follow the natural
2 geographic features around Charleston County.

3 Q. Anything else for the process of
4 incorporating public input?

5 A. With the first congressional district,
6 we also had public input originally in one of the
7 public meetings about the Sun City area of Jasper
8 County wanting to be put in the first congressional
9 district with the Sun City portion of Beaufort
10 County, which is almost right across the road from
11 each other, but it's divided by a county boundary.

12 So we took that into consideration,
13 leading that into -- in the First Congressional
14 District. And that's about all I can recall as far
15 as public input on the first congressional
16 district, which we went through and changed.

17 Q. Before it was publicly posted on
18 January 11th, but after it was -- it was finalized,
19 the drawing part of it, were there any discussions
20 about the BVAP in any of the districts?

21 A. Not that I can recall.

22 Q. Was it shared with anyone else, the
23 final version, before it was publicly posted,
24 outside of the core redistricting team?

25 A. Not that I can recall. It might have

1 Do you recall that?

2 A. Yes.

3 Q. Did I ever draw any maps?

4 A. No.

5 Q. Did I ever direct the drawing of any
6 district lines?

7 A. No.

8 Q. Did I ever share any maps that someone
9 else had drawn?

10 A. No.

11 Q. Okay.

12 Mr. Cusick asked you about public
13 comments that the redistricting project was rigged.
14 Do you remember that conversation?

15 A. Yes, I do.

16 Q. Do you think the process was rigged?

17 A. No.

18 Q. How would you describe the process?

19 A. I'd say it was a pretty transparent
20 process as far as the map drawing and the
21 information that's available to the public. I'd
22 say that politics really drove the decisions that
23 were made on the map.

24 Q. Can you elaborate on that?

25 A. Senator Campsen really played a large

1 role in determining which map made it to the
2 full -- to the -- out of subcommittee, and he
3 really wrestled with the fact that, you know, he
4 was moving a large chunk of Charleston out of the
5 first congressional district, which was his home
6 county. And he was having to determine, do I want
7 more of Charleston or do I want more republican
8 representation in the first congressional district.
9 And so that was a real political decision he had to
10 make.

11 Q. And did he ever tell you which decision
12 he made?

13 A. Yes, he did. He told me he was going
14 with the plan that had the higher Trump percentage
15 over more of Charleston.

16 Q. Now, earlier this morning, you
17 discussed whether you considered BVAP with
18 Mr. Cusick.

19 Do you remember that?

20 A. Yes.

21 Q. And he asked you whether considering
22 BVAP is helpful in drawing a plan and whether you
23 did on past clients.

24 Do you remember that?

25 A. Yes.

1 that right?

2 A. That's correct.

3 Q. And was that political data made
4 publicly available?

5 A. Yes, it was. It was put on the senate
6 redistricting website and was available for
7 downloading.

8 Q. And did the core redistricting team, or
9 you or someone else on that team, generate reports
10 that show partisan data for various plans?

11 A. Yes, a lot of them.

12 Q. And were those made publicly available
13 as well?

14 A. I believe they were included with all
15 the plans that were posted online. I'd have to go
16 back and check, but I'm pretty sure they're all
17 there.

18 Q. Mr. Cusick asked you earlier today
19 about a minimal change instruction that you
20 received from Mr. Fiffick or Mr. Terreni.

21 Do you remember that?

22 A. Yes.

23 Q. And that instruction you received, was
24 it a statewide instruction or was it limited to
25 particular districts?

1 made minimal change just to balance the population.

2 Q. And was District Five a minimal-change
3 district?

4 A. District Five was also a minimal-change
5 district, just to balance the population.

6 Q. Mr. Roberts, did you draw any lines on
7 any maps based upon race?

8 A. No.

9 Q. And did you ever intend to discriminate
10 against anyone when you drew any maps?

11 A. No.

12 MR. GORE: No further questions.

13 MR. CUSICK: I just have two hopefully
14 very brief ones, if that's okay. One's just
15 clarification and then one's just a follow-up on
16 the recommendations.

17 EXAMINATION

18 BY MR. CUSICK:

19 Q. And the clarification question -- and I
20 just want to make sure I'm on the same page.

21 Mr. Gore asked you about considering
22 BVAP when you were drawing -- or considering BVAP
23 when you draw districts?

24 A. Mm-hmm (affirmatively).

25 Q. And do you consider that to be a legal