

Exhibit 5

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF SOUTH CAROLINA
3 COLUMBIA DIVISION

4 THE SOUTH CAROLINA STATE
5 CONFERENCE OF THE NAACP,

6 and

7 TAIWAN SCOTT, on behalf of
8 himself and all other
9 similarly situated persons,

10 Plaintiffs,

11 v.

CASE NO.: 3:21-cv-03302-JMC-TJH-RMG

12 HENRY D. MCMASTER, in his official
13 Capacity as Governor of South Carolina;
14 HARVEY PEELER, in his official capacity
15 As President of the Senate; LUKE A.
16 RANKIN, in his official capacity as
17 Chairman of the Senate Judiciary
18 Committee; JAMES H. LUCAS, in his
19 official capacity as Speaker of the
20 House of Representatives; CHRIS MURPHY,
21 in his official capacity as Chairman
22 of the House of Representatives
23 Judiciary Committee; WALLACE H. JORDAN,
24 in his official capacity as Chairman
25 of the House of Representatives
Elections Law Subcommittee; HOWARD KNABB,
in his official capacity as interim
Executive Director of the South Carolina
State Election Commission; JOHN WELLS,
JOANNE DAY, CLIFFORD J. ELDER,
LINDA MCCALL, and SCOTT MOSELEY,
in their official capacities as
members of the South Carolina State
Election Commission,

Defendants.

TRANSCRIPTION OF PROCEEDINGS

Wednesday, January 19, 2022

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Run Time: 01:17:25 (hours, minutes, seconds)

1 to know is whether there is racial bloc voting, I
2 mean, in terms of adjusting these districts. I mean,
3 it's instead of worrying about what the percentage of
4 African American vote is, you want to know whether
5 there's racial bloc voting; is that correct? In other
6 words, will -- is there a group of white people that
7 would never vote for black people? And you can do
8 that, and that analysis is done all the time.

9 SENATOR CAMPSSEN: Is this the third Gingles test?

10 SENATOR HARPOOTLIAN: Is that correct?

11 SENATOR CAMPSSEN: That's -- generally, that's my
12 understanding of it.

13 SENATOR HARPOOTLIAN: Okay. Was there any racial
14 bloc voting analysis done? If so, by who? Was there
15 an expert? Typically, they're experts involved. Was
16 there any racial bloc voting analysis done in the --
17 in compiling this plan?

18 SENATOR CAMPSSEN: Well, that's not for -- that's
19 something that would happen if and when a plan is
20 litigated. As far as that analysis that -- I'm not
21 aware of that being done here, but that's something
22 that -- that would be what a -- a plaintiff, if they
23 were to file suit against this, would -- would provide
24 and argue.

25 SENATOR HARPOOTLIAN: Well, you -- well, I

1 understand that would be something raised by somebody
2 in a lawsuit. But assuming we're trying to avoid a
3 lawsuit, wouldn't it have been productive to get
4 racial bloc voting analysis done so that we all
5 understand whether or not to -- to in create -- in
6 creating this -- this --

7 SENATOR CAMPSSEN: Well --

8 SENATOR HARPOOTLIAN: -- plan, that that -- that
9 was not a factor that --

10 SENATOR CAMPSSEN: Well, I have it -- it would
11 have resulted in us perhaps taking race into account
12 and having racial targets, which would be --

13 SENATOR HARPOOTLIAN: Acceptable under Gingles?

14 SENATOR CAMPSSEN: No. That's -- that's an
15 analysis that -- that the Court is -- is to apply.
16 But we are -- we are to not take race primarily into
17 account in drawing this.

18 SENATOR HARPOOTLIAN: Primarily.

19 SENATOR CAMPSSEN: And I took it hardly at all
20 into account.

21 SENATOR HARPOOTLIAN: Well, but every -- every --

22 SENATOR CAMPSSEN: And it's up to -- it's up to up
23 to a Court if someone files an action to make that --
24 to do that analysis and do -- and make that claim.
25 But we don't want to get -- we don't want to draw

1 districts on the basis of race. We want to draw it on
2 the basis of -- of other redistricting principles.

3 SENATOR HARPOOTLIAN: So why do we have race in
4 any of this analysis? I mean, when I -- the analysis,
5 I've got page after page on all these plans.

6 SENATOR CAMPSSEN: The staff have -- I mean, they
7 -- they provide that.

8 SENATOR HARPOOTLIAN: Why?

9 SENATOR CAMPSSEN: As far as looking at drawing
10 districts, I didn't -- I didn't consider any of that.
11 I wanted them to tell me if we were in a -- if we had
12 any problems, you know, with --

13 SENATOR HARPOOTLIAN: But how would you --

14 SENATOR CAMPSSEN: -- Gingles or anything else.
15 But I wanted to be colorblind.

16 SENATOR HARPOOTLIAN: Well, but you weren't
17 colorblind, were you?

18 SENATOR CAMPSSEN: It can be a factor, but it's
19 not a predominant factor.

20 SENATOR HARPOOTLIAN: But if you had done --

21 SENATOR CAMPSSEN: A racial (indiscernible) would
22 factor --

23 SENATOR HARPOOTLIAN: -- a racial bloc voting
24 analysis, you would have -- you could have determined
25 whether or not race was a factor that -- that should

1 have been taken into consideration. If you did -- I
2 mean, if the analysis as it was in 1988 or '86 when I
3 ran for county council, virtually no white person
4 would vote for a black person, period, in Richmond
5 County.

6 And so that's why we went to single member
7 districts. That analysis was done. You don't think
8 we should have done that analysis before drafting this
9 plan? And if your answer is no, I'll move on.

10 SENATOR CAMPSSEN: Well, I know you wanted -- you
11 wanted that, but I think the subcommittee decided not
12 to do that.

13 SENATOR HARPOOTLIAN: I understand
14 (indiscernible).

15 SENATOR CAMPSSEN: It was not my decision, but it
16 was a subcommittee decision.

17 SENATOR HARPOOTLIAN: But in drafting this plan,
18 you did not take into consideration any racial bloc
19 voting analysis and --

20 SENATOR CAMPSSEN: We did not do that analysis, as
21 the subcommittee conclude -- decided that we would
22 not.

23 SENATOR HARPOOTLIAN: Right. So would that --
24 that idea to even do racial bloc analysis was rejected
25 by the subcommittee and, therefore, was not a