

No. 22-____

IN THE
Supreme Court of the United States

THOMAS C. ALEXANDER, ET AL.,
Appellants,

v.

THE SOUTH CAROLINA STATE CONFERENCE
OF THE NAACP, ET AL.,
Appellees.

**On Appeal from the United States District
Court for the District of South Carolina**

APPENDIX

WILLIAM W. WILKINS	JOHN M. GORE
ANDREW A. MATHIAS	<i>Counsel of Record</i>
<i>Counsel of Record</i>	JOSEPH P. FALVEY
NEXSEN PRUET, LLC	JOSHUA S. HA
104 S. Main Street, Suite 900	JONES DAY
Greenville, SC 29601	51 Louisiana Ave., N.W.
(864) 370-2211	Washington, DC 20001
AMathias@nexsenpruet.com	(202) 879-3939
	jmgore@jonesday.com
MARK C. MOORE	
HAMILTON B. BARBER	ROBERT E. TYSON, JR.
MICHAEL A. PARENTE	VORDMAN CARLISLE
NEXSEN PRUET, LLC	TRAYWICK, III
1230 Main Street, Suite 700	ROBINSON GRAY STEPP
Columbia, SC 29201	& LAFFITTE, LLC
	Post Office Box 11449 (29211)
<i>Counsel for House Appellants</i>	Columbia, SC 29201

Counsel for Senate Appellants

(counsel continued on inside cover)

(continued from front cover)

M. ELIZABETH CRUM

Counsel of Record

MICHAEL R. BURCHSTEAD

BURR & FORMAN LLP

Post Office Box 11390

Columbia, SC 29211

(803) 799-9800

lcrum@burr.com

Counsel for State Election

Commission Appellants

TABLE OF CONTENTS

	Page
APPENDIX A: Order of the United States District Court for the District of South Carolina (Feb. 4, 2023).....	1a
APPENDIX B: Findings of Fact and Conclusions of Law of the United States District Court for the District of South Carolina (Jan. 6, 2023).....	9a
APPENDIX C: Notice of Appeal (Jan. 27, 2023)	50a
APPENDIX D: Transcript Excerpts of Bench Trial Proceedings Before Three-Judge Panel, Volume I (Oct. 3–14, 2022)	54a
APPENDIX E: Transcript Excerpts of Bench Trial Proceedings Before Three-Judge Panel, Volume II (Oct. 3–14, 2022)	56a
APPENDIX F: Transcript Excerpts of Bench Trial Proceedings Before Three-Judge Panel, Volume III (Oct. 3–14, 2022)	60a
APPENDIX G: Transcript Excerpts of Bench Trial Proceedings Before Three-Judge Panel, Volume VI (Oct. 3–14, 2022)	63a
APPENDIX H: Transcript Excerpts of Bench Trial Proceedings Before Three-Judge Panel, Volume VII (Oct. 3–14, 2022)	312a
APPENDIX I: Transcript Excerpts of Bench Trial Proceedings Before Three-Judge Panel, Volume VIII (Oct. 3–14, 2022)	405a

APPENDIX J: Transcript Excerpts of Bench Trial Proceedings Before Three-Judge Panel, Volume IX (Nov. 29, 2022).....	413a
APPENDIX K: Senate Ex. 3, Senate Redistricting Guidelines	423a
APPENDIX L: Senate Ex. 28b, Benchmark Plan Statistics	428a
APPENDIX M: Senate Ex. 28c, Benchmark Plan Partisan Analysis	431a
APPENDIX N: Senate Ex. 28d, Benchmark Plan Subdivision Splits	432a
APPENDIX O: Senate Ex. 29c, Enacted Plan Core Constituencies.....	439a
APPENDIX P: Senate Ex. 29d, Enacted Plan Partisan Analysis	446a
APPENDIX Q: Senate Ex. 29e, Enacted Plan Subdivision Splits.....	447a
APPENDIX R: Senate Ex. 29g, Enacted Plan Demographic Statistics	450a
APPENDIX S: Senate Ex. 31c, Senate Amendment 2a Core Constituencies	453a
APPENDIX T: Senate Ex. 31d, Senate Amendment 2a Partisan Analysis.....	460a
APPENDIX U: Senate Ex. 34b, NAACP Plan 1 Core Constituencies.....	461a
APPENDIX V: Senate Ex. 35c, NAACP Plan 2 Core Constituencies.....	468a
APPENDIX W: Senate Ex. 50, Charleston County Map	478a

APPENDIX X: Senate Ex. 68c, LWV Plan	
Core Constituencies	479a
APPENDIX Y: Senate Ex. 68d, LWV Plan	
Partisan Analysis	486a
APPENDIX Z: Senate Ex. 92a, Jan. 7, 2022	
Email	487a
APPENDIX AA: Senate Ex. 92b,	
Attachment to Jan. 7, 2022 Email.....	488a
APPENDIX BB: Senate Ex. 223c, Milk	
Plan Demographic Statistics	490a
APPENDIX CC: Senate Ex. 223e, Milk	
Plan Efficiency Gap.....	493a
APPENDIX DD: Senate Ex. 243, 2020	
Election Data.....	495a
APPENDIX EE: House Ex. 81, Dec. 17,	
2021 Text Messages	496a
APPENDIX FF: Plaintiffs' Ex. 19, Jordan	
Ragusa Report	498a
APPENDIX GG: Plaintiffs' Ex. 120, Moon	
Duchin Supplemental Information	521a
APPENDIX HH: Plaintiffs' Ex. 175,	
House Redistricting Guidelines.....	539a
APPENDIX II: Charleston VTDs	
Moved from CD 1 to CD 6 Under	
the Enacted Plan.....	545a
APPENDIX JJ: Charleston VTDs Moved	
From District 1 To District 6 2020	
Election Results.....	565a

APPENDIX A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

The South Carolina State)	
Conference of the NAACP, and)	
Taiwan Scott, <i>on behalf of</i>)	
<i>himself and all other similarly</i>)	
<i>situated persons,</i>	)	C/A No.: 3:21-
Plaintiffs,	)	cv-03302-MGL-
	)	TJH-RMG
v.)	
Thomas C. Alexander, <i>in his</i>)	
<i>official capacity as President of</i>)	
<i>the Senate; Luke A. Rankin, in</i>)	
<i>his official capacity as Chairman</i>)	
<i>of the Senate Judiciary</i>)	
<i>Committee; G. Murrell Smith, Jr.</i>	)	ORDER
<i>in his official capacity as Speaker</i>)	
<i>of the House of Representatives;</i>)	
Chris Murphy, <i>in his official</i>)	
<i>capacity as Chairman of the</i>)	
<i>House of Representatives</i>)	
<i>Judiciary Committee; Wallace H.</i>)	
<i>Jordan, his official capacity as</i>)	
<i>Chairman of the House of</i>)	
<i>Representatives Elections Law</i>)	
<i>Subcommittee; Howard Knapp, in</i>)	
<i>his official capacity as interim</i>)	
<i>Executive Director of the South</i>)	
<i>Carolina State Election</i>)	

Commission; John Wells, Chair,)
JoAnne Day, Clifford J. Elder,)
Linda McCall, and Scott Moseley,)
in their official capacities as)
members of the South Carolina)
State Election Commission,)
Defendants.)

This matter comes before the Court on Defendants' motion to stay the Order of January 6, 2023 pending completion of the appellate process. (Dkt. No. 495). Plaintiffs oppose the motion. (Dkt. No. 500). For reasons set forth below, the motion for a stay is denied. The Court further addresses a change in circumstances resulting from the Defendants' submission of a Notice of Intent to File an Appeal, which necessitates a change in the date for the legislature to submit a proposed remedial plan to the Court.

**I. Addressing a Change in Circumstances
Resulting from Defendants' Notice of
Intent to File an Appeal**

By way of background, the Court issued its Findings of Fact and Conclusions of Law on January 6, 2023, which concluded that Congressional District No. 1 constituted an unconstitutional racial gerrymander in violation of the Equal Protection Clause of the Fourteenth Amendment because race was the predominant factor in the adoption of the district's reapportionment plan. (Dkt. No. 493). It is well established that upon the finding by a federal court that a challenged legislative district is unconstitutional, the legislature should be given a reasonable opportunity to recommend for

consideration a remedial plan that meets constitutional standards. *Wise v. Lipscomb*, 437 U.S. 535, 540 (1978). To that end, the Court provided the legislature the opportunity to submit a remedial plan to the Court by March 31, 2023. (Dkt. No. 493 at 30). The Court intended thereafter to allow the parties to comment upon the legislature’s proposed remedial plan, produce evidence in support of their respective positions, offer other plans if they desired, and conduct an evidentiary hearing and oral argument, as necessary, prior to the adoption of a remedial plan for Congressional District No. 1.

Defendants advised the Court on January 27, 2023 of their intention to file an appeal and requested a stay of the Court’s January 6, 2023 order. (Dkt. No. 495). The filing of an appeal in this case necessarily alters the Court’s schedule for consideration and adoption of a remedial plan. In short, the Court has no intention to proceed with consideration and adoption of a remedial plan during the pendency of any appeal before the United States Supreme Court. In light of the notice of Defendants of their intention to file an appeal, the Court hereby alters the date the legislature may submit a remedial plan for Congressional District No. 1 to the Court from March 31, 2023 until 30 days after a final decision of the United States Supreme Court.¹

¹ The filing of an appeal normally transfers jurisdiction of all matters relating to the appeal from the district court to the appellate court. Under the present circumstances, no appeal has yet to be filed with the United States Supreme Court, only a notice of intent to file an appeal. Further, even if an appeal had been filed, the trial court retains jurisdiction to address matters in aid of the appeal. *See Grand Jury Proceedings Under Seal v.*

II. Defendants' Motion to Stay Does Not Meet the Well Established Standards for the Grant of a Stay Pending Appeal

A motion to stay an order of the lower court pending appeal to the United States Supreme Court requires consideration of the following factors: (1) whether the applicant for the stay has made a strong showing that it is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent the entry of a stay; (3) whether the issuance of a stay will injure other parties to the litigation; and (4) where the public interest lies. *Nken v. Holder*, 556 U.S. 418, 434 (2009). The Court finds that Defendants do not meet the standards for the grant of a stay in this matter.

A. Defendants have not shown a strong likelihood of success on the merits.

The Court's findings of fact and conclusions of law are based upon a careful examination of the voluminous evidence offered at trial, an assessment of the credibility of the witnesses, and an application of the consistent body of Supreme Court caselaw extending from *Shaw v. Reno*, 509 U.S. 630 (1993) and *Miller v. Johnson*, 515 U.S. 900 (1995) to the more recent cases of *Alabama Legislative Black Causes v. Alabama*, 575 U.S. 254 (2015) and *Cooper v. Harris*, 581 U.S. 285 (2017). Based upon the Defendants' Motion for a Stay, it appears Defendants disagree with the Court's factual findings, credibility determinations, and application of legal standards.

United States, 947 F.2d 1188, 1190 (4th Cir. 1991). The Court finds that its change in its schedule to consider and adopt a remedial plan for Congressional District No. 1 occasioned by the filing of an appeal is in aid of the appeal.

Defendants also appear to be arguing against precedent rather than relying upon existing Supreme Court authority.² Having reviewed Defendants' arguments regarding alleged deficiencies and errors in the Order in this matter, the Court finds that Defendants have not made a strong showing of a likelihood of success on the merits.

B. Defendants have not shown they will suffer irreparable injury from the denial of a stay.

It is important at the outset to clarify what the Court's order actually requires of the parties because it differs markedly from the factual scenario Defendants have set forth in their effort to demonstrate irreparable injury from the denial of a

² One example of this is Defendants' lead argument in their motion for a stay that the Court "disregarded the alternative-map requirement." (Dkt. No. 495 at 3). The Supreme Court held in *Cooper v. Harris*, a 2017 decision, that there was not a mandatory alternative map requirement to prove a violation of the Fourteenth Amendment. 581 U.S. 285, 319–20 (2017). In this case, the Court ruled with Plaintiffs regarding Congressional District No. 1 and with Defendants regarding Congressional District Nos. 2 and 5. Plaintiffs' remedial plans reflected their position that all three congressional districts were unconstitutional and did not address the scenario where only Congressional District No. 1 was found to be unconstitutional. After carefully reviewing the various maps under consideration, the demography of the State, and the ease with which legislative districts can now be drawn with computer driven software, the Court found "that a constitutionally compliant plan for Congressional District No. 1 can be designed without undue difficulty, and it was thus not necessary for Plaintiffs to present an acceptable alternative map to prevail on their claims." (Dkt. No. 493 at 30). Defendants' motion for a stay argues to the contrary and against the Supreme Court's holding in *Cooper*.

stay. After finding that the reapportionment plan for Congressional District No. 1 constituted an unconstitutional racial gerrymander, the Court enjoined Defendants from conducting any future election in Congressional District No. 1 until a constitutionally compliant plan was adopted. (Dkt. No. 493 at 31). This followed the longstanding practice since *Reynolds v. Sims*, 377 U.S. 533, 585 (1964), that where a “legislative apportionment scheme has been found to be unconstitutional, it would be the unusual case in which a court would be justified in not taking appropriate action to insure no further elections are conducted under an invalid plan.” The next scheduled general election in Congressional District No. 1 is in November 2024, and party primaries in South Carolina are normally conducted during the summer before the next general election. In short, there is no election scheduled in Congressional District No. 1, or any other South Carolina congressional district, for more than a year.

Defendants argue, however, that the Court planned to adopt a remedial plan during the pendency of the appeal and to potentially schedule a special election before a Supreme Court decision. (Dkt. No. 495 at 25). The Court never contemplated such a series of events, and no order of this Court provided such a plan. When the Court issued its order in early January 2023, it anticipated an orderly process to adopt a remedial plan. As stated above, once Defendants advised the Court of their intent to appeal, the Court delayed the first step of that process, the receipt of any remedial plan proposed by the legislature, until 30 days after the Supreme Court’s final decision.

Defendants have not addressed in their motion for a stay any irreparable injury they might suffer from the Court's injunction against conducting an election in Congressional District No. 1 under the now declared unconstitutional plan. The Court finds that Defendants have not shown that they will suffer any irreparable injury from the denial of a stay in this case.

C. Plaintiffs would suffer irreparable injury by the grant of a stay.

A grant of a stay would lift the Court's injunction against conducting an election in Congressional District No. 1 until a constitutionally compliant reapportionment plan has been adopted. The Court has every hope and expectation that the appeal process can be completed and a remedial plan adopted before the 2024 primary and general elections. However, on the outside chance the process is not completed in time for the 2024 primary and general election schedule, the election for Congressional District No. 1 should not be conducted until a remedial plan is in place. This is based on the well-established principle that where fundamental voting rights have been violated, plaintiffs suffer irreparable injury until the constitutional deprivation has been removed. *See League of Women Voters of North Carolina v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014). The Court finds that Plaintiffs could suffer irreparable injury if a stay was granted in this case.

D. The Public Interest Lies in the Denial of a Stay.

The public interest lies in upholding fundamental voting rights. *Id.* at 247–48; *Obama for America v. Husted*, 697 F.3d 423, 436–37 (6th Cir. 2012). The

grant of a stay under these circumstances is plainly not in the public interest.

Conclusion

The Defendants' motion for a stay (Dkt. No. 495) is **DENIED**. The Court has altered the date for the legislature to submit a remedial plan to the Court until 30 days after a final decision in this matter of the United States Supreme Court.

AND IT IS SO ORDERED.

s/ Mary Geiger Lewis

Mary Geiger Lewis

United States District Judge

s/ Toby J. Heytens

Toby J. Heytens

United States Circuit Judge

s/ Richard Mark Gergel

Richard M. Gergel

United States District Judge

February 4, 2023
Charleston, South Carolina

APPENDIX B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

The South Carolina State)	
Conference of the NAACP, and)	
Taiwan Scott, <i>on behalf of</i>)	
<i>himself and all other similarly</i>)	
<i>situated persons,</i>	)	C/A No.: 3:21-
Plaintiffs,	)	cv-03302-MGL-
	)	TJH-RMG
v.)	
Thomas C. Alexander, <i>in his</i>)	
<i>official capacity as President of</i>)	
<i>the Senate; Luke A. Rankin, in</i>)	
<i>his official capacity as Chairman</i>)	
<i>of the Senate Judiciary</i>)	
<i>Committee; G. Murrell Smith, Jr.</i>	)	FINDINGS
<i>in his official capacity as Speaker</i>	)	OF FACT
<i>of the House of Representatives;</i>	)	AND CON-
Chris Murphy, <i>in his official</i>	)	CLUSIONS
<i>capacity as Chairman of the</i>	)	OF LAW
<i>House of Representatives</i>)	
<i>Judiciary Committee; Wallace H.</i>)	
Jordan, <i>his official capacity as</i>)	
<i>Chairman of the House of</i>)	
<i>Representatives Elections Law</i>)	
<i>Subcommittee; Howard Knapp, in</i>)	
<i>his official capacity as interim</i>)	
<i>Executive Director of the South</i>)	
<i>Carolina State Election</i>)	

Commission; John Wells, Chair,)
JoAnne Day, Clifford J. Elder,)
Linda McCall, and Scott Moseley,)
in their official capacities as)
members of the South Carolina)
State Election Commission,)
 Defendants.)

This matter is before the Court on Plaintiffs' challenge to the constitutionality of the South Carolina General Assembly's plan for congressional reapportionment, S. 865, regarding Congressional District Nos. 1, 2, and 5, which was enacted in 2022 following receipt of the 2020 census data. Plaintiffs' Third Amended Complaint brings two claims challenging Congressional District Nos. 1, 2, and 5. Count One alleges that the challenged districts violate Plaintiffs' rights under the Equal Protection Clause of the Fourteenth Amendment because they are racially gerrymandered. (Dkt. No. 267 ¶¶ 160–167). Count Two alleges that the challenged districts were adopted with racially discriminatory intent and violate Plaintiffs' rights under the Equal Protection Clause of the Fourteenth Amendment and their rights under the Fifteenth Amendment. (*Id.* ¶¶ 168–173). Defendants, which include certain members of the South Carolina House and Senate and staff and members of the South Carolina Election Commission, have denied liability and assert that the challenged districts comply with all lawful requirements and the General Assembly's traditional districting principles. This Court, a three-judge panel, was appointed by the Honorable Roger Gregory, Chief Judge of the United States Court of Appeals for the Fourth Circuit, on

December 16, 2021, to address all matters arising out of South Carolina's reapportionment plans following receipt of the 2020 census data. (Dkt. No. 76).

Procedural Background

This case commenced on October 12, 2021, prior to the adoption of the presently challenged reapportionment plan, alleging that the existing legislative districts were malapportioned. (Dkt. No. 1). Plaintiffs sought the appointment of a three-judge panel. The complaint was subsequently amended twice following the General Assembly adopting the 2022 reapportionment plans and challenged certain South Carolina House and Congressional Districts under the Fourteenth Amendment. (Dkt. Nos. 154, 267). The parties negotiated a resolution as to the challenged South Carolina House Districts, leaving only the congressional reapportionment plan in dispute in this litigation.¹

The Court addressed extensive pretrial matters, including dispositive motions and numerous discovery disputes, and scheduled the congressional reapportionment portion of the case for trial to commence on October 3, 2022. The Court received the testimony of numerous witnesses over eight trial days and received into evidence hundreds of exhibits. Upon completion of the trial testimony, the Court directed the parties to submit proposed findings of fact and conclusions of law and then conducted closing arguments on November 29, 2022. The case is now ripe for disposition.

¹ No suit has been filed to date challenging the South Carolina Senate reapportionment plan.

Legal Standards

Plaintiffs assert claims for racial gerrymandering, in violation of the Fourteenth Amendment, and intentional racial discrimination under the Fourteenth and Fifteenth Amendments. (Dkt. No. 267 at 46–47). Challenges to state legislative reapportionment plans have been the subject of extensive litigation, particularly over the nearly three decades since the Supreme Court’s landmark decision in *Shaw v. Reno*, 509 U.S. 630 (1993). *Shaw* involved the now infamous “I-85 district,” which stretched across much of North Carolina and connected African American portions of various communities in some instances only by the narrow sliver of an interstate highway. *Id.* at 635–636. The Supreme Court made it clear that legislative districting plans which placed or excluded voters by race from a particular district were constitutionally suspect and “b[ore] an uncomfortable resemblance to political apartheid.” *Id.* at 645, 647.

Two years later, the Supreme Court addressed a challenge to the Georgia congressional reapportionment plan in *Miller v. Johnson*, 515 U.S. 900 (1995). The Court again made plain that a state may not use “race as a basis for separating voters into districts.” *Id.* at 911. The Court explained that a plaintiff in a racial gerrymandering case has the “burden [] to show, either through circumstantial evidence of a district’s shape and demographics, or more direct evidence going to legislative purpose, that *race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.*” *Id.* at 916 (emphasis added). To make this showing, “a

plaintiff must prove that the legislature subordinated traditional race neutral districting principles, including but not limited to compactness, contiguity, and respect for political subdivisions or communities defined by actual shared interests, to racial considerations.” *Id.* If the plaintiff can demonstrate that the challenged legislative district was predominantly motivated by race, the burden shifts to the defendant to prove that “its race-based sorting of voters serves a ‘compelling [state] interest’ and is ‘narrowly tailored’ to that end.” *Cooper v. Harris*, 137 S. Ct. 1455, 1464 (2017).

It is well recognized that a court addressing a claim of racially discriminatory intent in the adoption of a districting plan by a state legislature faces a “formidable task,” which requires the court to make a “sensitive inquiry” into all “circumstantial and direct evidence of intent to assess whether the plaintiffs have managed to disentangle race from politics and prove that the former drove a district’s lines.” *Cooper*, 137 S. Ct. at 1473. The burden of proof for plaintiffs to demonstrate discriminatory intent is a “demanding one.” *Easley v. Cromartie*, (“*Cromartie II*”), 532 U.S. 234, 241 (2001). The Supreme Court made it clear in *Cooper*, however, that simply claiming a partisan purpose is not a license to “place a significant number of voters within or without a district.” *Cooper*, 137 S. Ct. at 1463–64. The *Cooper* Court gave as an example the situation where “legislators use[d] race as their predominant districting criterion with the end goal of advancing their partisan interests” *Id.* at 1473 n.7. The use of race under these circumstances “triggers strict scrutiny” because “the sorting of voters on the grounds of race remains suspect even if race is

meant to function as a proxy for other (including political) characteristics.” *Id.*

In attempting to sort out discriminatory intent, “[o]utright admissions of impermissible racial motivation are infrequent and plaintiffs often must rely upon other evidence.” *Hunt v. Cromartie*, 526 U.S. 541, 553 (1999). Further, claims that an experienced map drawer did not consult racial data in drawing the plan ring “hollow” when there is considerable circumstantial evidence that a district “sort[ed] voters on the basis of race” and racial data is “fixed” in the head of an experienced map drawer. *Cooper*, 137 S. Ct. at 1477.

A determination of discriminatory intent in the adoption of a reapportionment plan is based on the totality of evidence, and no single piece of evidence proves or disproves discriminatory intent. Examination of intent must focus on each individual district and not on the plan as a whole. *Alabama Legislative Black Caucus v. Alabama*, 575 U.S. 254, 264 (2015). Circumstantial evidence of discriminatory intent in the adoption of a reapportionment plan can include the use of a racial target for a district, stark racial disparities between adjacent districts, unexplained departures from traditional districting principles, and the disproportionate movement of a significant number of a racially identifiable group’s voters from one district to another. *See Cooper*, 137 S. Ct. at 1468–69; *Alabama Legislative Black Caucus*, 575 U.S. at 267, 273; *Hunt*, 526 U.S. at 548.

Where race is found to be the predominant factor in the creation of a particular legislative district, the Court is mandated to review any districting plan

under rigorous strict scrutiny standards. A state may show a compelling state interest in the use of race as the predominant factor in drawing a legislative district where it is necessary to meet the requirements of the Voting Rights Act and the use of race is narrowly tailored to meet that compelling state interest. *Cooper*, 137 S. Ct. at 1469–70.

A challenge under the Fourteenth Amendment to the lawfulness of a specific district within a congressional reapportionment plan may be brought by an individual residing within that district who claims he or she is a victim of an unlawful racial gerrymander. *Gill v. Whitford*, 138 S. Ct. 1916, 1929–1930 (2018). An organization that has members living in allegedly racially gerrymandered districts has standing to challenge those districts’ composition if the interests at stake “are germane to the organization’s purpose, and neither the claim asserted nor the relief requested requires individual members’ participation in the lawsuit.” *Friends of the Earth, Inc. v. Laidlaw Envt. Servs. (TOC), Inc.*, 528 U.S. 167, 181 (2000).

Findings of Fact

1. The South Carolina House and the South Carolina Senate conducted independent, parallel efforts to adopt the South Carolina congressional reapportionment plan following receipt of the 2020 census data. Both bodies conducted public hearings, established web sites, and had staff prepare draft proposals for consideration. A number of citizens appeared at the public hearings advocating specific designs for the 2022 congressional plan, including residents from Beaufort and Charleston Counties

urging that the counties be made whole in Congressional District No. 1. *See* (PX-0067 at 35–36); (S11–16). The House was the first body to adopt a proposed congressional districting plan and sent it to the Senate on January 13, 2022. (PX-0113 at 3); (Tr. Vol. VII, Wallace Herbert Jordan, Jr. (“Jay Jordan”) at 1784:25–1785:13; 1786:19–1787:3). On January 20, 2022, the Senate amended the House plan in its entirety, substituting its own plan, Senate Amendment 1, for the one adopted by the House. (PX-0116 at 3, 97–98); (Tr. Vol. VII, Jay Jordan at 1787:4–14). The Senate’s plan was returned to the House on January 20, 2022. (PX-0116 at 198). The House concurred with the Senate’s plan without an amendment on January 26, 2022, and the Governor signed the bill into law the same day. (HX-004 at 23–25). The enacted plan is referred to as S. 865.² Since the enacted plan was prepared by Senate staff, debated in the Senate, and ultimately was adopted by both bodies and signed into law by the Governor, the Court will focus its analysis on the Senate plan.

2. Congressional districts are required to have nearly equal population and the general practice is to vary no more than one person from the ideal population, which for South Carolina’s congressional districts in 2020 was 731,203. (Dkt. No. 473-1 at 69). When the 2022 redistricting process commenced, five of South Carolina’s seven congressional districts had relatively small amounts of deficiencies or excesses in population, ranging from .45% to 3.9%. *See* (S28b).

² S. 865 is available at: 2021–2022 Bill 865: Elections - REAPPORTIONMENT: Adopting 2020 Census and Establishing New Senate and House Districts (scstatehouse.gov)

Two of the districts, Congressional District Nos. 1 and 6, however, had significant population variances. Congressional District No. 1 had an excess in population of 87,689 (11.99%) and Congressional District No. 6 had a deficiency of 84,741 (11.59%). (*Id.*). Congressional District No. 6, which has been a majority black district since 1992 and is represented by Congressman James Clyburn, lost significant population as a result of the state becoming increasingly urban with many rural communities within the district experiencing a loss in population. Further, the overall African American percentage of the total South Carolina population decreased between 2010 and 2020 from 28.2% to 25.9%, primarily as a result of predominantly white migration into the state over the prior decade.³ (Dkt. Nos. 473 at 76; 473-1 at 69).

³ The Court was presented with various data sets from the parties and their experts, which made comparisons and analysis challenging at times. In order to establish one set of data for the Court to consider, the parties were directed to consult with the Court's technical advisor, Frank Rainwater, and to agree, if they could, on one set of data provided by Mr. Rainwater. The parties subsequently advised the Court that they stipulated to Mr. Rainwater's data set, and the Court made that data set part of the record. (Dkt. Nos. 456, 459, 460, 461, 472, 473, 473-1). Another complication in comparing data was the use by the parties and their experts of different population categories. Some used general population numbers (referred to as total population and "DOJ black" for the African American population). Others used a different category, "any part black," which included persons who were of mixed race. Still others used voting age population data and the corresponding "black voting age" population ("BVAP"). Since the General Assembly utilized general population totals and "DOJ black" in designing the congressional redistricting plan, the Court will utilize those

3. Plaintiffs and Defendants point to past events in South Carolina’s legal and political history to support their positions. Plaintiffs note the state’s difficult post-Reconstruction history extending from 1877 until the adoption of the 1965 Voting Rights Act, which was frequently characterized by political violence, intimidation, *de jure* segregation, and disenfranchisement. Plaintiffs also point to South Carolina’s legal struggles with the Department of Justice and the federal courts regarding reapportionment plans from the 1970’s through the early 2000’s. See (PX-0017, Expert Report of Joseph Bagley at 6–20); (Tr. Vol. V, Joseph Bagley at 1112:20–1114:21); *Colleton Cnty. Council v. McConnell*, 201 F. Supp. 2d 618 (D.S.C. 2002), *clarified* Apr. 18, 2022; *Smith v. Beasley*, 946 F. Supp. 1174 (D.S.C. 1996); *Stevenson v. West*, 413 U.S. 902 (1973). Defendants, on the other hand, note that a three-judge panel in *Backus v. South Carolina*, 857 F. Supp. 2d 553 (D.S.C. 2012), *aff’d*, 568 U.S. 801 (2012), upheld the validity of the 2011 legislative reapportionment plan. Both Plaintiffs and Defendants have points to make regarding the history in this area, which must be considered with the totality of the evidence to

numbers unless expressly indicated otherwise. Further, the Court will refer to population data from voter tabulation districts (“VTDs”), rather than precincts, since this was the data relied on by the General Assembly in adopting the 2022 reapportionment plan. VTDs are utilized for reporting official census data, and precincts are created by local election officials. VTDs and precincts generally, but not always, are the same, but for consistency the Court will rely on official census data reported by VTDs.

determine whether race predominated in the drawing of any of the challenged congressional districts.⁴

A review of the history in this case must also consider the significant legal developments which have occurred since the 2010 reapportionment cycle, most notably the decisions by the United States Supreme Court in *Shelby County v. Holder*, 570 U.S. 529 (2013), which effectively eliminated the non-retrogression requirements of Section 5 of the Voting Rights Act, and *Cooper v. Harris*, 137 S. Ct. 1455, 1472, 1473 n.7 (2017), which made it clear that partisanship cannot be used as a proxy for race and that any predominant use of race to draw legislative districts must be narrowly tailored to meet a compelling state interest. These recent legal developments cast doubt on the present-day validity of the 2011 plan because Congressional District No. 6, with its 57.8% African American population at the time of enactment, was designed to satisfy the then-existing Section 5 non-retrogression requirements and exceeded any reasonable percentage necessary to

⁴ The Court throughout this order addresses aspects of reapportionment plans adopted following the 2000, 2010, and 2020 census. The reapportionment plan following the 2000 census was a court designed plan issued in *Colleton County Council v. McConnell* and will be referred to in this order as the “Colleton County Council plan.” The reapportionment plan adopted following the 2010 census was enacted by the General Assembly and signed by the Governor in 2011, and the plan subsequently survived a court challenge in *Backus v. South Carolina*. This plan will be referred to in this order as the “2011 plan.” The reapportionment plan presently before the Court was adopted by the General Assembly based upon the 2020 census and will be referred to in this order as the “2022 plan.”

allow African Americans to elect a candidate of their choice.⁵

4. In advance of the 2020 reapportionment cycle, both the South Carolina House and South Carolina Senate adopted largely consistent reapportionment guidelines. (PX-0175; PX-0176). The Senate’s 2021 Redistricting Guidelines set forth three categories of standards: satisfaction of the requirements of federal law, maintenance of contiguity within a district, and “additional considerations” that should be “given consideration, where practical and appropriate.” (PX-0176 at 1–2). The section on federal law requirements, which is mandatory, referenced population equality, compliance with the Voting Rights Act, and “avoidance of racial gerrymandering.” (*Id.* at 1). The guidelines recognize that “while consideration of race is permissible, race must not be the predominant factor,” and the General Assembly cannot subordinate traditional districting principles “unless that subordination is narrowly tailored to serve a compelling state interest.” (*Id.*). The section of the guidelines relating to “additional considerations” set forth a broad array of factors, including communities of interest,⁶ constituent consistency, district

⁵ The General Assembly recognized the impact of *Shelby County* and *Cooper* in its 2022 plan for Congressional District No. 6 by reducing the African American population of the district to 47.8%. (Dkt. Nos. 473 at 65; 473-1 at 59).

⁶ “Communities of interest” are defined by “geographic, demographic, historic and other characteristics” and can include “economic, social, cultural, language, political, and recreational activity interests” (PX-0176 at 2).

compactness, and minimizing divisions of counties, cities, and towns. (*Id.* at 2).

5. Plaintiffs in this action include Taiwan Scott, who resides in Congressional District No. 1 and claims injury arising from the alleged racial gerrymander of Congressional District No. 1. (Tr. Vol. II, Taiwan Scott at 493:23). Plaintiff The South Carolina State Conference of the NAACP has members residing in each of the challenged congressional districts and the issues raised in this lawsuit are germane to the organization's purpose. (Tr. Vol. II, Henry Griffin at 521:19–522:7); (Tr. Vol. VI, James Felder, Sr. at 1335:10–14; 1338:12–25); (Tr. Vol. V, Elizabeth Kilgore at 1216:16–25; 1218:1–1219:12). Further, the claims asserted and the relief sought do not require the participation of individual members in the lawsuit.

Congressional District No. 1

6. Congressional District No. 1 has long been anchored in Charleston County and consistently elected a Republican between 1980 and 2016. In 2018, the Democratic candidate, Joe Cunningham, was elected in what was regarded then as a major political upset. Two years later, the Republican candidate, Nancy Mace, defeated Cunningham. (S75, Expert Report of Sean Trende at 32–33). Both elections were close, with less than one percent separating the candidates.

7. When the South Carolina House and Senate began considering congressional reapportionment in 2021, the Republican majorities in both bodies sought to create a stronger Republican tilt to Congressional District No. 1. Senator George “Chip” Campsen, a Republican senator from Charleston County and a

member of the Senate Redistricting Subcommittee of the Senate Judiciary Committee, became the lead proponent of what would become the enacted congressional district plan. (Tr. Vol. VII, George Earl Campsen, III (“George Campsen”) at 1816–1818; 1839:12–24). Early in the process, Senator Campsen publicly announced that his plan, known as Senate Amendment 1, would make whole in Congressional District No. 1 two previously split counties, Beaufort and Berkeley. (*Id.* at 1839:12–24); (HX-86); (S29b). He also sought to include a significant portion of a third county, Dorchester, in Congressional District No. 1. *See* (S29b). All three of these counties were regarded by Senator Campsen as strong Republican performing counties, and he explained at trial that he was seeking to include these counties in the reconfigured Congressional District No. 1 to give the district a stronger Republican lean. (Tr. Vol. VII, George Campsen at 1860:11–1861:8; 1837:21–1838:21).

8. The General Assembly was provided a number of proposed congressional plans by various interested parties. These included plans presented by the League of Women Voters, Senator Richard Harpootlian (referred to as Senate Amendment 2a), and two by the NAACP. These various plans differed on the African American percentage of the total votes in Congressional District No. 1, with Senator Campsen’s plan providing for 17%, Senator Harpootlian’s plan for 21%, the League of Women Voters’ plan providing for 23%, and one of the NAACP’s plans providing for 24%. Analyses of partisan voting patterns within Congressional District No. 1 provided by both Plaintiffs and

Defendants indicated that a district in the range of 17% African American produced a Republican tilt, a district in the range of 20% produced a “toss up district,” and a plan in the 21–24% range produced a Democratic tilt. (PX-0067, Expert Report of Moon Duchin at 3 (Charts 2.1, 2.2)); (Dkt. No. 491-1, Senate Defendants’ closing demonstrative at 21). The Court finds that this data demonstrating the need to limit the African American population to a certain level to produce the desired partisan tilt resulted in a target of 17% African American population for Congressional District No. 1.

9. The Senate’s congressional reapportionment plan was prepared by an experienced cartographer, Will Roberts, who joined the Senate staff for the 2020 census reapportionment after working for nearly two decades with the South Carolina Revenue and Fiscal Affairs Office. (Tr. Vol. VI, William Roberts (“Will Roberts”) at 1353:14–1356:7). In his former position, Roberts worked with the three-judge panel in *Backus* through the Court’s technical adviser, Bobby Bowers, and routinely prepared reapportionment plans for counties, cities and school boards across the state. (*Id.* at 1356: 8–15; 1357:3–1358:3). From this work, Roberts was intimately familiar with South Carolina’s demographic and geographic data, including its racial data. (*Id.* at 1357–1359:3).

10. As the principal creator for the enacted congressional plan, Roberts was offered by Defendants at trial to explain the design and details of the plan. Roberts stated that he started the 2022 plan with the 2020 census data applied to the 2011 plan as his model and sought to create a “least change” plan. (*Id.* at 1396:19–21). He also stated that he

received a map from the staff of Congressman James Clyburn and he incorporated the Clyburn staff proposals into the final plan. (*Id.* at 1404:14–19; 1405:18–19; 1407:3–19; 1410:16–1411:23; 1419:13–1420:7). Roberts denied considering racial data while drawing his plan, although he admitted to looking at racial data after drafting each version. (*Id.* at 1421:3–4, 23–25; 1422:1–10; 1383:4–23). Instead, he testified that he relied “one hundred percent” on data regarding “the partisan lean of the district.” (*Id.* at 1558:13–19).

11. Senator Campsen’s announced intention to include Berkeley and Beaufort Counties whole in Congressional District No. 1, as well as portions of Dorchester County, presented a challenging problem for Roberts as he attempted to complete the Charleston County portion of the district to produce a congressional district with a Republican tilt. Berkeley County had a total population of 229,861 and an African American population of 54,440 (23.7%). (Dkt. No. 473-1 at 6). Beaufort County had a population of 187,117 and an African American population of 29,105 (15.6%). (*Id.* at 3). The portion of Dorchester County sought to be included in Congressional District No. 1 had a population of 127,543 and an African American population of 27,076 (21.2%). (*Id.* at 10). When the populations of these three counties were combined, they totaled 544,521 of the district’s ideal population of 731,203 and had an African American percentage of 20.3%. The racial composition of the Charleston County portion of Congressional District No. 1 at the time of enactment of the 2011 plan was 19.8% and Charleston County in the 2020 census had an African American population

of 23.17%. (Dkt. Nos. 473 at 9; 473-1 at 8, 51). Any plan for Congressional District No. 1 that included the racial percentages of Charleston County utilized in the 2011 plan (19.8%) or the overall population of Charleston County based on the 2020 census (23.17%) would produce a district that was approximately 20% African American. This would produce a “toss up” district and would exceed the 17% African American target sought to produce the desired partisan tilt. Given the decision to include Beaufort and Berkeley Counties whole in Congressional District No. 1 and a significant portion of Dorchester County, it became necessary to reduce the African American population of the Charleston County portion of the district in the range of 10% to meet the 17% target for Congressional District No. 1.

12. Reducing the African American population in Charleston County so low as to bring the overall black percentage in Congressional District No. 1 down to the 17% target was no easy task and was effectively impossible without the gerrymandering of the African American population of Charleston County. Under the Court’s close questioning, Roberts admitted he abandoned his “least change” approach and the Clyburn staff model he had relied on in all other counties and made “dramatic changes” that “created tremendous disparity” within Charleston County. (Tr. Vol. VI, Will Roberts at 1556–1559:8). Roberts ultimately moved 62% (30,243 out of the 48,706) of the African American residents formerly assigned to Congressional District No. 1 to District No. 6, leaving only 18,463 African Americans in the Charleston portion of Congressional District No. 1. (Dkt. Nos. 473-1 at 8; 473 at 9). Roberts accomplished this, in

part, by moving ten of the eleven VTDs with an African American population of 1,000 persons or greater out of Congressional District No. 1, which included a move of over 11,300 African Americans from North Charleston and nearly 17,000 from the St. Andrews area.⁷ When asked what community of interest the residents of North Charleston would have with the residents of Congressional District No. 6 in Columbia, Roberts could only think of their common proximity to Interstate I-26, albeit over 100 miles apart.⁸ (Tr. Vol. VI, Will Roberts at 1552:4–9).

13. The movement of over 30,000 African Americans in a single county from Congressional District No. 1 to Congressional District No. 6 created a stark racial gerrymander of Charleston County. In the 2011 plan, Congressional District No. 6 extended from its Midlands base over 100 miles into downtown Charleston and utilized race conscious line drawing to include approximately one half of the County's African American residents in Congressional District No. 6.⁹ This was done to satisfy the then existing non-

⁷ These included the movement of the following VTDs from Congressional District No. 1 to Congressional District No. 6, with the African American population in parentheses: Deer Park 1A (1,486), Deer Park 1B (2,198), Deer Park 2A (1,950), Deer Park 2B (1,309), Deer Park 3 (1,736), Ladson (1,988), Lincolnville (1,494), St. Andrews 9 (1,348), St. Andrews 18 (1,168), St. Andrews 27 (1,250). This left a single VTD in Congressional District No. 1 with an African American population of greater than 1,000: Johns Island 1B (1,122). (Dkt. No. 473-1 at 7, 48–51).

⁸ This explanation was oddly reminiscent of the defense of the I-85 district by the state in *Shaw v. Reno*, 509 U.S. at 636.

⁹ At the time of the enactment of the 2011 plan, 53% of Charleston's African American residents were in Congressional

retrogression requirements of Section 5 of the Voting Rights Act. With the Supreme Court's 2013 decision in *Shelby County* effectively eliminating the non-retrogression requirement, a fair question existed as to whether the continued racial division of Charleston County residents between Congressional District Nos. 1 and 6 was legally justifiable. Roberts' changes in Charleston County in the 2022 plan went in exactly the opposite direction, doubling down on the racial division of Charleston County by the movement of 62% of the African American residents of Congressional District No. 1 into Congressional District No. 6. These actions by Roberts made a mockery of the traditional districting principle of constituent consistency. As a result of these changes, 79% of Charleston County's African American population was placed into Congressional District No. 6 and 21% was placed into Congressional District No. 1, and the percentage of African Americans in Charleston County in Congressional District No. 1 fell from 19.8% at the time of the enactment of the 2011 plan to 10.3% in the 2022 plan.¹⁰ (Dkt. Nos. 473-1 at 8, 51; 473-2 at 9). As a result of this effective bleaching of African American voters out of the Charleston County portion of Congressional District

District No. 6 and 47% were in Congressional District No. 1. (Dkt. No. 473 at 9, 55).

¹⁰ The changes in the racial division of the City of Charleston were even more stark as a result of the 2022 plan. At the time of the enactment of the 2011 plan, 66% of the City's African American population was in Congressional District No. 1 and 33% was in Congressional District No. 6. As a result of the 2022 plan, only 15% of the City's African American population remained in Congressional District No. 1, a drop of 77%.

No. 1, Roberts was able to produce an African American percentage in Congressional District No. 1 of 17.8%.¹¹ (Dkt. No. 473-1 at 10).

14. Roberts sought to defend the movement of over 60% of Charleston County's African American population from Congressional District No. 1 on the basis that a majority of those moved from Congressional District No. 1 were white. (Tr. Vol. VI, Will Roberts at 1550:12–23). Roberts acknowledged, however, that if there was a target for the district of 17%, the inclusion of a VTD that was 35% African American would adversely impact the 17% objective. (*Id.* at 1550–54). Roberts specifically pointed to the Deer Park VTDs in North Charleston and noted off the top of his head that there were approximately 10,000 white residents and 8,500 black residents in the six Deer Park VTDs.¹² (*Id.* at 1553:16–22). He conceded that the percentage of black residents from the Deer Park precincts was “higher than the 17%.” (*Id.*).

¹¹ The Supreme Court in *Cooper* described an analogous situation where sponsors of the challenged congressional reapportionment plan moved 25,000 African American voters in Guilford County, North Carolina to another congressional district, which “played a major role” in achieving a racial target. *Cooper*, 137 S. Ct. at 1477. This action was cited in *Cooper* to support a finding of a racial gerrymander.

¹² Roberts, in response to the Court's questioning about the Deer Park VTDs, provided these figures off the top of his head for the “racial breakdown” for those VTDs. His estimates were highly accurate. The actual numbers for the Deer Park VTDs under the 2020 census data is 10,652 white residents and 9,171 black residents. (Dkt. No. 473-1 at 48). This is a reflection of the detailed knowledge Roberts possesses regarding the racial demographics of the state down to the individual precinct level.

15. When the 2020 census data was applied to the 2011 plan, Congressional District No. 1 had a population excess of 87,689 and an African American percentage of 17.8%.¹³ Rather than simply shed the excess population, the Roberts plan moved more than 140,000 residents out of Congressional District No. 1. (*Id.* at 1555); (S75, Expert Report of Sean Trende at 18 (Tbl.4)). Despite all of those changes in Congressional District No. 1, Roberts' plan produced an identical African American population in the 2022 plan of 17.8%, which the Court finds was more than a coincidence and was accomplished only by the stark racial gerrymander of the Charleston County portion of Congressional District No. 1.

16. Roberts failed to provide the Court with any plausible explanation for the abandonment of his “least change” approach in drawing the Charleston County portions of Congressional District Nos. 1 and 6 or the subordination of traditional districting principles, including maintenance of constituencies, minimizing divisions of counties, and avoidance of racial gerrymandering. Roberts also admitted that his movement of nearly 17,000 African Americans from St. Andrews was inconsistent with the Clyburn staff plan for Charleston County that he claimed to be faithfully following. (Tr. Vol. VI, Will Roberts at 1558:13–15). In light of the striking evidence that voters were “sort[ed] . . . on the basis of race” within Charleston County and Roberts' in-depth knowledge of the racial demographics of South Carolina, his

¹³ The Court takes judicial notice of the 2020 census data applied to the 2011 plan found at the South Carolina Senate's official website. See <https://redistricting.scsenate.gov/planproposal.htm>.

claim that he did not consider race in drawing Congressional District No. 1 rings “hollow” to the Court. *Cooper*, 137 S. Ct. at 1477.

17. The congressional reapportionment plan ultimately enacted, referred to as Senate Amendment 1, was prepared by Roberts and passed the South Carolina Senate without amendment on January 20, 2022. The House concurred in the plan, making no changes, on January 26, 2022, and the Governor signed the bill into law the same day.

18. Plaintiffs offered expert testimony that provided further support for a finding that race predominated over all other factors in the design of Congressional District No. 1. Dr. Kosuke Imai, a professor in the Department of Statistics at Harvard University, and a qualified expert in political science statistics, computational social sciences, and causal inference research methods, conducted a race-blind simulation analysis of the racial composition and boundary lines of Congressional District No. 1 within Charleston County based on the 2020 census data. (Tr. Vol. VIII, Kosuke Imai at 1928:11–13). He conducted 10,000 race-blind simulations of the boundary lines in Charleston County and concluded that the 2022 plan “splits Charleston County by placing a disproportionately large number of black voters into District 6, while assigning relatively few voters to District 1.” (PX-0032, Expert Report of Kosuke Imai at 13); (Tr. Vol. VIII, Kosuke Imai at 1962:9–18). In Dr. Imai’s simulations, the average African American population in Congressional District No. 1 is 9,500 voters greater than in the 2020 plan, which corresponds to a statistically significant 2.9 standard deviations. Only .2% of Dr. Imai’s

simulations produced fewer black voters in Congressional District No. 1 than the enacted plan. (PX-0032 at 14). Dr. Imai also conducted 10,000 race-blind simulations statewide and found Congressional District No. 1's BVAP population was "unusually low under the enacted plan," and the BVAP in the enacted plan was 6.5 percentage points lower than the simulated plans. (*Id.* at 15). Dr. Imai determined that none of the 10,000 simulated plans produced a BVAP lower than Congressional District No. 1 and these results were statistically significant. (*Id.* at 15); (Tr. Vol. VIII, Kosuke Imai at 1964:22–1965:10).

19. Another Plaintiffs' expert, Dr. Jordan Ragusa, a professor of political science at the College of Charleston, and qualified expert in congressional elections, South Carolina politics, and the application of quantitative methods, analyzed the movement of VTDs in and out of a district and whether it was based on factors such as race and partisanship. (Tr. Vol. IV, Jordan Ragusa at 1028:24–1029:2); (PX-0019, Expert Report of Jordan Ragusa at 1–2). Race was measured using the number of African American voters in the VTD and the partisanship of the VTD was measured based on the number of votes for Joe Biden or Donald Trump in the 2020 general election. (PX-0019, Expert Report of Jordan Ragusa, at 1–2); (Tr. Vol. IV, Jordan Ragusa at 1031:23–1032:2). He also studied the likelihood that a VTD would not be moved based on either the number of African Americans within the VTD and/or its partisanship. (PX-0019, Expert Report of Jordan Ragusa, at 2). Dr. Ragusa analyzed VTDs within Congressional District No. 1 in the 2022 plan and found that the decision to move a VTD out of the district was highly correlated to the number of

African American voters within the VTD. (*Id.* at 4–5, 8). Where a VTD had 100–500 voters, the chance of being moved out of Congressional District No. 1 was no greater than 20%. (*Id.* at 8). However, when the number of African American voters became 1,000 or more, the chance of the VTD being moved out of Congressional District No. 1 rose to 40% and at 1500 voters the chance was 60%. (*Id.*); (Tr. Vol. IV, Jordan Ragusa at 1045:5–10) (testifying that he found as BVAP of a precinct in Congressional District No. 1 increased, the probability that that precinct was drawn out of the district also increased). Dr. Ragusa concluded that his results show that “black voters were excluded from [Congressional District No. 1] in both a statistically significant and substantively consequential fashion.” (PX-0019, Expert Report of Jordan Ragusa, at 5); (Tr. Vol. IV, Jordan Ragusa at 1045:20–23). Dr. Ragusa concluded that his results show the racial composition of a VTD was a stronger predictor of whether it was removed from Congressional District No. 1 than its partisan composition. (PX-0026, Rebuttal Expert Report of Jordan Ragusa at 8 (Fig.1)); (Tr. Vol. IV, Jordan Ragusa at 1055:15–21). Dr. Ragusa’s findings were particularly probative regarding changes in the Charleston County portion of Congressional District No. 1 in the 2022 plan, where ten of the eleven VTDs with African American populations of 1,000 or more were moved to Congressional District No. 6.

20. Defendants’ sole expert witness, Sean Trende, contended that the 2022 plan made “only modest changes” from the 2011 plan upheld in *Backus*. (S75, Expert Report of Sean Trende at 7). He described the changes in the Charleston County portion of

Congressional District No. 1 as simply to conform the district to natural geographic boundaries. (*Id.* at 34). While there were “modest changes” in some of the congressional districts adopted in the 2022 plan, that is hardly a reasonable description of Congressional District No. 1. Further, Trende ignored the movement of more than 30,000 African American residents out of the Charleston County portion of Congressional District No. 1 and the resulting stark racial gerrymander of Charleston County. The Court found Trende’s testimony and reports regarding Congressional District No. 1 unpersuasive.

21. After carefully weighing the totality of evidence in the record and credibility of witnesses, the Court finds that race was the predominant motivating factor in the General Assembly’s design of Congressional District No. 1 and that traditional districting principles were subordinated to race. The Court finds that to achieve a target of 17% African American population in Congressional District No. 1, Charleston County was racially gerrymandered and over 30,000 African Americans were removed from their home district. State legislators are free to consider a broad array of factors in the design of a legislative district, including partisanship, but they may not use race as a predominant factor and may not use partisanship as a proxy for race. *Cooper*, 137 S. Ct. at 1473. The Court finds that when Roberts was presented as a given that Beaufort and Berkeley Counties and a portion of Dorchester County would be included in Congressional District No. 1 in the 2022 plan, there was no practical way for him to achieve the African American population target of 17% through the use of traditional districting principles. By his

own admission, Roberts abandoned the principles of “least change” that he had followed in other parts of the state and treated Charleston County in a fundamentally different way than the rest of the state. (Tr. Vol. VI, Will Roberts at 1555–58). The strategies he employed ultimately exiled over 30,000 African American citizens from their previous district and created a stark racial gerrymander of Charleston County and the City of Charleston. As Mr. Roberts admitted under the Court’s questioning, the changes he implemented in Charleston County were “dramatic” and “created tremendous disparity” in the placement of African Americans within Congressional Districts Nos. 1 and 6 in Charleston County. (*Id.* at 1556, 1558–59).

22. Plaintiffs further challenge the placement of two Jasper County precincts, Oakatie 2 and Sun City, in Congressional District No. 1. These two precincts have a total of 4,581 residents, 81.8% of whom are white and 7.4% of whom are African American. (Dkt. No. 473-1 at 10). The balance of Jasper County, which was placed with Congressional District No. 6, has a total of 24,210 residents, 38.5% of whom are white and 39.2% of whom are African American. (*Id.* at 54). Defendants assert that Oakatie 2 and Sun City precincts are largely part of the Sun City retirement community, which is predominantly based in Beaufort County, and share a strong community of interest with the balance of the Sun City community. Beaufort County has a total of eight Sun City precincts that total 12,278 residents. (Dkt. No. 473-1 at 3). Defendants further note that the splitting off of the two Jasper County precincts and placing them in Congressional District No. 1 with the eight other Sun

City precincts was provided for in the Clyburn staff plan and was supported by the local African American state senator who represents the area, Senator Margie Bright-Matthews. (Tr. Vol. III, Margie Bright-Matthews at 794:15–795:8); (Tr. Vol. VI, Will Roberts at 1367:24–1368:5). After reviewing the totality of the evidence, the Court finds that Plaintiffs have not carried their burden to prove that the inclusion of the two Jasper County precincts in Congressional District No. 1 was predominantly based upon race.

23. Plaintiffs additionally assert that race predominated in the splitting of certain precincts in Dorchester County which are alleged to be along racial lines. Plaintiffs appear to argue that these split precincts should have been placed in their entirety in Congressional District No. 1. The record reflects that there are seven split precincts in Dorchester County, with portions of those precincts in Congressional District Nos. 1 and 6. (Dkt. No. 473-1 at 8–11, 52–53). Defendants assert that five of the VTDs were split to improve the shape of Congressional District No. 6 and two of the VTDs were moved to track the districting line of state House District No. 98. (Tr. Vol. VI, Will Roberts at 1485:6–17). The total number of African American residents placed in these split VTDs in Congressional District No. 6 is only 2,437 and appears to have a *de minimis* effect on the overall racial composition of the district. (Dkt. No. 473-1 at 52–53). Only one of these split VTDs, Lincoln, had more than 500 African American residents placed in Congressional District No. 6. (*Id.* at 8–11, 52–53). Plaintiffs have offered no other evidence to support their claim of a racially motivated splitting of precincts in Dorchester County. Taking the evidence

in its totality, the Court finds that Plaintiffs have failed to carry their burden to prove that race predominated in the splitting of the seven precincts in Dorchester County.

Congressional District No. 2

24. Congressional District No. 2 has traditionally been anchored in the Midlands and western portions of the state, with its largest populations in Lexington, Richland, and Aiken Counties. Plaintiffs assert that the portion of Congressional District No. 2 in Richland County that hooks around the northern and western portion of the county fractures African American communities and is predominantly motivated by race. Plaintiffs also allege that the movement of two precincts from Congressional District No. 6 to Congressional District No. 2 in the Limestone area of Orangeburg County was predominantly based upon race.

25. Congressional District No. 2 includes an irregular shaped “hook” that travels from the northwestern portion of Richland County, adjacent to the Lexington County line, and travels along Richland County’s northern and eastern borders and then connects to Fort Jackson, one of the nation’s largest military training sites. This design dates back to the 1992 reapportionment plan and was adopted at that time to accommodate the preference of the late Congressman Floyd Spence, who was chair of the House Armed Services Committee. *Colleton Cnty. Council*, 201 F. Supp. 2d at 668. When the “hook” was originally adopted, this area was mostly rural and was largely an undeveloped portion of Richland County. Over the last 30 years, the population in the area has

grown considerably as has the percentage of African Americans within this area. In just the last decade, the overall population of the “hook” has increased from approximately 195,000 to over 223,000 and the African American population has grown from approximately 57,000 to over 83,000. (Dkt. Nos. 473 at 18–20; 473-1 at 16–18).

26. Plaintiffs assert that the African American community in northeastern Richland County is fractured as the result of the “hook,” placing one portion of the community in Congressional District No. 6 and a contiguous set of VTDs in Congressional District No. 2. (Tr. Vol. III, Lynn Teague at 678:21–25; 694:8–20); (Tr. Vol. III, Kambrell Garvin at 758:17–21; 765:20–766:15); (Tr. Vol. VI, James Felder at 1341:15–1343:4). Data from the 2020 census lends support to this claim. Congressional District No. 2 includes a number of VTDs with African American populations over 50% which are immediately contiguous with VTDs with large African American populations in Congressional District No. 6.¹⁴ Additionally, there is a cluster of additional VTDs in northeastern Richland County adjacent to Rice Creek

¹⁴ These VTDs include the following with the African American population in parentheses: Monticello (50.4%), Rice Creek 1 (73.9%), Rice Creek 2 (65.4%), North Spring 2 (50.3%), North Spring 3 (63.7%), Midway (66.4%), Brandon 1 (62.7%), and Brandon 2 (59.7%). There are also additional VTDs in Congressional District No. 2 immediately contiguous with Congressional District No. 6 with populations 40–49% African American, including Harbison 1, Harbison 2, Blythewood 3, North Springs 1, and Woodfield. (Dkt. No. 473-1 at 18–20).

1 and 2 which have significant African American populations.¹⁵

27. Dr. Imai produced 10,000 race blind simulation plans and found the division of Congressional District Nos. 2 and 6 within Richland County is highly unusual and only about 1% of the plans produced a greater number of African American voters in Congressional District No. 2. He concluded that “the enacted plan cracks black voters” who live in Richland County. (PX-0032, Expert Report of Kosuke Imai at 18–19).

28. Defendants assert that the Richland County “hook” has existed for 30 years and was included in the court designed plan in *Colleton County Council* in 2002 and approved by the *Backus* court in 2012.¹⁶ Defendants assert that the present congressman for Congressional District No. 2, Joe Wilson, is the ranking member of the House Armed Services Committee and is expected to become the chairman of the Armed Services Committee in the new Congress. Defendants state that Congressman Wilson sought to keep Fort Jackson in his district. They further note that Congressman Clyburn’s staff plan recommended the maintenance of the “hook” in Congressional

¹⁵ These VTDs include the following with the African American population in parentheses: These include Ridge View 1 (58.3%), Ridge View 2 (63.1%), Parkway 1 (69.9%), Parkway 2 (60.1%), Parkway 3 (76.2%), Estates (37.9%), Bookman (48.5%), and Pontiac 2 (35.4%). (Dkt. No. 473-1 at 18–20).

¹⁶ The court in *Colleton County Council* specifically addressed the placement of Fort Jackson in Congressional District No. 2 versus Congressional District No. 6 and approved the placement in Congressional District No. 2 in the court designed plan. 201 F. Supp. 2d at 668.

District No. 2 for the 2022 plan. *See* (S37); (Tr. Vol. VI, Will Roberts at 1409:6–13).

29. Plaintiffs have shown that the maintenance of the “hook” splits the sizeable African American community in northeast Richland County, but they have failed to satisfy their burden of proving that the inclusion of the “hook” in the 2022 plan was *predominantly* based upon race. The consistent use of the “hook” as a feature of Congressional District No. 2 since 1992, the judicial approval of the design by three-judge panels in *Colleton County Council* in 2002 and *Backus* in 2012, the preference of the ranking member of the Armed Services Committee to keep Fort Jackson within his district, and the recommendation to continue the “hook” in the Congressman Clyburn staff plan, all support a race neutral basis for this design.

30. Plaintiffs also challenge the movement of two majority African American VTDs, Limestone 1 and 2, in Orangeburg County from Congressional District No. 6 to Congressional District No. 2.¹⁷ Plaintiffs assert that the movement of the two Limestone VTDs was predominantly based upon race. Defendants assert that the decision to move the two Limestone VTDs was prompted by requests at public hearings, where local residents asserted that they had a greater community of interest with nearby Lexington County. (Tr. Vol. VI, Will Roberts at 1473:18–1474:7; 1499:14–19). Defendants note that the two Limestone VTDs are located in the western portion of Orangeburg

¹⁷ Limestone 1 has an African American population of 61.9% and Limestone 2 has an African American population of 66.9%. (Dkt. No. 473-1 at 16).

County and other contiguous VTDs in Orangeburg County were placed in Congressional District No. 2 in the 2002 court designed reapportionment plan. The court in *Colleton County Council* explained the placement of certain Orangeburg VTDs in Congressional District No. 2 was based on evidence presented showing that the “western portions of Orangeburg County” are “an important part of the existing core of the Second District.” *Colleton Cnty. Council*, 201 F. Supp. 2d at 667. Further, the Congressman Clyburn staff plan provided for the movement of the two Limestone VTDs from Congressional District No. 6 to Congressional District No. 2. (Tr. Vol. VI, Will Roberts at 1423:11–17; 1473:19–1474:7); (S37).

31. The Court finds that the Plaintiffs have failed to carry their burden of proving that the placement of Limestone 1 and 2 in Congressional District No. 2 was predominantly based upon race.

Congressional District No. 5

32. Plaintiffs challenge the division of Sumter County between Congressional District Nos. 5 and 6 and assert that race predominated over all other factors in the drawing of the district lines. Congressional District No. 5 covers most of the north central portion of South Carolina extending to the North Carolina state line. The district is anchored by York County, which has grown significantly in recent years primarily as a bedroom community for Charlotte, North Carolina. Sumter County is situated in the most southeastern portion of Congressional District No. 5 and has not experienced the significant

population growth of the counties closest to the North Carolina border.

33. Sumter County has been divided along racial lines since the creation of Congressional District No. 6 in 1992 as part of a design to create a district in which African Americans could elect a candidate of their choice. The three-judge panel in *Colleton County Council* adopted a court plan in 2002 that provided for the racial division of Sumter County to maintain compliance with the Voting Rights Act. 201 F. Supp. 2d at 663–65. This split was continued in the 2011 plan and that plan was approved by a three-judge panel in *Backus*, 857 F. Supp. 2d at 570.

34. The Sumter County changes in the 2022 plan regarding Congressional District Nos. 5 and 6 were unremarkable, moving a little less than 1,000 African American voters from Congressional District No. 5 to Congressional District No. 6.¹⁸ The racial division of Sumter County was carried over from the 2011 plan and represented an ongoing effort to maintain Congressional District No. 6 as a district in which African Americans could elect a candidate of their choice. Plaintiffs have failed to satisfy their burden of showing that the design of Congressional District No. 5 was predominantly based on race beyond lawful compliance with the Voting Rights Act.

¹⁸ The Sumter County portion of Congressional District No. 6 increased in total population in the 2022 plan from 22,569 to 28,895. The Sumter County African American population increased in Congressional District No. 5 from 17,216 to 18,189. (Dkt. Nos. 473 at 63–64; 473-1 at 58).

Conclusions of Law

1. Plaintiff Scott has standing to assert a challenge to Congressional District No. 1. Plaintiff South Carolina State Chapter of the NAACP has standing to challenge Congressional District Nos. 1, 2, and 5.

2. Plaintiffs assert in Count One of the Third Amended Complaint that Congressional District Nos. 1, 2, and 5 were the product of racial gerrymandering in violation of their rights under the Fourteenth Amendment. A challenge to a legislative reapportionment plan must be based on an examination of individual districts and not on the plan as a whole. *Alabama Legislative Black Caucus*, 575 U.S. at 264. To prevail, Plaintiffs must show that race was the predominant factor in the adoption of one or more legislative districts within the plan. *Miller*, 515 U.S. at 916. If Plaintiffs have carried their burden of proving that race predominated in the adoption of one or more legislative districts within the plan, the burden shifts to the Defendants to prove that “its race-based sorting of voters serves a ‘compelling [state] interest’ and is ‘narrowly tailored’ to that end.” *Cooper*, 137 S. Ct. at 1464.

3. The Court finds that race was the predominant factor motivating the General Assembly’s adoption of Congressional District No. 1. With the movement of over 30,000 African American residents of Charleston County out of Congressional District No. 1 to meet the African American population target of 17%, Plaintiffs’ right to be free from an unlawful racial gerrymander under the Equal Protection Clause of the Fourteenth Amendment has been violated. Defendants have

made no showing that they had a compelling state interest in the use of race in the design of Congressional District No. 1 and thus cannot survive a strict scrutiny review. *Cooper*, 137 S. Ct. at 1464. Consequently, Plaintiffs are entitled to judgment as a matter of law in regard to Count One of the Third Amended Complaint concerning Congressional District No. 1.

4. Plaintiffs have failed to carry their burden to prove that race was the predominant factor in the adoption of Congressional District Nos. 2 and 5. Consequently, Defendants are entitled to judgment as a matter of law regarding Count One of Plaintiffs' Third Amended Complaint concerning Congressional District Nos. 2 and 5.

5. Plaintiffs have asserted claims under Count Two of the Third Amended Complaint that Congressional District Nos. 1, 2 and 5 were adopted with a racial discriminatory intent or purpose. Plaintiffs assert that a racial discriminatory intent or purpose in a legislative reapportionment plan can be established by showing that race was *a* motivating factor in the adoption of the plan. Plaintiffs rely on *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977), which involved a challenge to a municipality's refusal to rezone in favor of multi-family, racially integrated housing. The Supreme Court developed in *Arlington Heights* a two-part test for Equal Protection claims arising out of such a challenge. First, plaintiffs must show that a discriminatory purpose was "a motivating factor." *Id.* at 265–66. Once the plaintiff has shown that race was a motivating factor, the burden shifts to the defendants to "establish [] that the same decision

would have resulted even had the impermissible purpose not been considered.” *Id.* at 270 n.21.

The Supreme Court has addressed claims of racial discrimination in legislative reapportionment plans under the Fourteenth Amendment in a series of cases since *Shaw v. Reno*. In *Miller v. Johnson*, the Supreme Court recognized that “federal court review of districting legislation represents a serious intrusion on the most vital of local functions” and that the courts “must exercise extraordinary caution in adjudicating claims that a state has drawn district lines on the basis of race.” 515 U.S. at 915–16. The *Miller* Court held that a plaintiff’s burden in a challenge to a reapportionment case on the basis of race is to show that “race was the predominant factor” motivating the placement of a significant number of voters “within or without a particular district” and that the legislature subordinated race neutral districting principles to “racial considerations.” *Id.* at 916. If a plaintiff meets that burden, the challenged district may survive only if the state can demonstrate a compelling state interest and that any predominant use of race was narrowly tailored to meet that compelling state interest. See *Wisconsin Legislature v. Wisconsin Elections Commission*, 142 S. Ct. 1245, 1248 (2022); *Cooper*, 137 S. Ct. at 1464; *Hunt*, 526 U.S. at 547.

The Supreme Court has relied upon the predominance standard repeatedly in challenges to state redistricting plans and explained the highly sensitive nature of federal court review of such a core state function mandates such a rigorous standard. While *Arlington Heights* has been cited in Supreme Court redistricting cases to describe the type of circumstantial evidence that could establish

discriminatory intent,¹⁹ the Supreme Court's redistricting cases have not varied from *Miller's* requirement of a predominance standard. Consequently, the Court finds that a determination that race was "a motivating factor" (but not the predominant factor) in regard to a challenged state redistricting plan would not be sufficient to sustain a claim under the Fourteenth or Fifteenth Amendments.

6. The proper standard for establishing racially discriminatory intent in a challenge to a legislative reapportionment plan is the predominance standard set forth in *Miller*. Applying the *Miller* standard to Plaintiffs' Count Two claims and relying upon the same findings of fact and reasoning set forth above regarding Count One, the Court finds that race was the predominant factor motivating the General Assembly's design of Congressional District No. 1, and Defendants have made no showing that they had a compelling state interest in the use of race in the design of Congressional District No. 1. Consequently, Plaintiffs are entitled to judgment as a matter of law regarding their claim of racially discriminatory intent asserted in Count Two of the Third Amended Complaint concerning Congressional District No. 1.

7. Based upon the *Miller* standard and the findings of fact and reasoning set forth above regarding Count One, Plaintiffs have failed to carry their burden to prove that race was the predominant factor in the design of Congressional District Nos. 2 and 5. Consequently, Defendants are entitled to judgment as a matter of law regarding the claims of

¹⁹ *E.g.*, *Cooper*, 137 S. Ct at 1479; *Miller*, 515 U.S. at 905; *Shaw*, 509 U.S. at 643.

racially discriminatory intent under Count Two of the Third Amended Complaint concerning Congressional Districts Nos. 2 and 5.

8. Plaintiffs have not provided an alternative map that provides a remedy to the constitutional defects of Congressional District No. 1. Sometimes, a plaintiff in a redistricting case must present an alternative map to demonstrate, as a practical matter, that his or her remedy is possible. It is well settled, however, that plaintiffs are not forced in Equal Protection cases to produce “one particular form of proof to prevail.” *Cooper*, 137 S. Ct. at 1479. In this matter, it is apparent to the Court that a constitutionally compliant plan for Congressional District No. 1 can be designed without undue difficulty, and it was thus not necessary for Plaintiffs to present an acceptable alternative map to prevail on their claims.

9. Upon a finding that a challenged legislative district is unconstitutional, it is well settled that the legislature should be given a reasonable opportunity to recommend for consideration a remedial plan that meets constitutional standards. *Wise v. Lipscomb*, 437 U.S. 535, 540 (1978). To that end, the Court will provide the Defendants the opportunity to submit a remedial plan to the Court on or before March 31, 2023.

10. Where a “legislative apportionment scheme has been found to be unconstitutional, it would be the unusual case in which a court would be justified in not taking appropriate action to insure that no further elections are conducted under an invalid plan.” *Reynolds v. Sims*, 377 U.S. 533, 585 (1964). Plaintiffs seek for the Court to permanently enjoin Defendants

from conducting any election under the 2022 plan until a legally compliant remedial plan is adopted. (Dkt. No. 267 at p. 48). To obtain a permanent injunction, Plaintiffs must satisfy a four-factor test before a court may grant such relief. Plaintiffs must demonstrate: (1) that they have suffered irreparable harm absent the injunction; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that the balance of equities tips in their favor; and (4) that such an injunction would serve the public interest. *eBay, Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006); *see also Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 31–33 (2008).

Absent a permanent injunction in this case, Plaintiffs will suffer irreparable harm that cannot be remedied at law. Under the state’s 2022 plan, Congressional District No. 1 is a racial gerrymander in violation of Plaintiffs’ rights under the Equal Protection Clause of the Fourteenth Amendment. Until a legally compliant remedial plan is adopted, Plaintiffs will continue to experience this serious ongoing constitutional injury. *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) (“Courts routinely deem restrictions on fundamental voting rights an irreparable injury.”). Only an injunction mandating a new redistricting plan, not monetary damages, may remedy Plaintiffs’ injury. With respect to the remaining factors, the balance of equities tips in favor of Plaintiffs and an injunction best serves the public interest.

Consequently, the Court hereby enjoins the conducting of an election under Congressional District No. 1 until a constitutionally valid apportionment

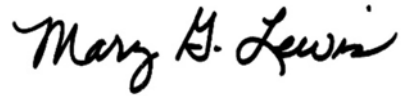
plan is approved by this Court. *See Johnson v. Miller*, 864 F. Supp. 1354, 1393 (S.D. Ga. 1994), *aff'd and remanded Miller v. Johnson*, 515 U.S. 900 (1995).

Conclusion

Based on the foregoing, the Court declares Congressional District No. 1 a violation of Plaintiffs' rights asserted in Counts One and Two of the Third Amended Complaint and enters judgment for Plaintiffs. Elections in Congressional District No. 1 are enjoined until further order of this Court. The Court enters judgment for Defendants regarding Plaintiffs' claims against Congressional District Nos. 2 and 5 under Counts One and Two of the Third Amended Complaint and enters judgment for Defendants regarding those claims. The South Carolina General Assembly may present the Court with a remedial map for consideration on or before March 31, 2023.

AND IT IS SO ORDERED.

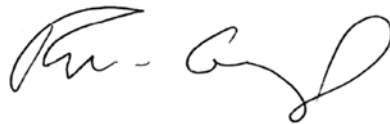
49a



Mary Geiger Lewis
United States District Judge



Toby J. Heytens
United States Circuit Judge



Richard M. Gergel
United States District Judge

January 6, 2023
Charleston, South Carolina

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

THE SOUTH
CAROLINA STATE
CONFERENCE OF
THE NAACP, *et al.*,
Plaintiffs,

v.

THOMAS C.
ALEXANDER, *et al.*,
Defendants.

Case No. 3:21-cv-03302-
MGL-TJH-RMG

DEFENDANTS'
NOTICE OF APPEAL

Notice is hereby given that Defendants Thomas C. Alexander, Luke A. Rankin, G. Murrell Smith, Jr., Chris Murphy, Wallace H. Jordan, Howard Knapp, John Wells, JoAnne Day, Clifford J. Elder, Linda McCall, and Scott Moseley appeal to the Supreme Court of the United States from the Findings of Fact and Conclusions of Law (Dkt. 493) entered in this case on January 6, 2023.

This appeal is taken under 28 U.S.C. § 1253.

January 27, 2023 Respectfully submitted,
Columbia,
South Carolina

/s/Robert E. Tyson, Jr.
Robert E. Tyson, Jr. (7815)
Vordman Carlisle Traywick, III
(12483)
La'Jessica Stringfellow (13006)

ROBINSON GRAY STEPP &
LAFFITTE, LLC
Post Office Box 11449 (29211)
Columbia, South Carolina 29201
(803) 929-1400
rtyson@robinsongray.com
ltraywick@robinsongray.com
lstringfellow@robinsongray.com

John M. Gore
(admitted *pro hac vice*)
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
Phone: (202) 879-3939
Fax: (202) 626-1700
jmgore@jonesday.com

Counsel for Senate Defendants

/s/ Mark C. Moore
Mark C. Moore (Fed. ID No. 4956)
Jennifer J. Hollingsworth
(Fed. ID No. 11704)
Hamilton B. Barber
(Fed. ID No. 13306)
Michael A. Parente
(Fed. ID No. 13358)
NEXSEN PRUET, LLC
1230 Main Street, Suite 700
Columbia, SC 29201
Telephone: 803.771.8900
MMoore@nexsenpruet.com
JHollingsworth@nexsenpruet.com
HBarber@nexsenpruet.com
MParente@nexsenpruet.com

William W. Wilkins
(Fed. ID No. 4662)
Andrew A. Mathias
(Fed. ID No. 10166)
Konstantine P. Diamaduros
(Fed. ID No. 12368)
NEXSEN PRUET, LLC
104 S. Main Street, Suite 900
Greenville, SC 29601
Telephone: 864.370.2211
BWilkins@nexsenpruet.com
AMathias@nexsenpruet.com
KDiamaduros@nexsenpruet.com

Rhett D. Ricard
(Fed. ID No. 13549)
NEXSEN PRUET, LLC
205 King Street, Suite 400
Charleston, SC 29401
Telephone: 843.720.1707
RRicard@nexsenpruet.com

Counsel for House Defendants

/s/ Jane W. Trinkley

M. Elizabeth Crum
(Fed. Bar #372)
Jane W. Trinkley
(Fed. Bar #4143)
Michael R. Burchstead
(Fed. Bar #102967)
BURR & FORMAN LLP
Post Office Box 11390
Columbia, SC 29211
Telephone: (803) 799-9800
Facsimile: (803) 753-3278

53a

Thomas Wells Nicholson
(Fed. Bar #12086)
tnicholson@elections.sc.gov
SOUTH CAROLINA
ELECTION COMMISSION
1122 Lady St., 5th Floor,
Columbia, S.C. 29250
Telephone: 803-734-9063
Facsimile: 803-734-9366
*Attorneys for Election
Commission Defendants*

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

- - -

THE SOUTH	:	3: 21-cv-03302-MGL-
CAROLINA STATE	:	TJH-RMG
CONFERENCE OF	:	
THE NAACP, <i>et al.</i>	:	OCTOBER 3 – 14, 2022
Plaintiffs,	:	
v.	:	VOLUME I
THOMAS C.	:	
ALEXANDER, <i>et al.</i> ,	:	(PAGES 1 – 265)
Defendants.	:	

- - -

TRANSCRIPT OF BENCH TRIAL PROCEEDINGS
BEFORE THE HONORABLE PANEL:
HONORABLE MARY GEIGER LEWIS,
HONORABLE TOBY J. HEYTENS,
HONORABLE RICHARD M. GERGEL,
UNITED STATES DISTRICT COURT JUDGES

- - -

* * *

Page 42

JUDGE GERGEL: Thank you. I have a couple of questions, if I could, to clarify.

MS. ADEN: Yes, your Honor.

JUDGE GERGEL: I noticed — we noticed that CD 6 in the 2022 enactment has a lower BVAP than 2012. First of all,

Page 43

is there a challenge to CD 6?

MS. ADEN: There is no challenge to CD 6.

JUDGE GERGEL: And what is the explanation for the lower BVAP?

MS. ADEN: In the record? Potentially the need to move voters between — to readjust apportionment between CDs 1 and 6. But as our experts and fact witnesses will show, one would think that if you reduce black voting population in that district, you would see it show up in other areas of the state. But what you'll hear from Dr. Duchin later this morning, that of certain districts — CD 7 is one, I believe, CD 5 or 2 — the black voting age population is completely stagnant, and you don't see it show up in other districts. So, that is what is emblematic of the cracking, the disbursement of black voters, outside of CD 6 to 1, to 2, 5, and so forth.

* * *

APPENDIX E

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

- - -

THE SOUTH	:	3: 21-cv-03302-MGL-
CAROLINA STATE	:	TJH-RMG
CONFERENCE OF	:	
THE NAACP, <i>et al.</i>	:	OCTOBER 3 – 14, 2022
Plaintiffs,	:	
v.	:	VOLUME II
THOMAS C.	:	
ALEXANDER, <i>et al.</i> ,	:	(PAGES 266 – 532)
Defendants.	:	

- - -

TRANSCRIPT OF BENCH TRIAL PROCEEDINGS
BEFORE THE HONORABLE PANEL:
HONORABLE MARY GEIGER LEWIS,
HONORABLE TOBY J. HEYTENS,
HONORABLE RICHARD M. GERGEL,
UNITED STATES DISTRICT COURT JUDGES

- - -

* * *

Page 348

the story when it comes to the prospect for effective representation. So, very standard technique in the analysis of redistricting plans is to look at past elections and see what would have happened if you reran those past elections in new districts. So, that's

what I do here. It's common technique in the literature. This is sometimes called "reconstituted election analysis." But it's really very simple. I have the election results precinct by precinct around the state. I can look at a new district and I can see who got more votes, the candidate of choice of Black voters or their opponent.

Q. And in this section, how are you defining electoral opportunity?

A. Okay. So, I mentioned a moment ago that there are four particular elections that were identified for me by counsel as especially probative, or giving especially strong evidence of the preferences of Black voters. And so, these were not selected by me, they were selected, as I understand it, from the analysis of another expert, who performed a racial polarization analysis. But I would like to emphasize this is the kind of analysis I often perform elsewhere. Here, we have four races. And we can bring up Table 6 maybe to show what those —

MS. ADEN: Table 6 is on page 25 of PX-67. The one above that, please. Thank you.

* * *

Page 473

crossover voting. But looking back, before this congressional analysis, I did work, as I think you know, on the State House map, where the districts are smaller. And that gave me the occasion to look at the relationship between BVAP and voting patterns all across the state. And I actually found significant incidents of crossover voting in many parts of the state.

Q. And for a crossover voter who votes for the Black preferred candidate, their preferred candidate loses whenever the Black preferred candidate loses, right?

A. Right. Let me just make sure I'm unpacking that correctly. If you have a White person who votes for the Black preferred candidate in a situation with polarization, and the Black preferred candidate loses, then it follows chronologically that that White voter's preference was not actualized.

Q. And all of the candidates in these elections, the Black preferred candidates are all Democrats, correct?

A. That's true.

Q. So, any voter who voted for the Democratic candidate, where the Democratic candidate loses, also doesn't see their preferred candidate prevail, correct?

A. Yes. But, sounds like a logical syllogism, and it is. So, if you didn't vote for the candidate who won, then you didn't get your preference reflected in the outcome.

Page 474

Q. And that's all true, regardless of the race of the voter, correct?

A. Definitely true.

Q. Let's go now to page 26 of your first report. And we'll talk about these nine other elections that you analyzed.

A. Yes.

Q. And did you conduct an RPV analysis for these elections?

A. I did not conduct any RPV analysis for this case.

Q. But you would agree that the Black preferred candidate in each of these elections is the Democratic candidate?

A. Yes, I would. That's my understanding.

Q. And here on page 26, you're comparing performance of plans against the ensemble plans, correct?

A. Well, yes, and implicitly against each other, since the figure shows the collection of 11 publicly submitted plans and the ensemble.

Q. And the ensemble plans are drawn to be politically neutral, they don't consider politics, correct?

A. That's right. They're drawn in a neutral fashion.

Q. So, would you, in your experience, expect that politically neutral ensemble plans would generate more wins for Democratic candidates than, say, a plan that was drawn to help Republicans?

A. If the plan was drawn with some skill to help Republicans, then it would probably be more favorable to

* * *

APPENDIX F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

- - -

THE SOUTH	:	3: 21-cv-03302-MGL-
CAROLINA STATE	:	TJH-RMG
CONFERENCE OF	:	
THE NAACP, <i>et al.</i>	:	OCTOBER 3 – 14, 2022
Plaintiffs,	:	
v.	:	VOLUME III
THOMAS C.	:	
ALEXANDER, <i>et al.</i> ,	:	(PAGES 533 – 798)
Defendants.	:	

- - -

TRANSCRIPT OF BENCH TRIAL PROCEEDINGS
BEFORE THREE-JUDGE PANEL:
HONORABLE MARY GEIGER LEWIS,
HONORABLE TOBY J. HEYTENS,
HONORABLE RICHARD M. GERGEL,
UNITED STATES DISTRICT COURT JUDGES

- - -

* * *

Page 552

MR. CUSICK: Sure. Thank you.

BY MR. CUSICK:

Q. Dr. Liu, I now want to discuss your role in this case. In looking at page two of your report, what were

the three questions that you were asked to assess?

A. I was asked to provide testimony on three areas: First, whether there is a pattern of racially polarized voting in the state of South Carolina.

Second, I was asked to analyze the competing redistricting plans in terms of the effectiveness in protecting the minority voters — in this case, black voters — to have the opportunity to elect candidates of their choice.

And finally, I was also asked to do an analysis about the role of race as opposed to the role of party.

Q. And I'll take these questions in turn. Dr. Liu, briefly tell the Court, what was your conclusion for your racially polarized voting analysis?

A. That there is a pattern of racially polarized voting in not only congressional elections, but also other elections in South Carolina.

Q. And going forward, if I refer to it as "RPV," you understand what I'm referring to?

A. Yes. It's a very common expression.

Q. And turning to the second question, what was your

* * *

Page 554

Q. And is your definition of racially polarized voting consistent with other experts in the field?

A. Yes. I'm using the same method that is very common in all the litigations concerning voting rights cases.

Q. And, numerically, what do you mean by a majority of Black voters when you refer to it in an RPV analysis?

A. I use a simple threshold that is 50 percent plus one.

Q. And how is Black preferred candidate defined?

A. The BPC, or Black preferred candidate, is empirically operationalized by looking at how Black voters choose their candidate. And if that candidate is reflected by 50 percent plus one, then that's the preferred candidate for the Black voters.

Q. And at a very high level, could you briefly describe the RPV methodology that you used in this case?

A. Sure. The methodology I have used to analyze RPV is called "ecological inference," which is a quantitative method developed by a Harvard professor named Gary King.

Q. And do you commonly use economical inference when you've conducted RPV analyses in other cases?

A. Yes. This is the most common methodology used by expert witnesses in all voting rights litigations.

Q. What data did you rely upon for your RPV analysis?

A. There are two mainly sources of data: One is the election returns at precinct levels, and the other is the

* * *

APPENDIX G

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

- - -

THE SOUTH	:	3: 21-cv-03302-MGL-
CAROLINA STATE	:	TJH-RMG
CONFERENCE OF	:	
THE NAACP, <i>et al.</i>	:	OCTOBER 3 – 14, 2022
Plaintiffs,	:	
v.	:	VOLUME VI
THOMAS C.	:	
ALEXANDER, <i>et al.</i> ,	:	(PAGES 1327 – 1610)
Defendants.	:	

- - -

TRANSCRIPT OF BENCH TRIAL PROCEEDINGS
BEFORE THREE-JUDGE PANEL:
HONORABLE MARY GEIGER LEWIS,
HONORABLE TOBY J. HEYTENS,
HONORABLE RICHARD M. GERGEL,
UNITED STATES DISTRICT COURT JUDGES

- - -

* * *

Page 1352

***WILLIAM FRANCIS ROBERTS, JR., having
first been called as a witness, was duly sworn
and testified as follows:***

MR. GORE: Your Honor, may I approach?

JUDGE GERGEL: You may.

MR. GORE: Your Honor, I just handed to the Bench and to Mr. Roberts a binder with some hard copies of maps that we'll be discussing during Mr. Roberts' testimony. I've also provided a copy of this binder to plaintiffs' counsel.

JUDGE GERGEL: Thank you.

DIRECT EXAMINATION

BY MR. GORE:

Q. Mr. Roberts, we've heard your name a lot this week, but do you mind introducing yourself to the Court?

A. Good morning. My name is Will Roberts.

Q. And can you move the microphone a little closer to you?

A. Is that better?

Q. Yes. What is your current professional position?

A. I am currently the director of legislative cartography for the South Carolina Legislative Council.

Q. And how long have you been in that position?

A. A little over four months.

Q. What are your responsibilities in that position?

A. I create maps for drafting purposes for legislation to go through the legislative process. These maps would include voting precinct changes as well as local redistricting for school boards.

Q. And what was your prior professional position?

A. Before taking the position with the legislative council,

Page 1354

I was the Senate cartographer.

Q. How long did you hold that position?

A. About two and a half years.

Q. What were your responsibilities in that position?

A. Same as it was with the legislative council, which would be drafting maps for introduction into the legislative process, then redistricting maps of school boards, as well as the State Senate, State Congressional, and redrawing voting precincts.

Q. Who hired you for that position?

A. I was hired by Andy Fiffick.

Q. And what's Mr. Fiffick's title?

A. He is chief of staff of Senate Judiciary.

Q. Were you hired specifically in connection with the post-2020 redistricting?

A. Yes. I was hired as the cartographer to draw the Senate and Congressional District maps.

Q. As Senate cartographer, were you involved in the Senate's redistricting efforts following release of the 2020 census data?

A. Yes. I drafted maps for members. That would include the Senate plans as well as Congressional plans.

Q. Do you understand that this lawsuit is a challenge to the Congressional Plan adopted by the General Assembly in January of this year?

A. Yes.

Q. Did you draw that map on behalf of the General Assembly?

A. Yes.

Q. I'm going to refer to that plan today as "the enacted plan" or "Senate Amendment 1." Does that work for you?

A. Yes.

Q. Before we discuss it, though, I'd like to get some more questions about your background. Where were you born?

A. I was born in Columbia, South Carolina.

Q. Where do you live now?

A. I currently reside in Irmo, South Carolina.

Q. Have you lived in South Carolina your entire life?

A. All 42 years.

Q. Will you give the Court a brief overview of your educational background after high school.

A. After high school, I went off to college. I actually attended Charleston Southern University for a year, located in North Charleston. I ended up moving back up to Columbia and then graduated from the University of South Carolina in 2003 with a degree in geography with emphasis on GIS and remote sensing techniques.

Q. Do you have any credits towards a master's degree?

A. I've got three credit hours from Clemson University towards a master's in public administration.

Q. When did you start working as a GIS professional and

Page 1356

cartographer?

A. I was hired by Bobby Bowers with the — back then it was called the Office of Research and Statistics. Later on it was renamed the Revenue of Fiscal Affairs Office. And so, that was around January of 2000. I had a part-time position there and then was offered a full-time position after I graduated USC in 2003.

Q. What were your job responsibilities at Revenue and Fiscal Affairs?

A. My job responsibilities included creating maps for introduction to the legislature for the legislative process, voting precincts, and redistricting for school boards, as well as redistricting local governments around South Carolina.

Q. Who was your boss at the end of your time at Revenue and Fiscal Affairs?

A. That was Frank Rainwater.

Q. During your time at Revenue and Fiscal Affairs, how many jurisdictions did you draw redistricting plans for?

A. I'd say in between 75 to a hundred jurisdictions across South Carolina.

Q. Did you ever conduct a racially polarized voting analysis while you were drawing any of those plans?

A. No.

Q. And are you aware whether anyone else conducted a racially polarized voting analysis in connection with the

Page 1357

drawing of those plans?

A. No.

Q. Have you ever drawn any redistricting plans in any other state?

A. Yes. After the 2010 census release, Bobby Bowers and I did some consulting work up in North Carolina. It was probably about three or four municipalities in one county up there.

Q. Have you ever assisted a court in any redistricting cases?

A. Yes. Two court cases, I've been appointed as technical advisor. The first one was going to be in the *Backus* case. It was after the 2010 legislation. I worked with Judge Floyd, Judge Seymour and Judge Duffy on that case. The second one, I was a technical advisor with Judge Gergel on a Jasper County School District case in which Judge Gergel actually came up to Columbia and we had a nice conversation, sat down and drew a map that the school district currently operates under today.

There's two other cases in which we were involved with the Court, but not technical advisors, and that was a Colleton County School District case in which we met with Judge Duffy, talked to him about the problems going on with that one. And then also there was a Georgetown County School District case in which and the Justice Department sued the school

district, and Bobby and I were tasked with mediating a remedy to that

Page 1358

situation by the legislative delegation for Georgetown County at that time. And so, we worked out a compromise, and that was put in a consent decree and signed by the judge.

Q. What do you consider your professional specializations?

A. I'd say redistricting, GIS, cartography and geography, especially South Carolina geography.

Q. Have you ever drawn redistricting plans for Sumter?

A. Yes, I have. I've drawn county council in around 2001 as well as 2011.

Q. Have you ever drawn any redistricting plans for Charleston?

A. I have drawn plans for the City of Charleston after the 2010 census release.

Q. During your time at Revenue and Fiscal Affairs, did you serve as a state certifying official for municipal and county annexations for the U.S. Census?

A. Yes, I did. On a yearly basis we would get a report from the Census Bureau of all annexations that had been sent up there. As part of the review, we would sign off to make sure that we received those annexations at the state level. Annexations are required to go to three different places — well, actually four: The secretary of state receives a copy, the South Carolina Department of Transportation

receives a copy, and the secretary of state receives a copy, as well as Revenue and Fiscal Affairs.

Page 1359

Q. And through your experience as a cartographer in South Carolina, have you become familiar with city and town boundaries in the state?

A. Extremely familiar.

MR. GORE: Can we pull up Plaintiffs' Exhibit 67 and go to page 21.

BY MR. GORE:

Q. Mr. Roberts, can you see that map on your screen?

A. Yes, I can.

Q. We've heard testimony that those red lines are the boundaries of the city of Sumter. Are these lines an accurate representation of the city of Sumter lines?

A. No, they're not.

Q. Will you point out any inaccuracies you see?

A. Yes, sir. So the line following —

MR. CUSICK: Objection, your Honor, to the extent that this is being offered as an expert opinion to rebut Dr. Duchin's report. We understand he can testify to the actual lines, but I'm not sure —

JUDGE GERGEL: Well, I think this is a factual issue, and I overrule that. I think he can testify as to a fact. He knows he's not offering an opinion, he's offering a fact. He apparently knows the city lines. So I overrule that objection.

Proceed, Mr. Gore.

Page 1360

MR. GORE: Thank you, your Honor.

BY MR. GORE:

Q. Mr. Roberts, will you continue?

A. Certainly. So, I'm going to try to draw this line on here. So, this right here is the Clarendon/Sumter County boundary. And this area right here that I just circled, that is what they depict as the city limit line of the city of Sumter. The city limit line of Sumter comes nowhere close to the boundary between Sumter County and Clarendon County.

Q. Mr. Roberts, did you embed the city lines into the version of the enacted map that you placed on the Senate redistricting website?

A. Could you repeat that question?

Q. Did you depict city lines in the maps of the enacted plan that you generated and placed on the website?

A. Yes. On the enacted map there are the city limit lines according to the 2020 Census data that was released prior to the release of the PL94171 database.

JUDGE GERGEL: Mr. Roberts, if you could pull the microphone a little closer to you. Thank you.

MR. GORE: Can we get Senate Exhibit 29b side by side here? And would it be possible on 29b to zoom in on the Sumter area? Thank you.

BY MR. GORE:

Q. Mr. Roberts, looking at this zoomed-in focus of the city

Page 1361

of Sumter, can you point out to the Court where the city lines are on this map?

A. Certainly. I'm going to start out with the Sumter Clarendon County boundary that I just drew. So,

that's going to be this line coming down through here. And the city of Sumter is located up here. As you can see, there is no line in this area for the city of Sumter municipal limits.

MR. GORE: Can we zoom back out of this and go back?

JUDGE GERGEL: Can we slow down a second? I see these lines — I'm sorry. If we go back to the zoom, I was just trying to make sure I saw what I was looking at. Can we go back to where we were there? Thank you.

There are these black lines in Sumter County. Is that the city of Sumter, those thin black lines, Mr. Roberts?

THE WITNESS: Yes, sir. So, the city of Sumter would be the black lines up in here.

JUDGE GERGEL: Right.

THE WITNESS: Yes, sir, that's correct.

JUDGE GERGEL: So, the city is split?

THE WITNESS: Yes, sir, it is split.

JUDGE GERGEL: Okay. And, you know, this other map, which unfortunately is not apparently accurate, what is the — I'm trying to figure out is there a racial division of the city, a racial division of the county? I'm just trying to figure that out.

Page 1362

THE WITNESS: I couldn't speak to that because we didn't look at race when we made the cuts in Sumter.

JUDGE GERGEL: You don't know that?

THE WITNESS: I do not — I do not know what the changes were, no, sir.

JUDGE GERGEL: Okay. But you know the general population of the city of Sumter?

THE WITNESS: Not off the top of my head, no, sir.

JUDGE GERGEL: Okay. Very good.

MR. GORE: Thank you. All right. So, if we can zoom out of that and return on the left-hand side in Plaintiffs' Exhibit 61, and can we go to page 19? If it's easier we can close out the side by side. Great.

BY MR. GORE:

Q. So, Mr. Roberts, the red lines here have been represented as the city lines for the city of Columbia. Are they an accurate representation of the city lines of the city of Columbia?

A. No, they are not.

Q. Will you point out any inaccuracies you see there?

A. On the map that this shows, it shows the city limit lines running all the way up to the Fairfield/Richland County boundary. And that is not an accurate depiction of the city of Columbia city limits.

MR. GORE: And can we take down this one and get back

Page 1363

to 29b? Can we zoom in a little closer on Columbia?

BY MR. GORE:

Q. And, Mr. Roberts, can you indicate to the Court where the Columbia city lines are here?

A. So, the city of Columbia lines are going to be located generally in this area here and run out to Fort

Jackson, around Fort Jackson up through the Wood Creek subdivision, down through there and then back down towards this way.

Q. Do the city of Columbia lines extend to the Richland Fairfield County line?

A. No, they don't.

MR. GORE: And let's go back now to Plaintiffs' Exhibit 67.

JUDGE GERGEL: Can I just interrupt to make sure I understand? I take it you don't know the racial data on the city of Columbia either, correct?

THE WITNESS: That's correct, sir.

JUDGE GERGEL: But you're telling us the city of Columbia is split?

THE WITNESS: Yes, sir.

JUDGE GERGEL: Thank you. Okay.

MR. GORE: If we can go back to Plaintiffs' Exhibit 67, the report, on page 17.

BY MR. GORE:

Q. Mr. Roberts —

Page 1364

JUDGE GERGEL: Remind me where this came from.

MR. GORE: This is Dr. Duchin's report.

JUDGE GERGEL: Yeah. I mean, I'm satisfied. I mean, I know Mr. Roberts, he's a very precise guy.

MR. GORE: Sure.

JUDGE GERGEL: What I want is if that report isn't accurate — and I'm persuaded if he tells me it's not, that's good enough for me — we do need this kind

of data ourselves to assess the allegations and the defenses, you know?

MR. GORE: Sure.

JUDGE GERGEL: And, if this isn't accurate — and I'm satisfied it's not — then we need to figure out a way in which the Court gets accurate data on this.

MR. GORE: Yeah.

JUDGE GERGEL: Because, just because the lines are wrong doesn't mean the premise is wrong — or right, for that matter. And was there a racial division of these communities? And, if so, you know, obviously he's here to provide alternative explanations, but we need to know accurately what it is.

MR. GORE: We agree, your Honor. Let me ask a couple more questions.

JUDGE GERGEL: Good.

MR. GORE: And then I think we'd be happy to work with the Court and plaintiffs' counsel to get the data that

Page 1365

the Court needs.

JUDGE GERGEL: Thank you very much.

BY MR. GORE:

Q. The questions I wanted to ask about this, without belaboring the point, Mr. Roberts, is: Are these the accurate city lines for Charleston and North Charleston?

A. No, they're not.

Q. Will you explain, or point out to the Court, any inaccuracies you see?

A. So, one of the inaccuracies for the city of Charleston is going to be this tail down here. That's almost out to Kiawah Island. The city of Charleston limits does not run that far out to the southwest of Charleston.

Another one for North Charleston is going to be this appendage up here in Berkeley County. There's only one census block that's in Berkeley County that's in the city of North Charleston, and it's actually a shopping center. And it would not be that large on a map.

Q. Mr. Roberts, I think you mentioned —

JUDGE GERGEL: Let me stop you just for a second to make sure whether we're on a wild goose chase or not.

In the city of Charleston, is there a split of the city of Charleston between CD 1 and CD 6?

THE WITNESS: Yes, there is.

JUDGE GERGEL: And is there a split of North

Page 1366

Charleston between CD 1 and CD 6?

THE WITNESS: Yes, there is.

JUDGE GERGEL: Okay. Thank you.

BY MR. GORE:

Q. And, Mr. Roberts, I think you mentioned before that various government entities keep track of the municipal boundaries; is that right?

A. That's correct.

Q. And are those publicly available or accessible in some format from those entities?

A. Yes. The U.S. Census Bureau provides the data that we rely upon for municipal boundaries. The South Carolina Department of Transportation also keeps geographic files of the municipal boundaries that they receive annexations for.

Q. Thank you. Moving on to the next area, I'd like to ask you some questions about the redistricting process following the release of the 2020 census data.

What were your primary responsibilities this cycle?

A. To draw maps and answer requests from members of the legislature regarding maps.

Q. Did you attend any of the public hearings that the Senate Redistricting Committee held in July and August of 2021?

A. I believe I attended all of them.

Q. What do you recall about those meetings?

A. There was really a lot of people complaining, complaining

Page 1367

about the process, a lot of people asking for the maps to be drawn politically fair. We didn't — from a cartography standpoint, we didn't get a lot of information that we were looking for such as communities of interest. You know, there was a lot of talk about the Lowcountry, but no one would give me the actual geographic area of what they considered the Lowcountry.

What I might consider the Lowcountry, Mr. Gore, you might have a different opinion of what the Lowcountry is. But very rarely do we get any information of what these communities of interest were or are according to geographic boundaries that I

could relate to a map. We did have — some of that information came in. One area was in York County. They called it the Saluda Road Corridor. And I'll never forget, a lady stood up and started naming off road names, and it was something that we could actually put a physical boundary on. We also had a gentleman in Orangeburg talk about the Limestone area of Orangeburg County and the precincts up there. We also had testimony about the Gullah Geechee community in which they actually named islands that we could put geographic boundaries on. But a lot of testimony was really just open ended. And from a cartographic standpoint, it was hard to figure out what communities of interest these folks were talking about.

Q. Did you hear any testimony about the Sun City communities of interest?

Page 1368

A. Yeah. Sun City, we had a pretty good amount of testimony on Sun City. And I've worked with Judge Gergel on that area with Jasper County School District. But that is an area that we did hear testimony on, wanting to be part of the 1st Congressional District.

Q. Do you recall approximately when the 2020 Census data was released?

A. It was August of 2021.

Q. Was that on time?

A. No. It was delayed from the original release schedule, which would have been early spring, due to the COVID pandemic.

Q. At some point during the process, did you become aware that this Court had set a timeline for the General Assembly to enact a Congressional Plan?

A. Yes. I knew there was a timeline, but I couldn't tell you what the date was. But we were under pressure to get a Congressional Plan done.

Q. And notwithstanding those time constraints, were you able to do a thorough and professional job drawing the map?

A. Yes.

Q. So, will you walk through the timeline for drawing the congressional map starting in 2021?

A. As soon as we got the data, we hit the ground running working on the Senate districts. The first thing we did was create the benchmark map of the Senate districts and started

Page 1369

looking at the population deviations of the districts and trying to get an idea of who needed to move where. We started reaching out to members, getting feedback on how they wanted to see their Senate districts drawn; wanted to get their input on their communities of interest and what they wanted to see on a map.

After meeting with the Senate members, we developed the staff plan and got the ball rolling that allowed members to offer amendments, if they wanted to, to that staff plan. And once we got to a point where we were comfortable with the map, and the General Assembly seemed to be comfortable with the map, we turned our focus to congressional redistricting. And that would have been about mid November of 2021.

Q. First, you completed the work on Senate redistricting, and then you went to congressional redistricting; is that right?

A. Yes.

Q. As a Senate cartographer, were you a nonpartisan staffer?

A. Yes.

Q. Did the Senate have a policy about who you would draw maps for?

A. Senator Rankin had an open-door policy with the map room. Literally, an open-door policy. And we would have members come and stop by all the time. Senator John Scott was two doors from us, and he would drop in all the time just to check

Page 1370

on how we were doing or to give us suggestions on what he wanted to see in the map-drawing process. But we really had an open-door policy drawing for every member of the Senate.

Q. And were those visits in person about the Senate Plan or the Congressional Plan?

A. They were the Senate Plan.

Q. And you mentioned Senator Rankin. Was he chair of the redistricting subcommittee?

A. Yes, he was.

Q. Did you draw maps only for senators who personally visited the map room?

A. No. We would get requests through Andy Fiffick from different members on how they wanted to see the maps drawn, and we would honor those requests and produce the maps for them.

Q. Were senators generally aware of the policy that you were available to draw maps for any senator?

A. Yes. I had numerous phone calls during the Senate redistricting on my personal cellphone as well as e-mails.

Q. Did you meet with every senator regarding senate redistricting?

A. I believe so. There might have been one or two that we did not meet with, but pretty much everybody.

Q. Did that include Senator Margie Bright Matthews?

A. Yes, multiple times.

Page 1371

Q. And what was Senator Bright Matthews' interest in senate redistricting?

A. She was really looking out for her area of the state and just trying to give input on the way she wanted to see her district and keep her communities whole. She was really a pleasure to work with.

Q. Have you worked with Senator Bright Matthews on other matters?

A. Yes, I have. I've worked with her on Colleton County School District redistricting as well as Jasper County School District redistricting.

Q. And would you have been eager to work with Senator Bright Matthews on congressional redistricting if she had approached you?

A. Yes.

Q. Did you ever meet with Senator Harpootlian about Senate Plan redistricting?

A. We spoke briefly in passing, but he never came to the map room and never reached out to me personally.

Q. And did he have any interest in the Senate redistricting?

A. He did. And we met with him during the Senate redistricting process. We met with him in Room 603 of the Gresset building, which was really the meeting room where we would meet with members. So, it wasn't inside the actual map room where the computers were. And Senator Harpootlian came

Page 1372

in and told us to blow his district up, that he didn't need a district, that he had an embassy.

Q. And what did you understand him to mean when he said that?

A. We understood that he wasn't looking for running for reelection, that, you know, if we needed to move his district, that we could.

JUDGE GERGEL: And the reference, for the record, was the Ambassador of Slovenia.

BY MR. GORE:

Q. How would you describe the Senators' interest level in Senate redistricting compared to Congressional redistricting?

A. Oh, wow. Everybody cared about Senate redistricting. I mean, I was getting phone calls late at night asking, you know, how is the plan going, where are we at, has anything changed in my district? And when it came to Congressional redistricting, we got no feedback. There was no one calling, asking about the process, that I can remember. And it was really no

contact with members. No one wanted to talk about Congressional redistricting.

Q. Was there a confidentiality policy for maps you drew during the Congressional redistricting process on behalf of members?

A. Yes. We take that confidentiality extremely strict when we're talking about proposed legislation with members,

Page 1373

especially during the redistricting process. And typically, if we had a request come in from a member, we would not divulge that information to another member without express consent from the member that requested it.

Q. So, even though Senator Rankin chaired the subcommittee, did you ever share maps with him without permission from the requesting senator?

A. Not that I can recall, no.

Q. Is that confidentiality policy followed for all legislation and amendments you work on?

A. It is.

Q. Now, we have heard testimony that Senator Harpootlian hired his own map drawer for congressional redistricting. Would you have drawn Senator Harpootlian's plan for him if he had asked?

A. Certainly, yes.

Q. And would you have abided by the confidentiality policy with respect to that map?

A. Yes.

Q. Mr. Roberts, who was on the core team for redistricting in the Senate process?

A. That would have been Charlie Terrine, who was outside counsel; Andy Fiffick, who is chief of staff of Senate Judiciary; Paula Benson, who is a staff attorney; Breeden John, who is also a staff attorney; and myself.

Page 1374

Q. What was Mr. Terrine's role?

A. He was outside counsel.

Q. What was Mr. Fiffick's role?

A. He was chief of staff for Senate Judiciary.

Q. And what duties or responsibilities did he have for redistricting?

A. Andy pretty much oversaw the process as far as coordinating with members, their requests. He'd set up the meeting schedules and handle really the administrative functions of the redistricting process.

Q. Did he ever draw any maps?

A. Not that I'm aware of.

Q. Did Mr. Terrine ever draw any maps?

A. Not that I'm aware of.

Q. You mentioned Ms. Benson, who's a staff attorney. What was her role in congressional redistricting?

A. She was there just to observe the process and rarely gave any input, but did not draw any maps.

Q. How about Mr. Breeden John?

A. Breeden John was really my backup. So, we spent long, long, long hours in the map room. And if I needed a break or something like that, Breeden was trained on the redistricting software and he could step in and help draw the maps when I was out of the room.

Q. And did he draw any congressional maps, to your knowledge

Page 1375

or memory?

A. Not that I'm aware of.

Q. Who is Grayson Morgan?

A. Grayson Morgan was an employee that I hired who worked offsite. His responsibilities were to take the public submissions, create the maps for those, and run the reports and statistics for the publicly submitted plans.

Q. And was he an employee, or a contractor?

A. He was a contractor.

Q. And how about Mora Baker?

A. She's a staff attorney on the Senate Judiciary.

Q. And what was her role for congressional redistricting?

A. Mora was in and out of the map room. She never drew any plans, but she coordinated the meeting minutes from the public meetings that we had across the state.

Q. And who is Madison Faulk?

A. Madison Faulk is also a staff attorney with the Senate Judiciary. And she, too, was really part of collecting the minutes and information from the public meetings we had.

Q. Did Ms. Faulk ever draw any maps?

A. No.

Q. I'd like to find out more about where the drawing of maps took place and that process. Where did the drawing of congressional maps take place?

A. We had two map rooms — two primary map rooms. One was

Page 1376

in 503 of the Gresset building. And that was sort of mine and Breeden's home base. So, we both had a desk up there. We had two work stations that we drew maps on for redistricting up that way. There was four 42-inch monitors on the screens so that we could see the maps. And, really, a lot of the map drawing took place down in Senator Rankin's office on the first floor of the Gresset building, right in front of the big picture windows. And so, we would meet down there in the mornings around 9:00 o'clock, and we'd draw maps till late in the afternoon, till it was time to go home.

Q. What was the setup in Senator Rankin's office?

A. In Senator Rankin's office there was a small desk that I would have my laptop on so that I could draw maps. And then we had a projector that sat against the wall that projected the maps and stats up on the screen, probably about a 12-foot-by-12-foot screen that was projected up there so that the attorneys could provide me with input on how to draw the maps.

Q. Once you started working on the new congressional map, how often were you in Senator Rankin's office to draw maps?

A. Pretty much daily.

Q. Who was generally present with you in Senator Rankin's office during the map-drawing process?

A. It would have been the core redistricting team of Charlie Terrine, Andy Fiffick, Breeden John, Paula Benson and myself.

Page 1377

Q. And how about Ms. Baker or Ms. Faulk?

A. They were in and out of the room, but didn't really give too much input.

Q. How about Senator Rankin?

A. I never saw him in there while we were drawing maps.

Q. Which members of the Senate did you draw congressional maps for?

A. I know on our system we had one for Margie Bright Matthews. I know that we had a couple for Senator Harpootlian. There were maps on the system that we had done for Ronnie Sabb. We had done some for Senator Wes Climer, definitely Senator Campsen. And that's all I can recall.

Q. Did you draw a map for Senator Scott?

A. Yes. That's another one that we did maps for, Senator Scott.

Q. And what kind of map was Senator Scott interested in?

A. Senator Scott was looking for a map that really kept counties whole, as well as we had another map that he was trying to draw what he called "anchor counties" where you'd have one main county in each senate district that would sort of drive the population.

Q. How about Senator Sabb, what kind of maps was he interested in?

A. He was really interested in keeping the 1st down in — keeping Charleston whole in the 1st as well as maps that would

Page 1378

do a Charleston/Beaufort combination.

Q. You mentioned Senator Campsen as well. What kind of maps did you draw for Senator Campsen?

A. We did several maps for Senator Campsen. One of the ones that we did was what we called a “Charleston strong map,” which was putting more of Charleston into the 1st Congressional District. And then we had, of course, House Plan 2, Senate Amendment 1.

Q. Did the Charleston strong map place all of Charleston in District 1?

A. No, it did not.

Q. You also mentioned Senator Climer. What kind of maps was Senator Climer interested in?

A. Senator Climer had me draw two maps in which there were seven majority Republican districts.

Q. And I think you mentioned Senator Martin as well; is that right?

A. I did not mention it, but we did do a map for Senator Martin as well.

Q. And what kind of map was that?

A. The map Senator Martin requested was putting more of Spartanburg in Congressional District 4. And Spartanburg is Senator Martin’s home county.

Q. Did you draw maps for Senator Hutto?

A. We did do maps for Senator Hutto. The maps for we did

for Senator Hutto were going to be offered as amendments to the plan that was before the General Assembly. And so, what we had to do was take the plans that were publicly submitted and balance the population deviation out to one person.

Q. And you mentioned before the MBM map. What do you recall about that?

A. I remember it was on the system. We took a look at it. We created the map that everyone's seen that's got the Senate logo on it. We also ran the reports and statistics on it.

Q. Do you know who drew that map — or the plan behind that map?

A. I can't say if it was us or if it was someone else.

JUDGE GERGEL: Which plan was that? I'm sorry.

MR. GORE: MBM.

JUDGE GERGEL: Thank you.

BY MR. GORE:

Q. So, when a member requested a plan or a map, did you also generate reports relating to that map or plan?

A. Yes. We generated multiple reports.

Q. Is that an automatic function within Maptitude to generate those reports?

A. Not an automatic function. It's something that we have to choose, and then we could run the reports.

Q. They're generated by the software related to the map or the plan; is that right?

A. That's correct.

Q. What kind of political data was included in those reports?

A. We used the 2020 Trump/Biden political numbers on those reports.

Q. And was racial data included in those reports?

A. Yes, it was.

Q. And what kind of racial data?

A. It would have been racial data from the Census Bureau's PL94171 database that was released in August. For the racial breakdowns, we used total population, non-Hispanic White and the non-Hispanic DOJ Black.

Q. What software did you use to draw congressional maps?

A. That would be Maptitude For Redistricting.

Q. Have you generally used Maptitude to draw maps throughout your career?

A. Generally, yes. It's some kind of Maptitude product. When I was with Revenue and Fiscal Affairs, we used a Maptitude extension for ArcGIS.

Q. And how many congressional maps do you think you drafted throughout this process, either for members or otherwise?

A. I'd say over 20.

Q. What data was available to you in Maptitude while you were drawing congressional maps?

A. It would have been the entire PL94171 database that

included multiple racial categories as well as total population.

Q. How is race data displayed in Maptitude?

A. So, in the Maptitude software, you, of course, got your map as the largest area on the screen, and then you have your population and demographic statistics typically at the bottom. And then you have what they call a "pending change box" where you can go and see what your changes are before you make them, as far as the population and racial changes.

Q. And I think you mentioned before that when you generate these reports, the reports also show racial data; is that right?

A. That's correct.

Q. And does Maptitude have a shading function to display racial data?

A. Yes. You can shade based on different attributes, and it will color-code the map based on the concentration of those attributes.

Q. When you were drawing congressional maps, did you ever activate the shading function for race?

A. For race? No.

Q. Is there a similar shading function for political data?

A. Yes. We did use the shading function for just a couple minutes to take a look at the shading of a particular area based on politics. But Charlie said he was about to throw up,

so we turned it off.

Q. That's Mr. Terrine?

A. Yes.

Q. Throughout the congressional redistricting process, did you draw any maps or lines based on race?

A. No.

Q. Did you ever use a racial target?

A. No.

Q. Did you ever use race as a proxy for politics?

A. No.

Q. Did you ever use politics as a proxy for race?

A. No.

Q. Did you ever look at the BVAP of any district or area while you were drawing draft congressional lines or districts?

A. Not while we were drawing, no.

Q. Did you ever see it afterwards?

A. We did. After the plans were completed, we'd run the continuity check, as well as make sure there was unassigned areas, and also make sure that we were within a one-person deviation. And then Charlie Terrine would ask what the BVAP in certain districts were.

Q. And was that part of his legal review of plans?

A. That's my understanding, yes.

Q. Did any senator ever ask you to draw any congressional lines or districts based on race or to achieve a certain

Page 1383

racial result?

A. No.

Q. Did you also have political data available to you in Maptitude?

A. Yes.

Q. And where did that data come from?

A. We reached out to a consultant named Clark Benson to provide us the information so that we could load it into our GIS system.

Q. Did Mr. Benson ever draw maps, to your knowledge?

A. No. I've never seen a map that he's drawn.

Q. What was the data you received from Mr. Benson?

A. We received the 2020 presidential and senate election results, as well as some 2016 election results.

Q. Was Mr. Benson's data broken down to the census block level?

A. Yeah. So, we received it in three different geography levels. We had it at the county level, the VTD level, as well as the census block level.

Q. What did Mr. Benson's data allow you to do?

A. It allowed us to look at the performance — draw a map, look at the performance of how that district would perform in the election in which we were looking.

Q. And did Mr. Benson's data allow you to do that anywhere you split a precinct in a map?

Page 1384

A. Yes. We could go sub precinct in that area as well.

Q. And why did Mr. Benson's data allow you to do that?

A. Because it was broken down to the census block level. And the election report — the election results are broken down into individual precincts which are tied to the VTDs. And we hired Mr. Benson to break that and just de-aggregate that information down to the block level.

Q. Is the data that the South Carolina Election Commission provides also broken down to the block level?

A. No, it is not.

Q. What level is that broken down?

A. It is broken down to the precinct.

Q. I think you mentioned that Mr. Benson provided you 2020 and 2016 election results; is that right?

A. That's correct.

Q. Which results did you rely on or use to draw plans or maps for the congressional redistricting?

A. We relied on the 2020 presidential election results between Donald Trump and Joe Biden. The 2016 information we looked at had flaws in it, because anything that the State Election Commission put on their website from 2016 and prior allocated the absentee votes as a separate absentee precinct. And so, for more accurate data, we wanted to make sure that we used the absentee votes broken down back — allocated back to the precinct in which that voter resided.

Page 1385

Q. Were the 2020 election results reported at the precinct of the voter's residence for absentee ballots?

A. That's correct, yes.

Q. And when you referred to the 2020 election results, did you sometimes shorthand that as a “Trump number” or the “Biden number?”

A. Yes.

Q. And using the data Mr. Benson provided, were you able to see the Trump/Biden breakdown in various plans and areas where you drew?

A. Yes. When we were drawing the maps, we would have the total population of the VTD and then the percent Trump in that VTD.

Q. And did the Senate staff make the Clark Benson 2020 political data available on the Senate redistricting website?

A. Yes. There’s two different versions of the data on the website. One is the election commission data, and then the other is the GIS format of the data in which Mr. Benson provided.

Q. And does that GIS data that Mr. Benson provided include Mr. Benson’s breakdowns to the census block level?

A. Yes, it does. In one zip file, there’s going to be three different files in it. And you can link that back to the census geography that was released prior to the release of the 2020 census data. There’s a GEOID code or some kind of field

Page 1386

that allows that linkage.

MR. GORE: Your Honor, this is the data I raised yesterday. We’d like to move to admit that as an exhibit. I think we’d be up to Senate Exhibit 243.

JUDGE GERGEL: Is there an objection?

MR. FREEDMAN: Your Honor, our analysts are still analyzing the accuracy of that data. We're happy to allow —

JUDGE GERGEL: Well, here's the problem: We've got a witness on the stand, it's been offered, so we've got to rule.

MR. FREEDMAN: It's a new exhibit, your Honor, and we are vetting it. And we're willing to allow it to come in conditionally. We don't have any reason to think their data is incorrect, but —

JUDGE GERGEL: Let me make sure, for the record, we can describe exactly what this is.

Mr. Gore, could you help me with that?

MR. GORE: Sure. This is the data that Mr. Roberts actually used to judge the political effects of —

JUDGE GERGEL: This is the so-called Benson data?

MR. GORE: It's the so-called Benson data. I understand —

JUDGE GERGEL: I mean, the accuracy of it doesn't seem particularly relevant. It is what he used. Whether it's accurate or inaccurate, he used it.

MR. FREEDMAN: So, as I said, we do not have an

Page 1387

objection to it coming in provisionally and allowing the witness to testify about it. We may come in and move to strike it, depending — I think that's probably the way to proceed.

JUDGE GERGEL: Well, I think the better thing is to just cross-examine him. You know, this sort of

tentative thing doesn't work well. It may make sense to you as a litigator; it doesn't make sense to us as a Court. I'll overrule the objection. It's admitted. You can cross-examine the witness.

Senate 243 is admitted.

(Senate Exhibit 243 was admitted into evidence.)

MR. GORE: Thank you, your Honor.

BY MR. GORE:

Q. Mr. Roberts, throughout the congressional redistricting process, did you ever draw maps or district lines based on politics?

A. Yes, all the time.

Q. Did you inform the members of the subcommittee that this data was available to you and them?

A. Yes, they were very aware of it.

Q. Did members of the Senate ever ask you to draw maps or districts with a political result?

A. Yes, they did.

Q. Can you give us an example?

Page 1388

MR. CUSICK: Objection to the extent it's being offered for the truth of the matter, but understand the effect that it had on drawing maps, your Honor.

JUDGE GERGEL: Well, he's offering it to identify senators. So, what's the objection to that?

MR. CUSICK: Your Honor, to the extent it's being offered for the truth of the representations for what the Senators' goals were in drawing the maps, I understand that if it was a fact that he used in

drawing the map and the effect on his mind, but if it's just offered for the —

JUDGE GERGEL: It's admitted for that purpose. Thank you.

MR. CUSICK: Thank you.

MR. GORE: Thank you, your Honor.

Go ahead.

THE WITNESS: Can you repeat the question please?

BY MR. GORE:

Q. Can you give us some examples of senators asking you to draw congressional maps to achieve a certain political result?

A. Certainly. Senator Campsen was asked multiple times to look at the political numbers and to make the 1st Congressional District more Republican leaning, based on the Trump/Biden numbers that we had.

Q. Speaking of Senator Campsen, did you ever discuss race or BVAP data with him?

Page 1389

MR. CUSICK: Again, your Honor, just a standing objection to the extent these questions are being offered for the truth of the matter, but understand that they play a role in how it might have impacted the maps he was drawing for those specific vendors.

JUDGE GERGEL: It's admitted. Overruled.

Go ahead.

THE WITNESS: No, Senator Campsen never asked about the racial demographics of a district.

BY MR. GORE:

Q. And turning back to senators who asked about political results, would that include Senator Climer?

A. Yes. Senator Climer asked me to produce two maps with seven majority Republican districts.

Q. And whether they had asked you to draw the plan or not, did members ever ask you to see the Trump/Biden breakdown in master plans you drew?

A. All the time.

Q. Did both Democratic and Republican Senators ask you that?

A. Yes.

Q. Did you discuss politics in the Congressional Plan with Senator Grooms?

A. Yes, we did.

Q. And when did those discussions take place?

A. I believe it was in the middle of the congressional

Page 1390

redistricting process or early on in the congressional district process.

Q. And what was your understanding of Senator Grooms' interest in the political effect of the Congressional Plan?

A. We had two maps that we were doing a Zoom call showing Senator Grooms, and one of them had a higher Trump number than the other, but the other one had more of — I believe it was Charleston County in it than the other. And Senator Grooms said the one that had the higher Trump number — he — Senator Grooms said he liked both plans because it included

more of Berkeley County in the district, but he said that one plan would pass the General Assembly and one would not. And the plan that would pass the General Assembly was the plan with the higher Trump number.

Q. How many discussions about politics and congressional redistricting did you have with Senator Campsen?

A. Many.

Q. And when did those discussions take place?

A. All throughout the redistricting process.

Q. Mr. Roberts, using Maptitude, did you run partisan analysis reports on plans you drew?

A. I did.

Q. How about on plans that were drawn by members of the public?

A. Yes, we did.

Page 1391

Q. And how about plans proposed by members of the Senate?

A. Yes, we did.

Q. And where a plan was publicly released, were those partisan analysis reports also posted on the Senate redistricting website?

A. That I cannot recall.

Q. Mr. Roberts, during your career as a redistricting professional, have you become familiar with traditional redistricting criteria?

A. Yes, I have.

Q. And what are some examples of traditional criteria?

A. Compactness, continuity, preserving cores of existing districts, minimizing VTD splits, minimizing county splits, and respecting communities of interest.

Q. Does Maptitude have any functionality for measuring a plan's performance on traditional districting criteria?

A. It does. Many.

Q. And what is that functionality?

A. To measure the compactness. It can measure — we ensure that the districts are contiguous. We get a core constituency report as well as a breakdown of the population deviations of those, as well as we also get subdivision splits, which will tell us how many counties and VTDs that are split in the plan.

Q. Does Maptitude have a functionality to ensure that all districts are contiguous?

Page 1392

A. Yes, it does.

Q. And did you activate that function while you were drawing congressional maps?

A. We would check the continuity after each plan was finished.

Q. And so, you mentioned a variety of reports that Maptitude can run. Did you generally run those reports on plans you drew?

A. Yes, we did.

Q. And how about plans that were drawn by members of the public?

A. We ran those as well.

Q. And plans proposed by members of the Senate?

A. Yes.

Q. And were these various reports also posted on the Senate redistricting website?

A. If the plan was going to be offered as an amendment or discussed in subcommittee or full committee, those were posted online.

Q. And when you drew plans for a senator, did you provide the full workup of reports to that senator?

A. Yes, we did.

Q. And did that include all the reports on traditional districting principles?

A. It included that, as well as the partisan analysis

Page 1393

breakdown.

Q. And the racial breakdown as well?

A. And the racial breakdown, yes.

MR. GORE: Can we get Senate Exhibit 3?

BY MR. GORE:

Q. Mr. Roberts, this is the Senate redistricting guidelines. Are you familiar with this document?

A. Yes.

Q. Did you have any role in creating these guidelines?

A. No, I did not.

Q. Did you rely on these guidelines in drawing the congressional map?

A. These guidelines are really just general principles that guide the redistricting process, but these don't really tell me where to put district lines.

Q. In your experience, does a set of criteria guidelines like this tell the map drawer everything she or he needs to know to draw a redistricting plan?

A. No.

Q. Why not?

A. It doesn't tell me where to put the lines. These are just general guidelines about the redistricting process. So, we look for input from the public, senate members, as well as congressional members on how they would like to see the plan.

Q. In your experience, is it common for a map drawer to

Page 1394

receive instructions or requests or recommendations that are not contained in a set of criteria or guidelines?

A. Yes.

Q. Earlier you mentioned drawing maps for various members of the Senate. Did those members make requests or recommendations for how the maps would be drawn?

A. Yes.

Q. And were those requests or recommendations contained expressly in the Senate guidelines?

A. No, they were not.

Q. Do the guidelines say anything about reuniting Charleston in a single district?

A. No, they do not.

Q. How about reuniting Richland in a single district?

A. No, they do not.

Q. And did you similarly receive requests or recommendations for drawing the enacted plan?

A. Could you repeat that question? I'm sorry.

Q. Did you similarly receive requests for how the enacted plan should be drawn?

A. Yes.

Q. And did you incorporate any of those requests?

A. Yes, we did.

Q. And were those requests expressly included here in the guidelines?

Page 1395

A. No, they were not.

MR. GORE: Let's take this exhibit down.

BY MR. GORE:

Q. I'd like to ask you some questions about the Senate staff plan that was released on November 23rd, 2021. Do you recall that plan?

A. Yes.

Q. And you said you started working on that plan in mid-November 2021; is that right?

A. That's correct.

Q. And in your career as a map drawer, have you ever used an existing plan to draw a new redistricting map?

A. Every single time I create a new redistricting plan, I start with the benchmark map.

Q. And why do you do that?

A. The benchmark map was the latest enacted map that we had to start from. And to preserve the cores of the existing districts, we start with the original benchmark map, which is a traditional redistricting principle. And so, we use the benchmark and then balance out the population from there.

Q. Does the benchmark map ordinarily represent policy choices that have already been made?

A. Yes, it does.

Q. And does using the benchmark plan make it easier to the balance out the population?

Page 1396

A. It does. It gives us an idea of where the population shift needs to occur in order to balance out the districts to one person.

Q. Does using the benchmark plan help maintain communities of interest?

A. It does, yes.

Q. How so?

A. It would have been choices made by the previous cartographer on what the communities of interest are. And so, we would preserve those by using the benchmark.

Q. Does using the benchmark plan also help keep incumbents in their districts with their core constituents?

A. Yes, it does.

Q. How so?

A. You start out with the existing map, you make minor changes to balance the population and try to keep the cores of the districts into the districts in which they previously were.

Q. Did you start with the congressional benchmark plan when you drew the enacted plan at issue here?

A. Yes, we did.

Q. And were there any additional reasons why you used the benchmark plan as your starting off point?

A. It was the latest enacted plan, plus we knew that it survived the court challenge in the *Backus* case and was also

Page 1397

pre-cleared by the Obama Justice Department.

Q. And how close were the districts in the benchmark plan to equal population?

A. They were pretty close, except for the 1st and 6th Congressional Districts, which the 1st District was overpopulated by approximately 80,000. The 6th was underpopulated by about 80,000.

MR. GORE: Can we pull up Senate Exhibit 28a? This is in tab 1 of the binders that have been submitted to the Court as well.

BY MR. GORE:

Q. Mr. Roberts, I'm now showing you a map on your screen. Do you recognize this map?

A. Yes. This is the benchmark map.

Q. Does this map split Charleston County?

A. Yes, it does.

Q. Does it split Dorchester?

A. Yes, it does.

Q. Does it split Beaufort?

A. Yes, it does.

Q. Does it split Berkeley?

A. Yes, it does.

Q. Does it split Orangeburg?

A. Yes, it does.

Q. Does it split Richland?

Page 1398

A. Yes, it does.

Q. Does it split Sumter?

A. Yes, it does.

Q. Does it split Florence?

A. Yes, it does.

Q. Mr. Roberts, do you recall at some point seeing proposed maps drafted by the National Republican Redistricting Trust?

A. Yes, I do.

Q. What is your understanding of how those maps got to Senate staff?

A. They did not come in through the public portal like the other publicly submitted plans. They came in — I believe Andy Fiffick somehow got them to us in a way that we could load those into our Maptitude software.

Q. Did you ever speak with anyone at the National Republican Redistricting Trust?

A. No, I did not.

Q. Did you ever speak to the Adam Kincaid?

A. I don't know who that is.

Q. Did you ever speak to Dale Oldham?

A. No.

Q. Did you communicate with any partisan groups regarding congressional redistricting?

A. No.

Q. Did you communicate with any Republican-affiliated

Page 1399

groups?

A. No.

Q. Any Democratic-affiliated groups?

A. No.

Q. How many NRRT maps do you recall seeing?

A. I remember there were two of them that we had.

Q. In your deposition I believe you said you were unable to recall on the spot the precise date you saw those maps —

A. Yes.

Q. — but that you could go back and confirm. Have you now been able to confirm the date you saw those maps?

A. Yes. After my deposition I was confused about when the date was and what the map names were, so I went back into the redistricting system and found out that we had received those on November 19th of 2021.

Q. And that was shortly before the staff plan came out; is that correct?

A. Yes, that was before the staff plan.

Q. And so, within the redistricting system, did you save the maps by date?

A. I had a folder by date. And then we had also created PDF maps, and those PDF maps have a timestamp on them when they were created.

MR. GORE: Can we bring up Senate Exhibit 38a?

BY MR. GORE:

Page 1400

Q. Do you recognize this map, Mr. Roberts?

A. Yes. This is the Palmetto Plan that was sent in by the NRRT.

MR. GORE: And can we get Exhibit 39a side by side?

BY MR. GORE:

Q. Do you recognize Senate Exhibit 39a?

A. Yes. That's the Wren Plan that was submitted with the NRRT maps.

MR. GORE: I'll just note for the record that these maps are also in the binders at tabs 2 and 3.

BY MR. GORE:

Q. Mr. Roberts, how long did you spend reviewing each of these maps when you received them in November?

A. Probably about five to 10 minutes.

Q. What did you think of these maps?

A. I'm not going to use my exact words, what I said when we pulled them up, but I told the staff they looked like crap and we needed to move on to something else.

Q. Why did you say that?

A. There's a lot of bizarre shapes in these maps, and really there's no explanation for the way these are drawn.

Q. So, after you viewed these maps, did you just move on to the next, or did you do anything else?

A. We just — we ran the typical reports that we did on every plan.

Page 1401

MR. GORE: Let's go ahead and take down those exhibits.

BY MR. GORE:

Q. Mr. Roberts, do you recall revealing a plan?

JUDGE GERGEL: Mr. Gore, we've been going about an hour and 35 minutes. We normally take a morning break. Let's take it now.

MR. GORE: That will be fine. Sure. Thank you, your Honor.

(Recess.)

JUDGE GERGEL: Please be seated.

Please continue, Mr. Gore.

MR. GORE: Thank you, Your Honor.

BY MR. GORE:

Q. Mr. Roberts, do you recall ever seeing a plan from the National Republican Redistricting Trust called the Jessamine Plan?

A. I do not recall that, no.

Q. Were the NRRT plans ever posted on the Senate redistricting website?

A. No, they were not.

Q. Do you know why?

A. My understanding was they didn't come in through the typical staff portal, the public submission portal. But that was also a call for Andy Fiffick to make.

Page 1402

Q. And after looking at the maps the first time, did you ever look at them again?

A. No.

Q. Did you ever refer back to them?

A. No.

Q. And did any of the maps from the NRRT influence how you drew any line or plan?

A. Not at all.

Q. Now, I think you testified a couple minutes ago that you received some requests and recommendations for how to draw the enacted plan; is that correct?

A. That's correct.

Q. What request did you receive from Senator Rankin?

A. Senator Rankin told us not to touch the 7th Congressional District but to just balance the population out with as minimal change as possible.

Q. Did that request make sense to you?

A. Yes, it did.

Q. Why?

A. Because District 7 was almost exactly where it needed to be, just a little bit of tweaking around the edges to balance the population.

Q. And does District 7 also have borders that affect how it can grow?

A. Yeah. So, 1 and 7 both border the Atlantic Ocean. And

Page 1403

you can't put people in the ocean during the redistricting process, so we were limited geographically where we could go.

Q. Is 7 also on the state line?

A. It is.

Q. Did you receive any requests on behalf of members of Congress on how the enacted plan should be drawn?

A. We did.

Q. What were those requests?

MR. CUSICK: Objection, your Honor, to the extent they're being offered for the truth of the matter. But, again, we understand that to the extent —

JUDGE GERGEL: You've challenged intent. Overruled. Offered for what he relied on.

THE WITNESS: We did receive a — we placed a phone call with Congressman Joe Wilson. Charlie Terrine, Andy Fiffick and myself were in the room. I believe it was Breeden John as well and possibly Paula Benson. Charlie picked up the cellphone and called Joe Wilson and asked him what he wanted to see in his congressional district, what he thought about the redistricting process.

BY MR. GORE:

Q. And what did you understand Congressman Wilson to want through that process?

A. Congressman Wilson told us he wanted to keep Fort Jackson in his district, that he was either chair or served on the

Page 1404

Armed Services Committee for the U.S. House, and that was very important to him. And he also said he did not want his district going down to Beaufort County again. He said it was a long drive. He said he loved the voters down there, but that it was a long drive from Lexington down to Beaufort.

Q. And what was your understanding of why he loved the voters there?

A. My understanding was that they are Republican voters who voted for him.

Q. Had the House staff proposed a plan that would've place Beaufort County back in District 2?

A. The first staff plan that came out placed Beaufort County in District 2, yes.

Q. Did you receive any other requests on behalf of any other members of Congress?

A. We met with a gentleman by the name of Dalton Tresvant, who is on Congressman Clyburn's staff. That meeting took place November 19th, about mid — late morning, early afternoon.

Q. I believe, during your deposition, you stated you couldn't recall the date of that meeting with Mr. Tresvant off the top of your head. How were you able to confirm the date of that meeting?

A. We actually produced a map for Mr. Tresvant to take back to Congressman Clyburn. And it, again, was a pdf map. And

the pdf map had a timestamp on it and date.

MR. GORE: Can we pull up Senate Exhibit 37, which is in tab 4 of the binders?

MR. CUSICK: Excuse me, your Honor. We'd offer just a little foundation for the e-mail that was represented that was sent back to Mr. Tresvant with this map on it. I don't know if that's been disclosed during the discovery process.

MR. GORE: I don't believe the testimony was he e-mailed a map. I believe he said he handed it to him.

JUDGE GERGEL: The testimony was he handed him the map.

MR. CUSICK: Okay.

JUDGE GERGEL: Thank you.

BY MR. GORE:

Q. Do you recognize this document, Mr. Roberts?

A. Yes, I do.

Q. What is this document?

A. This is the document that Mr. Tresvant brought us, stating what they wanted to see in their redistricting plan.

Q. And do you know who prepared this document or map on behalf of Mr. Tresvant and Congressman Clyburn?

A. On the map down here at the bottom where it says "source," it says it was created by Tony Fairfax with CensusChannel LLC.

Q. So, you did not — did you prepare this map?

A. No, I did not.

Q. Okay. In the upper right-hand corner, someone hand-wrote "Clyburn map from Dalton?"

A. Yes.

Q. Is that your handwriting?

A. Yes, it is.

Q. And why did you write that?

A. So we could keep track of this map and put it in our records and remember who it came from and what the map was about.

Q. Let's discuss the presentation of this map for a moment. What does the blue line show on this map?

A. So, the dark blue outline is the current benchmark map.

Q. Is that benchmark District 6?

A. Yes, it is.

Q. Now, can you point out to the Court where there are some gray lines on this map?

A. Certainly. So, down in the Berkeley — I'm going to try this as best as possible. So, one gray line is going to be down here in Berkeley County, that faint gray line there. Another is going to be up here in Florence County. Another is going to be around Sumter, up in this area. And you've got also a little bit of change in Richland, which isn't a gray line but it is a change in the map showing that the blue district, which is District 2, now encompasses that area, as

well as this change here. And we've also got a dash line down here in Jasper County.

Q. Can you briefly walk the Court through — are those the changes that were requested by Mr. Tresvant on behalf of Congressman Clyburn?

A. Yes. This is the map that they said they were trying to get something that was minimal change. Dalton said that Congressman Clyburn had an upcoming election, and they did not want a large new geographic area that he'd have to go campaign in.

Q. Was there anything else that Mr. Tresvant conveyed to you about the changes represented here on this map?

MR. CUSICK: Objection again, your Honor, to the extent that it calls for inadmissible hearsay for the truth of the matter.

JUDGE GERGEL: I think it goes to the issue of intent. Overruled.

THE WITNESS: He said that they were really looking for minimal change in these particular areas.

BY MR. GORE:

Q. And what changes were made down there in Jasper?

A. So, down there in Jasper, it's moving the Sun City area as well as Margaritaville. And it looks like it splits the town of Hardeeville around I-95 headed towards the Savannah River along the South Carolina/Georgia border.

Q. How about in Berkeley?

A. In Berkeley, it draws a large portion of Berkeley County into the 6th Congressional District, including the residence of Senator Grooms.

Q. How about in Charleston?

A. In Charleston, it keeps the hook that was previously in the benchmark in the downtown Charleston area.

Q. And does it keep what looks like crab claws coming through Dorchester and Berkeley into Charleston?

A. Yes. It keeps that same split with the benchmark.

Q. What about in Sumter?

A. In Sumter, Congressman Clyburn asked for more of Sumter to be put in his district — or Dalton had asked on behalf of Congressman Clyburn for more of Sumter to be put in his district. Congressman Clyburn had a long family history in the Sumter area and was requesting more of Sumter to be placed in this district.

Q. What about changes in Richland? Can you tell what those changes were?

A. The changes in Richland were very minimal. It does continue to keep Fort Jackson in District 2.

Q. And what about in Orangeburg?

A. In Orangeburg, the Limestone area of Orangeburg County, which is really a rural area that we had public testimony on at the public hearings, was actually moved into the 2nd

Page 1409

Congressional District.

Q. And what about over there in Florence?

A. In Florence, it just minimizes the change with District 7. It looks it's repairing a split precinct — or moving one precinct over.

Q. So, does this map, requested on behalf of Congressman Clyburn, extend District 2 into Beaufort?

A. No, it does not.

Q. Does it keep Fort Jackson in District 2?

A. It does.

Q. Does it maintain District 2's hook shape in Richland County?

A. It does.

Q. Does it split Jasper County?

A. Yes.

Q. Was Jasper split in the benchmark plan?

A. No, it was not.

Q. Does it keep Beaufort County split?

A. Yes.

Q. How about Colleton County?

A. Yes.

Q. Does it keep Orangeburg County split?

A. Yes.

Q. How about Charleston County?

A. Yes.

Page 1410

Q. Dorchester County?

A. Yes.

Q. Berkeley County?

A. Yes.

Q. Sumter County?

A. Yes.

Q. Florence County?

A. Yes.

Q. Was this map you received from Mr. Tresvant ever posted publicly on the Senate redistricting website?

A. No, it was not.

Q. Do you know why not?

A. Again, this map came in, I believe, after the public submission deadline. And that also would be a call for Andy Fiffick to make, not myself.

Q. Did you receive this map from Mr. Tresvant the same day you received the two maps we discussed earlier from the National Republican Redistricting Trust?

A. Yes. We reviewed those maps early in the morning, and we received this map late morning, early afternoon.

Q. Did Mr. Tresvant convey any other information about this map?

A. Not really. Just that it was a minimal change map and that's what they were looking for in a plan.

Q. How long did your meeting with Mr. Tresvant last?

Page 1411

A. I'd say approximately an hour.

Q. Did Mr. Tresvant provide you a Shapefile from which you could recreate this map?

A. No. He did not provide any GIS files, just this eight-and-a-half-by-11 piece of paper.

Q. As part of your meeting with Mr. Tresvant, did you attempt to recreate this map?

A. Yes, I did.

Q. How did you do that?

A. Walked this map up to the — we met in Senator Rankin's office, and I took this map up to the fifth floor map room. And using ArcGIS, I pulled in the VTDs of which I could approximate that this map was including, and I printed off either a 3-foot-by-3-foot, or a 4-foot-by-3-foot map to hand to Mr. Tresvant for him to take back to Congressman Clyburn.

Q. Why didn't you recreate this map in Maptitude during your meeting with Mr. Tresvant?

A. This is just one district. We've got six others to go. And balancing out the population would take a little bit of time. Mr. Tresvant seemed to be in a hurry. It was around lunchtime when he left. And so, we waited till a little bit later in the day to create an actual plan based off of this map.

Q. Later that day, did you recreate this district into a statewide map in Maptitude?

Page 1412

A. Yes, I did.

Q. What did you call that plan?

A. It was called "the Milk Plan."

Q. Why did you — why in the world did you call it the Milk Plan?

A. We were running out of naming conventions for the maps, and milk is the official beverage of South Carolina.

Q. How did you figure out that milk is the official beverage of South Carolina?

A. It's in the back of the legislative manual.

Q. Did you generate a map for the Milk Plan?

A. We did.

Q. And did you generate the associated reports in Maptitude for the Milk Plan.

A. Yes, we did.

MR. GORE: Your Honor at this time, I want to move to admit Senate Exhibits 223a, 223b, 223c, 223d, 223e and 223f, which are the Milk Plan map and reports.

JUDGE GERGEL: That's 223a through E?

MR. GORE: A through F.

JUDGE GERGEL: A through F. And they're not all in here, I see.

MR. GORE: The map is in there, but the reports themselves are not. But we have those that we can display on the screen.

Page 1413

JUDGE GERGEL: Is there an objection?

MR. CUSICK: Your Honor, we just maintain our objections for the relevancy of these offerings with the map and then the subsequent — I think it's the reports that were generated from 223b through F.

JUDGE GERGEL: That objection is overruled. Senate Exhibits 223a through F are admitted.

MR. GORE: Thank you.

(Senate Exhibits 223a through F were admitted into evidence.)

BY MR. GORE:

Q. We'll now see 223f, which is the Milk Plan map. Is this the map you drew to draw the version of District 6 requested by Congressman Clyburn into a statewide map?

A. Yes, it is.

MR. GORE: And if we can pull up some side by side here. Can we pull up 223a right next to it?

BY MR. GORE:

Q. This is the political subdivision split report for the Milk Plan. Do you recognize that document?

A. Yes, I do.

Q. And how many counties and VTDs are split in the Milk Plan?

A. There are 12 counties and 27 voting district splits.

Q. Do any of those voting district splits involve zero

Page 1414

population?

A. Yes, there are.

Q. And just for our edification, where might that happen in a redistricting plan?

A. When we're drawing lines pretty quickly, we can mouse over and actually pick up some geography in which there might not be any population, and that's probably what occurred in this situation.

Q. Okay. So, does the Milk Plan have more split counties and VTDs than the enacted plan?

A. Yes.

Q. And which counties are split in this Milk Plan that incorporates Congressman Clyburn's requested district?

A. The counties that are split in this are going to be Beaufort County, Berkeley County, Charleston County, Colleton County, Dorchester County, Florence County, Greenville County, Jasper County, Orangeburg County, Richland County, Spartanburg County and Sumter County.

Q. And let's look now at the VTDs. In addition to splitting Beaufort and Berkeley Counties, did this version of the plan incorporating Congressman Clyburn's request also split VTDs within those counties?

A. Yes, it did.

Q. And if we go to the next page of 223a, does it also split VTDs in Charleston?

Page 1415

A. Yes, it does.

Q. How many?

A. It'd be VTD Charleston 8, as well as Charleston 9, Wadmalaw Island number 2.

Q. And how many VTDs does it split in Richland?

A. In Richland it splits Briarwood, Hampton, Keenan, Monticello, North Springs 3, Pontiac, Spring Valley West, Ward 18, Woodfield, Converse Fire Station — I'm sorry. Converse Fire Station is in Spartanburg.

Q. And looking at this report, does it split VTDs in Sumter as well?

A. Yes, it does. That would be the Bates, Bernie, Folsom Park and South Liberty.

Q. And does the Milk Plan incorporate the changes that Congressman Clyburn requested in Sumter?

A. Yes, it does.

Q. How about the changes he requested in Richland?

A. Yes, it does.

Q. In Charleston?

A. Yes.

Q. In Berkeley?

A. Yes.

Q. In Beaufort?

A. Yes.

Q. In Orangeburg?

Page 1416

A. Yes.

Q. Does it incorporate all of the changes to District 6 that Congressman Clyburn requested?

A. Yes.

MR. GORE: We can take down 223a. Let's go to 223d. If we can put that side by side.

BY MR. GORE:

Q. Mr. Roberts, this is the core constituency's report for the Milk Plan. Is this the report you prepared using Maptitude?

A. Yes, it is.

Q. And can you educate us a little bit? This report has — in the first column it says "population" and has some percentages?

A. Yes.

Q. Can you just tell us what those numbers mean and what those percentages are?

A. Certainly. So, the gray line up here, on the first line where it says "District 1," under the column header "population," it shows you that there are 711,776 people that are currently — that were in the 1st District that are again in the enacted 1st District, and that percentage is a percentage of the total population of the enacted district.

So, if you take that 711,776 and divide it by the enacted population, which is 731,204, you come up with 97.34 percent.

Page 1417

The column right below it, District 6, shows that 19,428 people that were in District 6 are now moved into the 1st Congressional District.

Q. And what percentage does that represent?

A. 2.66 percent.

Q. Mr. Roberts, is there more than one way to do the math of core preservation?

A. Yes, sir. You can look at the percentage two different ways. You can look at it as a percentage of the enacted district population, or you can look at that percentage as a percentage of the population of the benchmark total population.

Q. And when you generated reports, did you always use the new district total population as the denominator?

A. We did.

Q. So, you've talked about District 1. What was the core preservation percent in District 2 for the version

of the map that incorporated Congressman Clyburn's request to changes to 6?

A. It was 97.91 percent.

Q. How about in District 3?

A. District 3 was 94.75 percent.

MR. GORE: And would it be possible to bring up page two of 223b? Perfect.

BY MR. GORE:

Page 1418

Q. Can you see that on your screen, Mr. Roberts?

A. Yes. If you can blow it up, that'd be great.

Q. Mr. Roberts, what are the core preservation percentages for Districts 4, 5, 6 and 7?

A. District 4 is 98.09. District 5 is 95.03. District 6 is 83.15. And District 7 is 99.55.

Q. Is there a reason District 6's core preservation number would be lower than the others?

A. We expect that to happen because the need for District 6 to pick up approximately 80,000 people from another district.

Q. And are these numbers you see here on the screen consistent with Congressman Clyburn's request for a minimal changed plan?

A. Yes, they are.

MR. GORE: Let's take that down. And can we pull up just 223c? And if we can blow that up.

BY MR. GORE:

Q. Mr. Roberts, is this the population summary showing demographic information that you generated for the Milk Plan?

A. Yes, it is.

Q. And in the version of District 6 requested by Congressman Clyburn, what was the BVAP percentage in the far right column?

A. It looks to be 47.87 percent.

Q. And how about in District 1?

A. District 1 is going to be 15.48 percent.

Page 1419

Q. Okay.

MR. GORE: And can we pull up Exhibit 223e?

BY MR. GORE:

Q. Mr. Roberts, what is this efficiency gap report?

A. This shows us the political breakdown of the congressional districts.

Q. And according to this report, in how many districts does the Republican get more votes than the Democrat?

A. That would be six out of the seven districts.

Q. And this is the Milk Plan that incorporates Congressman Clyburn's requested changes to District 6; is that right?

A. That's correct.

Q. Was the Milk Plan ever posted on the Senate redistricting website?

A. No, it wasn't.

Q. Do you know why not?

A. That would have been a call for Andy Fiffick to make.

Q. And did you ever rely on the map you received from Mr. Tresvant when you drew the staff plan or the enacted plan?

A. Yes, we did. Heavily.

Q. Will you explain?

A. Congressman Clyburn was looking for a minimal change plan, so that's what we did with the initial staff plan as well as incorporated some of the changes that he asked for around Beaufort, Orangeburg, and Sumter and minimal change up

Page 1420

in the Florence area.

Q. And did you ever rely on the Milk Plan to draw subsequent plans?

A. Yes, we did.

Q. Can you give some examples?

A. The enacted plan is really a modification of the staff plan, which originated from the Milk Plan.

Q. Okay.

MR. GORE: Let's go ahead and take this down. And can we get Senate Exhibit 32a? Thank you.

BY MR. GORE:

Q. Mr. Roberts, do you recognize this document?

A. Yes. This is the staff plan that we produced.

MR. GORE: This is available at tab 6 of the binders.

BY MR. GORE:

Q. Is this the staff plan that was released in November of 2021?

A. Yes, it is.

Q. When you were drawing the staff plan, how did you decide which areas to move between districts?

A. It's really based on population. And it was based on the feedback that we had received from the Congress members as well as some information that we had obtained from Senator Grooms on the staff. That's how we created the staff plan.

Q. Did you look at politics or election results to determine

Page 1421

which areas to move?

A. Definitely, we did. Yes.

Q. And did you consider race at all?

A. No, we did not.

Q. Can you just briefly walk the Court through the changes you made from the benchmark plan to the staff plan?

A. Certainly. So, some of the areas that we looked at in the staff plan are going to be down in the Jasper County area, where we moved the Sun City portion into District 1. We also changed some of the lines in Sumter to add a little bit more of the city of Sumter — I'm sorry, Sumter County into the 6th Congressional District.

We also made minimal change up into district — between Districts 6 and 7. We still kept the hook of Fort Jackson in Richland County. We moved the Limestone area of Orangeburg into the 6th Congressional District. And we moved a large portion of Berkeley County into the 1st Congressional

District. And we ended up pulling District 6 into the downtown Charleston peninsula area and through West Ashley.

Q. So, did you look at racial data while you were drawing the staff plan?

A. No, we did not.

Q. Did you consider the BVAP of any district when you drew the plan?

A. No, we did not.

Page 1422

Q. Did you use any racial target to draw the staff plan?

A. No, I did not.

Q. Did you use race as a proxy for politics?

A. No.

Q. Did you use politics as a proxy for race?

A. No.

Q. Did you discuss the BVAP of any district in the staff plan with anyone before it was released publicly?

A. Charlie Terrine would have asked what the BVAP was in districts, but other than that, no.

Q. And I believe you testified you did use and rely on political data to draw the staff plan; is that right?

A. Absolutely.

Q. Did you set out to make District 1 more Republican leaning than it had been in the benchmark plan?

A. We did.

Q. And why did you do that?

A. We knew we had a Republican-controlled General Assembly, and the only way we were going to be able to get a map passed was to increase the Republican percentage in District 1, because that precinct had previously flipped — I believe it was the 2018 election, somewhere around there — with Congressman Cunningham. And so, we knew that in order to get a map passed, it better have a higher percentage than what the benchmark had.

Page 1423

Q. Can you explain to the Court what specific changes you made to District 1 to make it more Republican leaning?

A. Certainly. We pulled District 1 up into Berkeley County a little bit further up towards Moncks Corner, including the Hanahan area. More of the Hanahan area was previously split under the benchmark. We also made Daniel Island whole. That's really strong Republican areas. And to get Democrats out, we ended up pulling District 6 into West Ashley, including more of the downtown — the peninsula of Charleston as well as the Deer Park area of North Charleston.

Q. I think you mentioned also that you made some changes in Sumter. Were those changes consistent with the requested changes from Congressman Clyburn?

A. They were.

Q. And also in Orangeburg, was the same true there?

A. Yes. The Limestone area on the map that Dalton had handed us, we included in District 2.

Q. In the staff plan did you make changes to the Saul Dam area?

A. Yes. So — actually, no. I'm sorry. Not in the Saul Dam area on this map.

Q. Okay. Did the staff plan incorporate the request we discussed before, of keeping Fort Jackson in and Beaufort out of 2, not touching District 7, and the minimal changes to District 6 requested by Congressman Clyburn?

Page 1424

A. Yes, it did.

Q. Did anyone else have input on the staff plan before it was released publicly?

A. No. We didn't discuss — from what I recall, we didn't display or give this to any member before it was released to the public.

Q. Was it discussed amongst staff?

A. Yes, it was.

Q. Was it shared with any senator?

A. Not that I can recall.

Q. Why not?

A. This is the staff plan. It was our first shot to sort of get something out there. Typically, the way redistricting is done is we start with a staff plan and then amendments are offered to the map. And those amendments can either be adopted or struck down.

Q. And using Maptitude, did you generate the set of full workup of reports regarding the staff plan's performance on politics and traditional criteria and race?

A. Yes, we did.

Q. Was it common practice for the staff to provide the redistricting subcommittee members that full workup of reports before a plan was to be discussed by the subcommittee?

A. Yes. We would provide the members with binders. If a plan was going to come up in front of either the subcommittee

Page 1425

or full committee, it would have the map as well as the full report workup of each plan.

Q. Did the full workup of reports include the partisan analysis report showing the Trump/Biden results?

A. Yes.

Q. And was the partisan analysis report for the staff plan provided to the redistricting subcommittee?

A. Yes.

Q. Was it also posted on the Senate redistricting website?

A. Yes.

MR. GORE: Let's go ahead and go to 32d, if we can.

BY MR. GORE:

Q. Mr. Roberts, this is the partisan analysis report for the staff plan that you prepared. What is the Trump number in District 1 in this plan?

A. It's 54.73.

Q. And in how many districts is there a majority Republican vote share?

A. It would be six out of the seven.

Q. Did this plan achieve the goal of making District 1 more Republican leaning?

A. Yes, it did.

Q. Mr. Roberts, I now want to ask you about the November 29th, 2021, hearing of the redistricting subcommittee. Do you recall attending that hearing?

Page 1426

A. Yes.

Q. Do you recall presenting a short summary of the staff plan at that hearing?

A. I do.

Q. And what do you recall about that?

A. I remember stating that the staff plan was a minimal change plan. And I believe I talked about one area of the map, which would have been the Sun City area, being put into the 1st Congressional District.

Q. Did you discuss all the changes you made at the staff plan in that summary?

A. No, I did not.

Q. Did you mention that the staff plan made District 1 more Republican leaning?

A. No, I did not.

Q. Could anyone with Internet access look up this report to see the District 1 Trump number?

A. Yes.

Q. Now, what feedback do you recall hearing at that November 29, 2021, hearing?

A. We got a lot of negative feedback on the staff plan that was put out for public consumption. I remember former Congressman Joe Cunningham saying that it

was drawn along racial lines and that it was done by a political hack out of Washington, D.C.

Page 1427

Q. Had the staff plan, in fact, been drawn by someone out of Washington, D.C.?

A. No.

Q. Who had it been drawn by?

A. It had been drawn by me and the core redistricting team of the Senate.

Q. You mentioned that Congressman Cunningham alleged that communities were split along racial lines; is that right?

A. That's correct.

Q. And where did he say that had occurred?

A. Down in the Charleston area along the peninsula, as well as I believe he referenced either Johns Island or West Ashley.

Q. And what was your reaction to former Congressman Cunningham's allegation?

A. We had no idea what we had done, because we didn't look at race when making modifications, we were looking at strictly political data. So, after he raised those concerns, we went back and started analyzing what we had changed.

Q. Were you concerned about Congressman Cunningham's allegations?

A. We were.

Q. Did you take them seriously?

A. We did.

Q. And what did you do to investigate them?

A. We started looking at the racial makeup of the areas

Page 1428

which we had moved from — what we had placed in the districts from the benchmark.

Q. And what did you determine when you took that look?

A. That he was incorrect in his analysis that the areas that we had moved were majority — they were predominantly White areas.

Q. And what was the political composition of those areas?

A. They were majority Democratic areas.

Q. Which areas in particular are we talking about in Charleston?

A. That would be West Ashley, as well as the Deer Park portions of North Charleston.

Q. So, did you look at BVAP in those areas as part of investigating Congressman Cunningham's allegations?

A. We did.

Q. Was it true that the staff plan had been drawn along racial lines?

A. No.

Q. Now, did you start working on Senate Amendment 1 after the November 29th, 2021, hearing?

A. Yes, we did. And along with the feedback that we got about splitting racial lines, we also got feedback on communities of interest in the Charleston area.

And so, we started working on a modification to the staff plan with Senator Campsen that he was eventually going to offer as House

Page 1429

Plan 2, Senate Amendment 1.

Q. Why was it called Senate Amendment 1?

A. It was really a modification — the House plan that came out, the second iteration, was really just a tweaking of the original Senate Plan that was released. And so, we were going to use that as the vehicle to move forward. So, we were just going to make small modifications to the House Plan 2, according to Senator Campsen's wishes with Amendment 1.

Q. How many conversations about the Congressional Plan — let me ask you this: Which senators did you discuss the drawing of Senate Amendment 1 with?

A. It was mostly Senator Campsen, but we may have discussed it with Senator Grooms as well.

Q. Why was it predominantly Senator Campsen?

A. Senator Campsen is from the Charleston area and he's also on the subcommittee. And that was really the area of focus that we heard public testimony on from the November 29th meeting. And so, we were really concerned about how we were going to split Charleston, what we were going to do with Charleston. And so, we had to really weigh — we wanted local input on how Charleston was going to be split.

Q. Was Senator Campsen the sponsor of Amendment 1?

A. He was, yes.

Q. And how many conversations about Amendment 1 do you think you had with Senator Campsen in that two-month period?

Page 1430

A. A lot.

Q. And what did you and Senator Campsen discuss?

A. Senator Campsen was looking at two different maps and having us draw different iterations of them. One of them was going to be putting more of Charleston into the 1st Congressional District, and the other iteration was going to be increasing the Trump number. And what we found out is the more of Charleston that we put into the 1st Congressional District and honoring the communities of interest would result in a map that had a lower Trump percentage.

Q. And that was a lower Trump percentage in District 1?

A. Yes, that's correct.

Q. What was your understanding of why Senator Campsen was engaging with this tradeoff between — including more of Charleston in District 1 or improving the Trump number in District 1?

A. So, in the General Assembly and in state government a lot of the boards and commissions that run state agencies — to give an example, like the university boards of trustees, the Department of Transportation Commission — they're all voted on by not only — they're voted on by these congressional districts. And so, Senator Campsen was trying to get more of Charleston into the 1st Congressional District for those kinds of reasons.

Q. Is he also from Charleston?

Page 1431

A. He is.

Q. Okay.

MR. GORE: Can we pull up Plaintiffs' Exhibit 434?

BY MR. GORE:

Q. Mr. Roberts, this is an e-mail you sent to Senator Campsen on January 5th, 2022. We can go to the next page. It's an attachment to the e-mail.

So, one of the attachments of this e-mail is a map called "the Charleston strong map." Is that right?

A. That's correct.

Q. And will you explain this map?

A. So, this map is trying to put more of Charleston into the 1st Congressional District by including the West Ashley area as well as taking a look at the political numbers and the political makeup of this map.

Q. There was a second map attached to this e-mail. I think we'll be at the third page. And that's called House Plan 2 with Senate staff changes. Do you see that map?

A. Yes.

Q. Will you explain this map to the Court?

A. So, what this map does is it places more of Berkeley County into the 1st Congressional District, which raises the Trump percentage numbers while pulling out the heavy Democratic area of West Ashley.

Q. Did you and Senator Campsen discuss politics in

connection with these two maps?

A. About every time we had a conversation about it.

Q. And did you discuss race in connection with these two maps?

A. No.

Q. And ultimately did you gain an understanding of which of these maps Senator Campsen favored?

A. Yes. Senator Campsen called me, and we discussed his options. His options were either support the one that — the map that contained more of Charleston in it but had a lower Trump performance number in the 1st, or else to support the map that has the higher Trump performance number in the 1st but less of Charleston. And he chose to go with the higher Trump-performing map.

Q. And did you have any understanding of the reason why?

A. This one had a better chance of getting through the legislature with a Republican-controlled majority.

MR. GORE: Let's go ahead and look, if we can, at Senate Exhibits 92a and 92b. If we can get those side by side.

BY MR. GORE:

Q. This is an e-mail from you to Senator Campsen, dated January 7th, 2022. And it's called "The Plan Comparison Sheet." Do you remember preparing this plan comparison sheet?

A. Yes, I do.

Q. Why did you prepare it?

A. Senator Campsen was weighing, you know, the population percentages of the counties that were going to be in the 1st Congressional District against the Trump performance in the district. And he was looking for a quick little sheet that would show the difference between the plans that we had that were up for review by the General Assembly.

Q. What does this sheet show generally?

A. So, it generally shows the population. So, we'll walk down it real quick. So, the first column's going to be the plan that we're looking at. The second is going to be the population of the county in the 1st Congressional District. And then it's going to be the percentage of Charleston and Berkeley County population, the percentage of Berkeley; the Dorchester population, the percentage of Dorchester population; the Beaufort population, and then the percentage of Beaufort population. And, then the next column would be the district population as drawn, and then the Trump-performance number at the very last column.

Q. Do these percentages show the percentage of population in each county that's in the district?

A. That's correct.

Q. And does this chart examine District 1?

A. Yes, it does.

Q. Does it examine any other district?

A. No, it does not.

Q. Does it include the Trump number in the far right column?

A. It does.

Q. Did Senator Campsen ask to see the Trump vote share in each version of District 1?

A. Yes, he did.

Q. Did he care about the political effect of these various plans in District 1?

A. Yes, he did.

Q. And, ultimately, how did he resolve that tradeoff?

A. He chose the plan that had the higher Trump performance over the plan that had the higher percentage of Charleston.

Q. Mr. Roberts, is there any race data on this spreadsheet?

A. No, there's not.

Q. Did Senator Campsen ever ask you for race data related to these districts?

A. No, he did not.

Q. Did you ever discuss race at all with Senator Campsen?

A. No, I did not.

Q. Did he ever convey to you that he did not want to discuss race?

A. No, not that I recall.

Q. And did you discuss BVAP with Senator Campsen?

A. No, I did not.

Q. Mr. Roberts, as you were working with Senator Campsen on

Amendment 1, did you discuss with him making CD 1 more Republican?

A. Yes, I did.

Q. Would it have been possible to draw a more Republican version of District 1 than what you drew in the enacted plan?

A. It would have been possible, yes.

Q. How so?

A. We'd have to go into the West Ashley area as well as the tip of the peninsula and put those precincts into the 1st Congressional District and then carve out Democratic leaning precincts out of the 1st.

Q. So, that would have required moving the line in Charleston to grab Republican precincts; is that what you're saying?

A. That's correct.

Q. And do you have an understanding as to why Senator Campsen ultimately chose not to do that?

MR. CUSICK: Your Honor, just objection to the extent we're going to hear from Senator Campsen later this afternoon. To the extent he can testify —

JUDGE GERGEL: Only if he has a reason to know.

MR. GORE: If you have a reason to know.

THE WITNESS: Could you repeat the question, please?

BY MR. GORE:

Q. Yeah. Did you have any understanding — so, let me ask

you this: Would increasing District 1's Republican vote share above the level in the enacted plan have acquired any tradeoffs in terms of traditional districting principles?

A. Yes. We would have ended up splitting some communities of interest in Charleston in order to achieve that.

Q. And did you have an understanding as to why Senator Campsen did not then want to increase the Republican vote share even more?

A. It would have split the communities of interest in Charleston.

Q. And why didn't you draw an enacted District 1 with a higher Republican vote share?

A. It would have gone against the traditional redistricting principles of keeping communities of interest together.

Q. Did you draw any lines in the enacted plan based on race?

A. No.

Q. Did you look at racial data while you were drawing the enacted plan?

A. No.

Q. Did you consider the BVAP of any district while you were drawing the enacted plan?

A. No.

Q. Did you use a racial target to draw the enacted plan?

A. No.

Q. Did you use race as a proxy for politics in drawing the

Page 1437

enacted plan?

A. No.

Q. Did you use politics as a proxy for race?

A. No.

Q. Did you discuss the BVAP of any district in the enacted plan with anyone before that plan was released publicly?

A. Just Charlie Terrine. He would have asked after the plan was finalized what the BVAP was in certain districts.

Q. Was that after the plan was drawn?

A. Yes.

Q. Did you use and rely on political data to draw the enacted plan?

A. Absolutely.

Q. Did you set out to make District 1 in the enacted plan more Republican leaning than it had been in the benchmark plan?

A. Yes. We've got a Republican-controlled legislature, and we knew there would be no way that we would pass a plan that did otherwise.

MR. GORE: Can we pull up Senate Exhibit 29b? It's in tab 7 of the binders. It's the enacted plan map.

BY MR. GORE:

Q. Mr. Roberts, can you identify, using this map, the areas where you made changes compared to the benchmark plan?

A. Certainly. A lot of these requests are going to be based

Page 1438

off the map that Dalton Tresvant handed us. Some of the areas that we're going to be looking at are going to be down in Beaufort with Sun City. We're going to be looking at the Limestone area of Orangeburg. We've also continued to have the split of Fort Jackson up in Richland County. We added more of Sumter to Congressional District 6 and made minimal changes along Districts 6 and 7 in Florence.

Q. What about in Berkeley County?

A. In Berkeley County, we made Berkeley County whole and alleviated a split county in that situation. We also in the enacted plan made Beaufort County whole, making that county just complete in the 1st Congressional District.

Q. What changes did you make in Dorchester?

A. In Dorchester County, we kept the district pretty much the same, except on the south end we ended up following Congressional District 98, which is Chris Murphy's House district, which he requested his entire House district be in the 1st Congressional District.

Q. And that District 98, is that a State House district or a congressional district?

A. That's a State House District.

Q. Did you make any changes in the Saul Dam area?

A. The Saul Dam area, which is just — let me look at this real quick. So, the Saul Dam area is located down here. It's a very large geographic precinct, but it doesn't have too many

people in it. It is an extremely high Trump-performing district. And we ended up putting that in District 6 so that we could actually make a clear path to downtown Charleston and West Ashley through this way.

Q. Did that move improve the shape of District 6 in that area?

A. It did.

Q. Mr. Roberts, what information did you use to decide which areas to move in this map?

A. That would have been based on the comments from the Congressman. It would have been based on input from Senator Campsen, Senator Grooms, Representative Murphy, and it would have been based on the political information we had available to achieve the goal of the General Assembly of making the 1st a more Republican district.

Q. Were there any other goals you pursued to make the plan better in terms of traditional districting principles?

A. In Charleston we really respect the communities of interest in Charleston. We'll get to that in just a little bit. We also made sure that we put the entire coastal area, this area through here, in the 1st Congressional District to preserve that core of the sea islands and the coastal areas of South Carolina.

Q. Did you set out to repair county splits?

A. We did. We started off trying to draw by VTD and repair

as many county splits as we could.

Q. And did you also set out to repair VTD splits?

A. We did.

Q. Now, Mr. Roberts, you testified that after former Congressman Cunningham's allegations in November, you went back to the staff plan and took a look at his allegations, right?

A. That's right.

Q. And you concluded that his allegations about the use of race were incorrect; is that right?

A. That's correct.

Q. What changes, nonetheless, did you make to the map in response to those allegations?

A. After hearing those allegations, we moved some pieces around in Charleston and started following national geographic features that really define the communities of interest around Charleston County.

Q. And did you make any of these changes we've discussed based on race?

A. No.

Q. Did you make some of these changes based on politics?

A. Yes.

MR. GORE: So, if we can pull up Exhibit 3 side by side with this map.

BY MR. GORE:

Page 1441

Q. So, Mr. Roberts, you testified earlier you're familiar with these redistricting guidelines; is that right?

A. That's correct.

Q. Okay. I want to turn your attention to Section 1A2, Population Equality For Congressional Districts. In that paragraph, the final sentence starts, "So that the state..." Can you see that on your screen?

A. Yes.

Q. Will you read that sentence for us?

A. "So that the state may avoid assuming this additional burden under federal law, a congressional redistricting plan should not have a population deviation greater than one person."

Q. Did you draw the enacted plan with the total deviation of one person?

A. Yes.

Q. Parts 1B and 1C mentioned voting rights and avoidance of racial gerrymandering. Are you qualified to determine whether a plan complied with those requirements?

A. No. I'm not an attorney.

Q. And so, who is responsible for analyzing that on behalf of the Senate?

A. We looked at outside counsel to make that determination.

Q. Section 2 at the bottom of page one lists contiguity?

A. Yes.

Q. I believe we discussed before there was an Maptitude function for contiguity; is that right?

A. Yes.

Q. And are the districts in the enacted plan contiguous?

A. Yes.

Q. On page three it lists additional considerations that can be brought to bear. Do you see that?

A. I do.

Q. It mentions communities of interest, constituent consistency, minimizing divisions of county boundaries, minimizing divisions of cities and towns, and minimizing divisions of voting precinct boundaries as well as district compactness; is that right?

A. That's correct.

Q. Did you consider each of these factors across the state when you drew the enacted plan?

A. Yes, we did.

Q. Were there any of these criteria that you elevated over others when you were drawing the enacted plan?

A. When we first started out drawing, we did elevate some of them. We made sure that we were going to start with the benchmark plan, which would have preserved the cores of the existing districts and make only modest changes to the lines to balance out the population. We also set out from the beginning to minimize divisions of county boundaries and to

minimize divisions of voting precincts.

Q. Was there a particular reason you were interested in preserving the cores of existing districts?

A. It's a traditional redistricting principle. And it was requested by Congressman Clyburn to have minimal change, so we were going to respect that. You can make the argument that preserving cores of the existing districts is also the same as respecting communities of interest.

Q. Does keeping counties and VTDs whole facilitate election administration?

A. Yes. It makes it a lot easier on election officials on election day if precincts are kept whole as well as counties.

Q. What did you do to ensure that the districts were compact?

A. We used the eyeball test on this. We had the capability of running a statistical analysis based on different algorithms, but none of us could understand what those numbers meant, so we just used the eyeball test for the compactness.

Q. And did you preserve communities of interest in the enacted plan?

A. Yes, we did.

Q. So, Mr. Roberts, I want to ask you about the first sentence in Section 3, additional considerations. It says: Other criteria — well, actually, will you just go ahead and read that for us.

A. Talking about where it says "other criteria"?

Q. Yeah.

A. "Other criteria that should be given consideration where practical and appropriate in no particular order or preference, are..."

Q. And who was responsible to determine whether these principles had been considered in a particular order of preference or not?

A. That would have been something that we all discussed during the map-drawing process.

Q. And, ultimately, did you have a vote on the map?

A. No, I did not.

Q. Was the General Assembly ultimately responsible for determining whether the guidelines had been applied?

A. Yes.

Q. And to what extent?

A. Yes.

Q. And was it up to the General Assembly to determine which tradeoffs to make in these various principles?

A. Yes.

Q. Mr. Roberts, I'd like to go down to paragraph 4. It says "data."

MR. GORE: Will you bring that up?

BY MR. GORE:

Q. Will you read that last sentence?

Page 1445

A. It says, "The other succinct and importable sources of demographic and political information may be

considered in drafting and analyzing proposed redistricting plans.”

Q. And did you consider political information in drafting the enacted plan?

A. Yes, we did.

MR. GORE: Let’s go ahead and — we can take this document down. And can we just get enacted — Senate Exhibit 29c?

BY MR. GORE:

Q. Mr. Roberts, this is the core constituencies report for Amendment 1. Do you see that?

A. Yes.

Q. And we talked a little bit about the map before. But is this the same method of calculating district cores as we talked about with the Milk Plan?

A. Yes.

Q. And what are the core retention percentages for each district here in the enacted plan?

A. So, District 1 is 92.78. District 2 is 96.75. District 3 is 94.75.

Q. And we can go to the next page.

A. District 4 is 98.09. District 5 is 95.04. District 6 is 77.41.

Q. And there should be one more page.

Page 1446

A. And District 7 is 99.51.

Q. Is there a reason District 6’s core preservation number is lower than the others?

A. Given the fact that it was underpopulated in the 2020 census, we expected it to drop because it needed

to pick up approximately 80,000 people from another district.

Q. Do these core preservation numbers indicate that the enacted plan is a minimal change plan?

A. Yes, it does.

Q. Is that true across the state?

A. Yes.

Q. Including Districts 6 and 7?

A. Districts 6 and 7, definitely, yes.

MR. GORE: Let's see if we can pull up side by side Senate Exhibits 28b and 29e — I'm sorry, it should be 29d — or 28b and 29e. Can we get 29e?

BY MR. GORE:

Q. So, this is the political subdivision splits between districts in the enacted plan. How many counties are split in the enacted plan?

A. There are 10 splits.

Q. How many were split in the benchmark plan?

A. I believe it was more than that, but I have to go back to my sheet.

MR. GORE: Can we pull up 28d as well — or I'm

Page 1447

sorry, 28b — no, 28d. Thank you.

BY MR. GORE:

Q. So, looking at 28d, how many county splits were there in the benchmark plan?

A. There are 12.

Q. And how many voting district splits were there in the benchmark plan?

A. Sixty-five.

Q. And how many of those affected no population?

A. Thirteen of them.

Q. Okay.

MR. GORE: And can we go back to 29e? I'm sorry.

BY MR. GORE:

Q. And so, comparing that to the enacted plan, how many county splits were in the enacted plan?

A. We've got 10 county splits.

Q. And how many VTD splits?

A. Thirteen.

Q. And which counties split in the benchmark plan did you make whole in the enacted plan?

A. I know that we made whole Beaufort and Berkeley County in the enacted plan.

Q. And this document shows that Jasper was split in the enacted plan. Was that split in the benchmark plan?

A. No, it was not.

Page 1448

Q. And did you make Newberry County whole in the enacted plan?

A. We did.

MR. GORE: Let's go ahead and pull up 29d, if we can, as well as 28c. If we can get those side by side. Thank you.

BY MR. GORE:

Q. If you look at this, Mr. Roberts, it's 29d, and it shows the Trump percentage in District 1. Do you see that?

A. Yes.

Q. And what is the Trump percentage in District 1 under the enacted plan?

A. It's 54.39 percent.

Q. And is that higher or lower than in the benchmark plan?

A. It's higher than the benchmark.

Q. And so, does the enacted plan achieve the goal of making District 1 more Republican leaning?

A. Yes, it does.

Q. And how many districts are majority Republican in this plan?

A. That would be six out of the seven.

MR. GORE: Can we pull up Exhibit 28b, as in boy?

BY MR. GORE:

Q. Mr. Roberts, this is a report on the demographics in the benchmark districts under the 2020 census. Did you prepare this report?

Page 1449

A. Yes, I did.

Q. And according to this report, what is the BVAP percentage in District 1 under the benchmark plan?

A. It is 16.56.

MR. GORE: And can we pull up 29g?

BY MR. GORE:

Q. And, Mr. Roberts, this is the population summary for the enacted plan. What's the BVAP in District 1 in the enacted plan?

A. 16.72.

Q. So, did the enacted plan increase the BVAP in District 1 as a percentage?

A. It did.

Q. And it also increased the Republican vote share in District 1 as a percentage; is that right?

A. That's correct.

Q. Now, we see here also that District 6's BVAP percentage declined from the benchmark plan to the enacted plan; is that right?

A. That's correct.

Q. Why did that result occur?

A. That occurred from moving 80-something-thousand people from District 1 to District 6.

Q. Was benchmark District 6 underpopulated under the 2020 census data?

Page 1450

A. Yes.

Q. How severely?

A. 84,741 people.

Q. Did you set out to change District 6's BVAP in the enacted plan?

A. No.

Q. Did you consider changing District 6's BVAP in the enacted plan?

A. No.

Q. How about any other district's BVAP?

A. No.

MR. GORE: Thank you. We can take this down.
Can we get Plaintiffs' Exhibit 332?

BY MR. GORE:

Q. So, Mr. Roberts, this is an e-mail you sent to Andy Fiffick on January 16th, 2022; is that right?

A. That's correct.

Q. Do you recall about when the enacted plan was adopted?

A. Sometime in January. I can't recall the exact date.

Q. Was it around January 20th or so?

A. I believe so, yes.

Q. And this e-mail's subject line is "Analysis For Senator Campsen Notes on Essay 1..X". And you're telling Mr. Fiffick this is an analysis you put together on Senate Amendment 1; is that right?

Page 1451

A. That's correct.

Q. Okay. If we can go to the next page of this exhibit, there is an attachment which has an analysis. Do you recall drafting this document?

A. Yes.

Q. And do you know why you drafted it and sent it to Mr. Fiffick?

A. I don't know exactly why, but it would have been a request from Andy for me to put something like this together.

Q. Now, it appears to contain an analysis of adherence to the Voting Rights Act and avoidance of racial gerrymandering. Did you write all that?

A. Yes, I did.

Q. And are you qualified to conduct that kind of legal analysis?

A. No, I'm not.

Q. Do you know whether Mr. Fiffick ever relied on this e-mail?

MR. CUSICK: Objection. Speculation.

JUDGE GERGEL: Well, how would he know that? Lay a foundation.

BY MR. GORE:

Q. Did you ever discuss this e-mail with Mr. Fiffick —

A. Not that I recall.

Q. — after you sent it?

Page 1452

A. Not that I recall.

Q. Did you ever discuss it with Senator Campsen?

A. No, I did not.

Q. Do you have any basis one way or the other to know whether Mr. Fiffick or Senator Campsen relied on this?

A. Both of them know me personally. They know I'm not an attorney. So, if they relied on it, then I can't speak to that, no.

MR. CUSICK: Objection again. Motion to strike that answer because he already —

JUDGE GERGEL: It sounds like to me it's non-responsive. I mean, the question — he doesn't know, I think that's the answer.

MR. GORE: That's the answer. Thank you.

JUDGE GERGEL: He does not know.

MR. GORE: Thank you, your Honor.

JUDGE GERGEL: I sustain the objection based on the additional language stated.

MR. GORE: Let's go to Plaintiffs' Exhibit 334, if we can.

BY MR. GORE:

Q. This is an e-mail from Breeden John to Senator Campsen on January 18th, 2022, on which you are copied. Do you see that?

A. Yes.

Q. It appears that Mr. Fiffick and Mr. Terrine also are

Page 1453

copied; is that right?

A. That's correct.

Q. Okay. And this is an e-mail to which Mr. John attaches talking points; is that right?

A. Yes, it is.

Q. And if we can skip ahead to the next page, do you recognize these talking points?

A. Yes, I do.

Q. And do you know why Mr. John put these together?

A. This would have been a request that came from Senator Campsen before he attended one of the meetings about the plans.

Q. Did Senator Campsen express interest in particular talking points or areas he wanted to know about?

A. Yes, he did.

Q. And what were those?

A. Really an overall view of how the district changes impact — or were moved, especially in the Charleston area.

Q. Okay. Were any members of the staff permitted to share this kind of document without Senator Campsen's permission?

A. If it was requested from Senator Campsen, we would not share it without express consent from him.

MR. GORE: Let's go ahead and take that down and see if we can pull up Senate Exhibit 62.

BY MR. GORE:

Page 1454

Q. Now, Mr. Roberts, do you recognize this document?

A. Yes, I do.

Q. What is it?

A. It's talking points that we provided to Senator Campsen. And I believe this is some of the other areas as well.

Q. And do you know why this document was put together?

A. I believe this is the document that we were going to talk about on the House floor. It was going to be

used on the House floor as talking points from the different areas of the state.

Q. Was this document provided to the Republican Senators?

A. Yes, it was.

Q. Was it provided to any Democratic Senators?

A. Not that I recall.

Q. Did the Republicans who received this document all support the plan?

A. I believe so, yes.

Q. And did any Democrats support the plan?

A. Not that I'm aware.

Q. And were any members of the staff permitted to share this kind of talking point document without Senator Campsen's permission?

A. Not without his permission, no.

Q. Mr. Roberts, what was Senate Amendment 2?

A. Senate Amendment 2 was an amendment that was going to be

Page 1455

put forward by Senator Harpootlian.

Q. And when the Senate staff received the plan from Senator Harpootlian, did you notice some kind of problem with it?

A. Yes. It was out of the — it did not satisfy the one-person deviation.

Q. And what did you do about that?

A. We let Senator Harpootlian know that his plan was out of deviation.

Q. And what was done to address that problem?

A. He told us to fix it or get it fixed.

Q. And what did you do in response to that instruction?

A. I can't remember if we fixed it or if we contacted Joey Oppermann to fix it.

Q. And did that fix become Senate Amendment 2A?

A. Yes, it did.

Q. And using Maptitude, did you prepare reports regarding Amendment 2 and Amendment 2A?

A. Yes, I did.

Q. And did those reports include a partisan analysis report?

A. Yes, it did.

Q. And were those reports posted on the Senate redistricting website along with those plans?

A. Yes, they were.

MR. GORE: Can we pull up Senate Exhibit 31a, which is at tab 8 of the binder?

Page 1456

BY MR. GORE:

Q. Will you briefly describe to the Court some of the differences between Amendment 1 and Amendment 2A.

A. Some of the differences in between the two are you've got District 7 that's now running from Horry County through Georgetown County to Berkeley County down to Dorchester County. That was not the same as in amendment — House Plan 2, Senate Amendment 1. It did not correspond to the request

that we had from Senator Rankin not to touch District 7. District 5 now runs from Rock Hill all the way out towards Mullins on the way to Horry County. That, again, is a big change in the way District 5 is shaped. District 3 now comes into portions of Greenville and Laurens, which I believe Laurens was already in there. But it really dramatically shifts the core of that district.

District 2, which used to be really in the Midlands area, now extends up into the upstate of South Carolina, coming through Abbeville, Greenville, portions of Union County. District 4 is now stretched from Greenville and Spartanburg all the way across the northern border with North Carolina. And District 6 goes from basically Kingstree up into Richland down through Barnwell, Allendale and down to Hampton. So, the cores of these districts are really, really different.

Another thing that it looks like it does is it does keep Charleston whole, from what I can tell from this map, Colleton

Page 1457

whole, Beaufort whole, and Jasper whole.

Q. Does it keep Fort Jackson in District 2?

A. No, it does not.

Q. Would you describe this as a minimal change plan?

A. Not at all.

Q. Why not?

A. It does not respect the cores of the existing districts with the dramatic modifications that this map has.

Q. Is this a least-changed plan to District 7?

A. No, it's not.

Q. Where is District 7 in the enacted plan or Amendment 1 compared to where it is in this plan?

A. District 7 is really anchored by the Pee Dee and the Grand Strand areas. And this one, it goes from Horry down to Dorchester.

Q. Is this a minimal-change plan for District 6?

A. No, it is not.

Q. Why not?

A. It now includes Allendale and Hampton counties — I'm sorry. It includes all of Richland County, it includes all of Sumter County in this map.

Q. Does District 6 extend into Colleton in this map?

A. It does not extend into Colleton in this map, no.

Q. How about Dorchester?

A. No.

Page 1458

Q. How about Charleston?

A. No.

Q. All right.

MR. GORE: All right. Can we get Senate Exhibit 31c?

BY MR. GORE:

Q. This is the core constituency's report for Senate Amendment 2A. And if you look at the first page of this report, are these core preservation numbers lower than Amendment 1?

A. Yes, they are.

MR. GORE: Can we go to the next page?

BY MR. GORE:

Q. And focusing in on District 6, what is the core preservation percentage in District 6 under Amendment 2A?

A. By looking at it as a percentage of the total population of 731,204 it is 54.34 percent.

Q. Does that mean that more than 45 percent of Congressman Clyburn's constituents would be new to him under Amendment 2A?

A. That's correct.

Q. And would that be a minimal-change district for Congressman Clyburn?

A. No.

MR. GORE: Let's take this down and go to Exhibit 31d — Senate Exhibit 31d.

BY MR. GORE:

Page 1459

Q. This is the partisan analysis report for that plan. Did you generate this report?

A. Yes, I did.

Q. And in how many of the districts does a Republican get more votes than the Democrat?

A. It would be five out of the seven.

Q. Is District 1 a Republican-leaning district in this plan?

A. No, it's not.

Q. What is the Republican vote share in this plan?

A. It's 48.17 percent.

Q. Did you ever discuss the political effect of Amendment 2A with any senator?

A. Senator Campsen.

Q. What did you understand Senator Campsen to convey to you about that, if anything?

A. That he was not going to vote for this.

Q. Did you have an understanding as to why?

A. The Trump percentage was a lot lower in the plan that he had, and it was lower than the benchmark.

Q. Did you ever discuss race or BVAP with Senator Campsen or any other senator?

A. No.

MR. GORE: Let's take that down if we can. Let's go to Exhibit 68a.

BY MR. GORE:

Page 1460

Q. Mr. Roberts, are you familiar with this partisan — with this map?

A. Yes, I've seen it before.

Q. Is this the League of Women Voters' map?

A. It's a modified version of the League of Women Voters' map.

Q. Do you know what modifications were made to it?

A. I believe it was to — I believe the original League of Women Voters' map had two incumbent congressmen in the same difference, and I believe this one was modified to separate those incumbents.

Q. Was this map proposed as Senate Amendment 3?

A. Yes, it was.

Q. Do you recall how you received this particular plan?

A. I don't recall exactly. I know it was on our redistricting system. We ran all the reports and everything for it. I don't remember how we received this one.

Q. Looking at this map, can you briefly describe to the Court the differences between this map and Senate Amendment 1?

A. Starting with District 1, this looks to have Colleton whole, Dorchester whole, and Charleston whole down through this area. It does split Berkeley County down in the Hanahan area, it looks like. District 7 is modified to, instead of having a Pee Dee/Grand Strand anchor, it actually comes down into Berkeley County, down towards Moncks Corner and Bono

Page 1461

Beach.

District 5 is now elongated along the North Carolina border, coming from Spartanburg County all the way to Marlboro County. District 4 is pretty close to where it was in the enacted map, but it does have two splits in Greenville County under this. District 3 has got a little bit of change into it. But District 2 now runs from Lexington down to Beaufort. District 6, it is no longer in the downtown Charleston area. It does pick up Fairfield County. And then, again, you've got Fort Jackson not in District 2.

Q. So, speaking of District 2 first, does this version of District 2 extend that district into Beaufort?

A. Yes, it does.

Q. Does this version of District 6 extend into Colleton?

A. No, it does not.

Q. Or Dorchester?

A. No, it does not.

Q. Or Charleston?

A. No, it does not.

Q. Would you describe this as a minimal-change plan?

A. No.

Q. Why not?

A. It does not respect the cores of the existing districts under the benchmark plan.

MR. GORE: Can we pull up Senate Exhibit 68c?

Page 1462

BY MR. GORE:

Q. This is the core constituency's report for Amendment 3, the LWV Plan. Does this plan generally preserve less of the cores than Amendment 1?

A. Yes.

MR. GORE: And if we can go to the next page, I'd like to focus on District 6 there at the bottom.

BY MR. GORE:

Q. How much of the core of District 6 does the LWV Plan preserve?

A. Again, given the total population of 731,202, District 6 has 50.70 percent.

Q. Does that mean that nearly 50 percent of Congressman Clyburn's constituents would be new to him under this version of the plan?

A. That's correct.

Q. Would that be a minimal-change district for Congressman Clyburn?

A. No, it would not.

MR. GORE: All right. Can we pull up Senate Exhibit 68d?

BY MR. GORE:

Q. This is the partisan analysis report for this plan. Did you prepare this report?

A. Yes, I did.

Page 1463

Q. And according to this report, in how many districts do the Republicans get more than the Democrats?

A. That would be five out of the seven.

Q. Is District 1 a Republican-leaning district in this plan?

A. No, it is not.

Q. What is the Trump vote share in District 1 in this plan?

A. It's 48.25 percent.

Q. Did you ever discuss this plan with any senator?

A. I believe I did discuss this with Senator Campsen.

Q. And what did you understand Senator Campsen's view of this plan to be?

A. It would have been the same.

MR. CUSICK: Your Honor, just an objection here. Senator Campsen will be here later today. And the relevance of his understanding as to why Senator Campsen voted on this plan.

JUDGE GERGEL: He didn't vote on the plan.

MR. GORE: Didn't vote on the plan.

MR. CUSICK: I'm sorry. His views on the —

JUDGE GERGEL: I think it's going to his intent. Overruled.

MR. GORE: Thank you, your Honor.

THE WITNESS: Can you repeat the question please?

BY MR. GORE:

Q. Sure. What did you understand Senator Campsen's view of

Page 1464

this plan to be?

A. This wasn't going to go anywhere because it had the Trump percentage lower than the benchmark in District 1.

Q. And did Senator Campsen want to increase the Trump number in District 1?

A. Yes.

MR. GORE: Your Honor, at this time I'm about to move into a whole new area. Would you prefer —

JUDGE GERGEL: Do you think this is a good time for a break, Mr. Gore?

MR. GORE: I do.

JUDGE GERGEL. We'll take a break then, and let's come back at 1:15.

(Lunch recess.)

JUDGE GERGEL: Please be seated.

Any matters any of the parties need to address before we continue with direct?

MR. CHANEY: Not for plaintiffs, your Honor.

MR. GORE: Not for Senate Defendants, your Honor.

MR. MOORE: Not for the House Defendants, your Honor.

JUDGE GERGEL: Thank you. Okay. Go for it, Mr. Gore.

MR. GORE: Thank you, your Honor.

BY MR. GORE:

Q. Mr. Roberts, I'd like to go back to Senate Exhibit 31a

Page 1465

and ask you just a couple followup questions about it. This is the map of Senate Exhibit Senate Amendment 2A. Do you see that on your screen?

A. Yes, I do.

Q. I may have misunderstood your testimony earlier. But does the Amendment 2A Plan split Richland County in the northwest corner?

A. Yes, it does.

Q. Do you know anything about the political makeup of the portion of Richland County that's placed in District 2 under Amendment 2A?

A. It's a predominantly Republican voting area.

Q. Thank you.

JUDGE GERGEL: I missed that. This is the — we're talking about the enacted plan?

MR. GORE: This is Amendment 2A.

JUDGE GERGEL: That's the —

MR. GORE: The Harpootlian Plan.

JUDGE GERGEL: The Harpootlian. Okay. Got you. I'm sorry.

MR. GORE: Thank you, your Honor. I understood we were trying to get away from calling it that.

JUDGE GERGEL: That's fine. I lapse myself. Excuse me. 2A is fine.

MR. GORE: Thank you.

Page 1466

BY MR. GORE:

Q. Okay. Mr. Roberts, I'd now like to discuss the specific changes you made in the enacted plan from the benchmark plan. Did you prepare a set of maps showing various counties and statewide the changes in the enacted and benchmark plan?

A. Yes, I did.

Q. How did you prepare those?

A. Pulled in information into ArcGIS, a mapping software that we used to produce the maps. It was the enacted plan with the benchmark lines overlaid, did a statewide map as well as individual county splits.

Q. Are those maps true and accurate representations of the district lines and geography they depict?

A. Yes, they are.

MR. GORE: Your Honor, at this time I'd like to move into evidence Senate Exhibits 47, 48, 49, 50, 51, 52, 53, 54, 55, and 56.

JUDGE GERGEL: Are there objections from the plaintiffs?

MR. CUSICK: Yes, your Honor. Yes. We renew our objections in ECF 355 and 351, that these were produced I believe for the sole purposes of trial, so these are post-hoc justifications that were created. Even though they rely on data that might have been available to folks during the process, these were produced from what I believe on the last

Page 1467

day of discovery, August 12th, after depositions and all had been taken. And so, this would be all relatively new.

JUDGE GERGEL: What is 47 through 56, Mr. Gore? Could you explain it to me?

MR. GORE: Your Honor, yes. There are tabs 9 through the end of the binder. These are maps that Mr. Roberts prepared. We did produce them in discovery. And they are maps showing the bench — the enacted districts with the benchmark lines superimposed over them. And these are maps that were prepared — perhaps, it starts at tab 10 — by Mr. Roberts using the software that he used to produce other maps —

JUDGE GERGEL: So we can visualize the difference?

MR. GORE: So that you can visualize the differences.

JUDGE GERGEL: It's just for demonstrative purposes. What's the objection? I mean, I don't think they argue that they were — were they used in the debate or anything?

MR. GORE: No, they were not.

JUDGE GERGEL: It's part of the discovery. It's just a demonstrative exhibit. I overrule the objection.

MR. GORE: Thank you.

JUDGE GERGEL: And so, let me just say, Senate Exhibits 47 through 56 are admitted.

MR. GORE: Thank you, your Honor.

(Senate Exhibits 47 through 56 were admitted into

Page 1468

evidence.)

MR. GORE: Can we pull up Senate 47?

BY MR. GORE:

Q. So, Mr. Roberts, do you recognize this document?

A. Yes, I do.

Q. What is it?

A. This is the statewide map that I created that shows the enacted districts in color with the dark blue outline as the benchmark lines.

Q. And can you just briefly walk through for the Court and show where those enacted districts and benchmark lines are in this plan?

A. Yes, certainly. So, the enacted lines are going to be the colored lines. The benchmark are the dark blue lines. To give you some examples of what's changed, as you can see in Greenville, we changed here;

Spartanburg here. We made Newberry whole here. In Florence, it shows you the change that we did in this area. In Sumter, adding more of Sumter to District 6 here. We changed the outer boundary of the hook here in Richland County. We put the Limestone area of Orangeburg into District 2 here. We've got the Sun City and Okatie precincts down here in District 1. And then we bring in District 6 into the West Ashley downtown area here.

Q. So, let's back up a minute and make sure we understand what we're looking at. So, each enacted district is shaded in

Page 1469

a color; is that right?

A. That's correct.

Q. Okay. And are the black lines county lines?

A. That's correct.

Q. And the dark blue lines are the old benchmark lines where they deviate from the enacted lines; is that right?

A. That is correct.

Q. And you've just highlighted on the screen some of the changes that were made and some of the areas in which changes were made in the map; is that correct?

A. That's correct.

MR. GORE: And that map is at tab 10 for the Court's reference.

BY MR. GORE:

Q. Mr. Roberts, did you also prepare individual county-specific maps showing the changes from the benchmark district to the enacted districts?

A. Yes, I did.

MR. GORE: Can we get Exhibit 53, which is at tab 11 of the binder?

BY MR. GORE:

Q. Mr. Roberts, what does this depict?

A. So, the black line is going to be the boundary between Beaufort County and Jasper County. The purplish color is going to be District 1, where the gray color is District 6.

Page 1470

The red lines depict the voter tabulation districts in both Jasper and Beaufort County.

Q. And will you explain to the Court what change you made in Jasper County in the plan?

A. Certainly. Jasper County was whole under the benchmark plan. And after public testimony and talking with people in the area around — after public feedback, we ended up making a change into Jasper County, splitting the county, putting all of Sun City in the 1st Congressional District. And so, we did that by including this portion of Jasper County into the 1st Congressional District.

And so, this area, if you're familiar with Beaufort County, if you get off I-95, you're heading towards Hilton Head, it's going to be on the left side of 278 as you're going towards Hilton Head. It's the Sun City portion of Jasper County. And the reason why we included both Sun City VTD as well as the Okatie 2 precinct is because the way that this Sun City precinct was developed, the Sun City area has actually expanded outside of that boundary. So, to include the entire Sun City area, we had to include that Okatie 2

precinct as well. And Sun City is a retirement community, a gated retirement community, that I believe you have to be over a certain age in order to reside in that area. And so, after public testimony, we moved that into District 1.

Q. Mr. Roberts, it looks like there are several Sun City

Page 1471

precincts or VTDs in Beaufort; is that right?

A. That's correct.

Q. The Sun City community exists across the county line between Beaufort and Jasper?

A. It does.

Q. And does it extend into that Okatie 2 precinct in Jasper County?

A. Yes, it does.

Q. Was this move a decision to unify the Sun City community of interest in a single district?

A. Yes, it was.

Q. Was race a factor in the decision to move these precincts to District 1?

A. No.

MR. GORE: Would you bring up Senate Exhibit 48, which is at tab 12 of the binder.

BY MR. GORE:

Q. Okay. Mr. Roberts, this is showing Beaufort County; is that right?

A. That's correct.

Q. And will you briefly explain to the Court what's being shown here.

A. Certainly. What we did in this — and this sort of explains the numbering on this. So, you see where the District 1 is down here and the District 6 here, these labels

Page 1472

are for the benchmark. So, we don't want to look at those when we're trying to determine exactly where the new line is. We really want to look at the color in this situation.

So, this depicts the benchmark line roughly following through here. So, everything south of here would be in District 1, and everything in north would be in District 6 according to the benchmark. So, what we did is we made Beaufort County whole by including this northern portion of Beaufort County into District 1. And that really — we had some testimony about the Gullah Geechee community in Beaufort County. And what doing this does is, for one, it makes Beaufort County whole; and the second, it pulls in that historically — that Gullah Geechee community out of the Sheldon area in northern Beaufort County and unites it with the Gullah Geechee community in Lady's Island and St. Helena Island. So, you've got Highway 21 that runs roughly somewhere down here, and it ties that whole Gullah Geechee community together in Beaufort County.

Q. Can you indicate on this map where that Sheldon area of Beaufort County is?

A. Sure. That Sheldon area is going to be located right in this area.

Q. And was that area in District 6 in the benchmark plan?

A. It was.

Q. By uniting Beaufort County, did you unite the Gullah

Page 1473

Geechee Heritage Corridor in that county as well?

A. In that county, yes.

Q. Were there any other changes you made to Beaufort?

A. In making Beaufort whole, we did repair one split VTD that was down there, and that's going to be this VTD here. I believe it's Burton 1D, but I could be wrong on the letter.

Q. This map also shows Colleton County. Was that county split in the benchmark plan?

A. Yes, it was. And it was split right here along the river.

Q. And was race a factor in the decision to make any changes in Beaufort or Colleton County?

A. No, it was not.

Q. Let's go next to Exhibit 54, which is Tab 13 in the binder. Mr. Roberts, is Orangeburg split in both the benchmark and enacted plans?

A. Yes, it is.

Q. Will you explain this map to the Court?

A. Certainly. So, this is the Limestone area that I've been referencing that was on the Clyburn map that we were handed. We ended up moving it from District 6 to District 2. The testimony at the public hearing in Orangeburg said that they really have a lot — it's a rural area, and they have a lot more in

common with the southern part of Lexington County, which is a really rural area, mostly farmland out that way.

Page 1474

And the request was to the put Limestone 1 and 2 into District 2. We did that. This was also in the Clyburn map that was provided to us by Dalton Tresvant.

Other things we did in Orangeburg is we repaired VTD splits. Here's a VTD split here, one here, and Cordova, number 2 down there. And so, by changing this map around, we repaired those VTD splits in Orangeburg.

Q. Using this function, can you just quickly trace across where the line was in the benchmark plan?

A. Certainly. So, again, we're using a thick, dark blue line for the benchmark. So, that would have been — this is a rough sketch. So, that's the benchmark line.

Q. Again. Are the numbers on this, the 2 and the 6, they indicate the benchmark districts?

A. That's correct. The colored shading represents the enacted plan.

Q. And the blue shading, is that enacted District 2?

A. That's correct.

Q. Mr. Roberts, was race a factor in making any of these changes in Orangeburg?

A. No, it was not.

Q. Thank you.

MR. GORE: Can we go to Senate Exhibit 55, please?

BY MR. GORE:

Q. Mr. Roberts, is this the map you prepared of Richland

Page 1475

County?

A. Yes, it is.

Q. And will you first just trace the benchmark line for the Court?

A. Certainly. So, I'm going to start at the Lexington/Richland line up here in northwest Richland County, and we're going to follow this benchmark line around as best as possible. And that's the benchmark line.

Q. Mr. Roberts, we heard testimony earlier today that District 6 extends like a finger or a thumb into the city of Columbia in the enacted plan. Was that also true in the benchmark plan?

A. Yes.

Q. We also heard testimony about the hook of District 2 around the city of Columbia and Richland. Did that hook exist in the benchmark plan?

A. Yes.

Q. And do you know if that basic configuration of Richland County existed even before the benchmark plan?

A. I believe it did.

Q. There's a number 2 and a number 6 on this map. Are those references to the benchmark districts?

A. Yes, they are.

Q. What is located in this area to the right in the blue shading?

Page 1476

A. So, Fort Jackson is located in Ward 26 here. This large area, geographic area, is Fort Jackson.

Q. And will you explain to the Court the changes you made in Richland?

A. Certainly. I'm going to clear this benchmark line if that's all right.

Q. Please.

A. So, in Richland County, we repaired a lot of the split precincts in there. I believe it was 19 out of the 21 split precincts, or somewhere in that ballpark. I'm going to start out at the Lexington/Richland County boundary and work eastward, describing the changes we made.

So, up through here, the Pine Grove VTD and Harbison, we ended up repairing that precinct split coming up using the Walden area, which is the benchmark. And then we repaired the Monticello precinct. And so what we did is we follow the line of the southern portion of the Monticello precinct over towards the Fairlawn precinct. At that point, we turn north to meet back up with the benchmark line, and then we follow the benchmark line eastward, going down through the southern side of Blythewood 3 and north of the Killian precinct. And we continue to follow that benchmark line all the way till we get to the eastside of Columbia. So, we're following this all the way down until we hit the Spring Valley precinct. And at the Spring Valley precinct, we make a modification to go from

the benchmark line and actually follow the boundary between Senate Districts 20, 21 and 22, one represented by Mia McCloud, the other one by Darrell Jackson.

And so, we follow the Senate district line all the way till we get close to the south side of Fort Jackson. And then, at this point, we end up picking back up with the benchmark, going around and then repairing the two Brandon precinct splits there, and then run that boundary out, completing the hook shape or running along the south side of Fort Jackson.

Q. Okay. Can you indicate for me where around the Brandon precincts the line runs?

A. So, the Brandon precincts would be located down here. And so, you can see where the benchmark line splits those two precincts. So, we included both of those precincts in District 2, repairing that split.

Q. Mr. Roberts, does following the Senate District 21 and 22 line make election administration easier?

A. Yes, it does.

Q. How so?

A. The people on that line that would vote in Senate District 22 would be in Congressional District 6; and those folks that vote in Senate District 21 would vote in the other congressional district.

Q. Does repairing 19 of the 21 precinct or VTD splits in

Richland make election administration easier?

A. Yes, it does.

Q. How so?

A. There's no ballot styles you have to the split in Richland County based on that. So, the hardest thing for a poll worker to do on election day is to determine the ballot style for somebody. So, having one ballot style per precinct, especially on the Senate congressional lines, makes it a lot easier for election administrations.

Q. Did you honor Congressman Wilson's request to leave Fort Jackson in District 2?

A. Yes. Fort Jackson is still in his district.

Q. Was race a factor in any of the decisions you made about where to place lines in Richland County?

A. No.

Q. Let's move, if we can, to Senate Exhibit 56. We'll head to Sumter County. Mr. Roberts, is Sumter County split in both the benchmark and enacted plans?

A. Yes, it is.

Q. Will you first trace the line of the benchmark district?

A. Certainly. We're going to begin down here at the Clarendon/Sumter County line and follow the benchmark line northwest into the city of Sumter, showing the split that was existing in Sumter under the benchmark plan. So, that is the benchmark line.

Page 1479

Q. Will you explain to the Court the changes you made in Sumter County in the enacted plan?

A. Certainly. Congressman — well, Mr. Tresvant relayed to us that Congressman Clyburn wanted more

of Sumter in his district. The map that he provided actually — we were able to tell, looking at it, that this Pocatigo area in Sumter was included in his District 6 under that map. And then so we just added more of Sumter in there, repairing the precinct splits that we had in there. So we ended up making South Liberty, which is right here, we fixed that split. I believe there was another split somewhere up in that area. And we added the Swan Lake precinct to Congressional District 6.

Another thing that we did in there is — the way the benchmark map looked, it sort of looked like we had a goalpost kind of right here. To make that look more clean, we added the Turkey Creek precinct into Congressional District 6, just to round that area off on the northeast side of Sumter.

Q. Did adding the Turkey Creek precinct improve the shape of District 6?

A. Yes.

Q. And, Mr. Roberts, was race a factor in any of the changes you made in Sumter County?

A. No.

MR. GORE: Let's pull up Senate Exhibit 52. This is Florence County.

Page 1480

BY MR. GORE:

Q. Mr. Roberts, is Florence split in both the benchmark and enacted plans?

A. Yes.

Q. Will you briefly trace the line between the — the benchmark district line shown here?

A. Certainly. I'm going to start over here at the Sumter/Florence County boundary, and we're going to follow this benchmark line down through Sumter — I'm sorry, down through Florence, until we meet back up with the Williamsburg County boundary.

Q. Will you explain to the Court the changes you made in Florence County?

A. Certainly. We were looking at trying to make District 6 more compact around the Lake City area. And so, the way we did that was repaired the Hanahan precinct split here by moving that all into District 7. And then we dropped the Alanna/McAllister Mill precincts so that we didn't have the elongated line on the southern part of Florence County. And then to balance the population, we ended up splitting the Scranton area there. So we ended up having a pretty compact area around Lake City, which is right there.

Q. Mr. Roberts, was race a factor in any of the changes you made in Florence County?

A. No.

Page 1481

Q. Let's move next to Berkeley County, which is Senate Exhibit 49, tab 17 of the binder. Mr. Roberts, was Berkeley County split in the benchmark plan?

A. Yes, it was.

Q. Will you briefly trace the benchmark district line for the Court?

A. Certainly. There's two different splits in Berkeley County. The first one is going to be down here in the Daniel Island area. There you can see that. And the second split's going to be a large geographic portion of

Berkeley County, which comes out of Hanahan and goes up towards Bonneau — Bonneau Beach, and then goes to Pimlico, cross, coming through Berkeley County down to the Dorchester County line.

Q. And did this split create a finger or thumb-like extension into Berkeley?

A. Yes, it did.

Q. And did it create a crab-claw extension into Charleston?

A. Yes, it did.

Q. Did you make Berkeley County whole in this plan?

A. We did.

Q. Will you explain to the Court the changes you made to Berkeley County and why?

A. Certainly. So, we made Berkeley County whole, which repaired a county split in the plan. The reason for that is we knew that there were a lot of Republican votes down in this

Page 1482

area, which is really the Hanahan area, down towards the naval base — old naval base. There's also some Republican vote out this way. And in addition to the Republican vote, we also knew that — we were told early on in the process that Senator Grooms and Senator Campsen would both have a pretty important role in determining the congressional redistricting in this area. We knew that Senator Grooms had worked on Congressional redistricting before back in 2010. I believe he had an amendment at some time that they called the Grooms Plan. And, in speaking with Senator Grooms, he wanted to get as much of Berkeley County as he could into the 1st Congressional District.

Like I said before, a lot of the commissions, the boards of commissions that run state agencies and government are elected by — based on the percentage that a senator or House member represents in each Congressional District. And so, he was really, you know, trying to get more Berkeley County in this district. And so, we were able to accommodate that as well as give us some room to play with the political numbers to make District 1 a more Republican district.

In addition to all that, we did repair some precinct splits down through there. Also, Nancy Mace was residing on Daniel Island, so we made Daniel Island whole, which is located down here. That also included the Yellow House in the Village precincts. And that's really, overall, the changes we

Page 1483

made for Berkeley County.

Q. Is Nancy Mace the incumbent in District 1?

A. Yes, she is.

Q. And is Daniel Island in Berkeley County?

A. Yes, it is.

Q. Did repairing the Berkeley County split place the entire county in the district with Congresswoman Mace?

A. Yes, it did.

Q. What was the political effect of uniting Berkeley County in District 1?

A. It allowed us to make District 1 a more Republican district by pulling population out of Charleston.

Q. Was race a factor in any decision or changes you made in Berkeley County?

A. No.

Q. We'll go next to Senate Exhibit 51, which is at tab 18 of the binder. Mr. Roberts, this is the map of Dorchester County. Is Dorchester County split in both the benchmark and the enacted plan?

A. Yes, it is.

Q. Will you highlight the benchmark district line for the Court?

A. Certainly. We're going to start at the Dorchester/Berkeley County line up here at the north. We're going to follow the benchmark line all the way around, looking

Page 1484

in and out until we go off the page. So, that is the benchmark line in the benchmark plan.

Q. Do the number 1 and the number 6 in this map refer to the benchmark districts?

A. That's correct. To see the enacted districts, we would look at the colored shading. To look at the enacted map, we would look at the colored shading.

Q. Mr. Roberts, will you explain to the Court the changes you made in Dorchester County?

A. Certainly. We will start down on the southern end of the district. And so, we're going to follow this line here. This line is following House District 98, Chris Murphy's current House District. And then we're going to follow the Ashley River coming up. And I want to point out the Saul Dam precinct here. This is a large geographic precinct. You'll be able to see it

better in a different map. But this is a large geographic heavy Trump area that we had to put in Congressional District 6 to sort of open a corridor for us to get down into West Ashley. Otherwise, if we had included that Saul Dam precinct, we would have been about one precinct less, getting into the West Ashley area of Charleston County. So, we ended up moving Saul Dam into the 6th Congressional District to widen that base.

Then we needed to achieve equal population. And so, we come up this way, splitting some of those precincts along the

Page 1485

way. And a lot — the majority of these precincts up here actually hurt the performance of District 1, because they're pretty much all leaning towards Trump, except for, I believe, the Delmars might be a Biden Democrat. But those are all heavy Trump boxes there that we ended up splitting.

Q. So, let's talk a little bit more about these split VTDs. You mentioned that at the south side of the county, there are — it appears to be three split VTDs; is that right?

A. That's correct. Roughly, yes.

Q. And why did you split the VTDs at the south end of the county?

A. The House did not draw by VTDs like the Senate did. So trying to follow that House district line, we ended up splitting VTDs.

Q. So, is the reason you split those VTDs that you were following House District 98 lines?

A. Yes.

Q. And then let's go to the north end of the county where you also split some VTDs. Do you see that?

A. Yes.

Q. Are those areas Republican leaning politically?

A. They are.

Q. Why did you split those VTDs?

A. We were trying to get sort of a rounded shape, sort of like the benchmark was for the city of Summerville so we could

Page 1486

be more compact around the town of Summerville. But in doing that, we ended up decreasing the Trump performance in District 1 had we not done that.

Q. Did these splits of these VTDs, particularly at the north end of the county, also facilitate drawing a district to equal population?

A. Yes. Yes.

Q. Did these changes in Dorchester improve the shape of districts?

A. I believe it did. We get a more rounded edge around there. You know, if we would have included something like Beech Hill, it would have stuck out as sort of like a hook out there. So we ended up trying to go more around compact around the town of Summerville.

Q. Was race a factor in any of the changes or decisions you made in Dorchester County?

A. No.

MR. GORE: Let's go to Senate Exhibit 50, which is tab 19 of the binder.

BY MR. GORE:

Q. This is the County of Charleston. Do you recognize this map?

A. Yes, I do.

Q. Is Charleston County split in both the benchmark plan and the enacted plan?

Page 1487

A. Yes, it is.

Q. And will you highlight the benchmark district lines for the Court?

A. Certainly. So, I'm going to start over here on the east side where the Berkeley County/Charleston County line is. And we're going to come up this way, really splitting that Deer Park area and then coming over to the county boundary between Dorchester and Charleston and go southeast along that boundary, and then a little southwest on that boundary. We're then going to follow the Ashley River in the benchmark down to the peninsula of Charleston and then across the peninsula of Charleston and back up to the Berkeley/Charleston County line.

On the other side, we've also got another split. We're going to start up here where the Dorchester/Charleston County line is. We're going to come down — Rantowles Creek is right here. We're going pick up at Stono River, on the Stono River around. And then we're going to come in this area here and really just cuts that Wadmalaw 2 precinct.

Q. So, Mr. Roberts, in the enacted plan, did you follow the natural and geographic features in Charleston?

A. Yes, I did.

Q. Will you show the Court where you did that?

A. Certainly. Let me clear this out so I can get a clear draw. So, one of the things that we did is moved the Deer Park area in North Charleston along with Lincolnville and

Page 1488

Ladson into the 6th Congressional District. And that's going to be this area here. So, this boundary that I'm following is actually the county boundary. So, this thing that looks like a flagpole up here is really just the way Charleston County's boundary is.

And then we come to this little hook right here, that hook is the Exchange Fairgrounds up in North Charleston. It was annexed from Berkeley to Charleston in, I believe, the late 80s, early 90s. And then we continue to follow the county boundary here between Charleston and Berkeley. That's near Remount Road up there by the port terminals.

And then we're going to come down this way following the county boundary between Berkeley and Charleston all the way until we get to — I'm sorry. Remount Road is down here at North Charleston where the terminal's at. We're going to follow that out to the Cooper River. And that will be the Berkeley County line. And then we'll follow the Cooper River here all the way down to The Battery, around The Battery and the Charleston Harbor. And then we're going to come up to a point up here. At this point we end up heading west, separating District 1 and District 6. We use the Wappoo Creek. If you're familiar with Charleston, it's over there by Albemarle Point. California Dreaming Restaurant's over there. The Country Club of Charleston is there. We're going

to follow that creek over to the west until we pick up the Stono

Page 1489

River, and we're going to follow the Stono River that separates the West Ashley and Johns Island area, we'll follow the Stono River all the way till we hit the Wadmalaw river. We follow the Wadmalaw River on out until we hit the Wadmalaw Sound, coming down this way across Wadmalaw Island. And then pick up the Dawho River here. And we run the Dawho River around until we hit the South Edisto River, which is the boundary between Colleton and Charleston.

Q. Did making these changes place all of coastal Charleston in one district?

A. Yes, it did.

Q. Did they place all of the Charleston peninsula in one district?

A. Yes, it did.

Q. Was the peninsula split in the benchmark plan?

A. Yes, it was.

Q. Now, you've mentioned a couple of times — did you also fix any precinct splits in Charleston?

A. I believe there were just a handful of precincts in there that were split, but they repaired every single split that's in Charleston County.

Q. You mentioned a couple of times today West Ashley.

A. Yes.

Q. Can you indicate here on this map where that West Ashley neighborhood is?

A. Let me clear this real quick. So, we're going to start at the Dorchester/Charleston County line. And this would be the Ashley River here. So when I say "West Ashley," I'm referring to everything that's west of the Ashley, north of the Wappoo Creek, north of the Stono River over until you get to Rantowles Creek, up Rantowles Creek until you hit the Dorchester/Charleston County boundary. So this area in here is what I refer to as West Ashley.

Q. And I believe you testified earlier that, back in November of 2021, former Congressman Cunningham alleged that adding West Ashley to District 6 cut across racial lines. Do you recall that?

A. He said the plan that we had drawn did cut across racial lines, yes.

Q. And following that I believe your testimony was that you investigated the racial demographics in the West Ashley area; is that right?

A. That's correct.

Q. And what did you learn?

A. It's a predominantly White area that predominantly votes Democratic.

Q. Now, you mentioned earlier the Deer Park/Ladson/Lincolnville area?

A. That's correct.

Q. Can you circle that on this map as well?

A. Yes. Let me clear this real quick. So the Lincolnville/Ladson area and Deer Park would be in this portion here.

Q. And I believe you just testified that these black lines that you followed are the county boundaries; is that right?

A. That's correct.

Q. And even with that odd flagpole shape and everything, that's a county line; is that correct?

A. That's a county line, yes, sir.

Q. And following former Congressman's Cunningham's allegations, did you look into the racial demographics of this area?

A. We did.

Q. And what did you discover?

A. It's a predominantly White, predominantly Democratic voting area.

Q. Now, we heard some testimony last week about Meggett, Ravenel, and Hollywood communities in Charleston County. Do you know where those are?

A. Yes. The Meggett, Ravenel, and Hollywood communities would be down in this Saint Paul's area here.

Q. And were those communities in District 6 in the benchmark plan?

A. Yes, they were.

Q. And did they remain in District 6 in the enacted plan?

Page 1492

A. Yes, they do.

Q. Did you ever have any conversations or discussions about treating these communities differently in this enacted plan?

A. No.

Q. So, all told, Mr. Roberts, what is the political effect of these moves you made in Charleston County?

A. The political effect is we actually made District 1 a more Republican district.

Q. Mr. Roberts, is there a portion of Charleston County located in enacted District 6?

A. Could you repeat that question?

Q. Sure. Is Charleston County split in the enacted plan?

A. Yes, it is.

Q. What is the Trump/Biden vote share in the portion of Charleston County that's contained in District 1?

A. District 1 would be about a 50/50 Trump/Biden number.

Q. And what is the Trump/Biden vote share in the portion of Charleston County that's in District 6?

A. District 6 would be a 65-Biden, 35-Trump split.

Q. Mr. Roberts, was race a factor in any decision or change you made in Charleston County?

A. No.

MR. GORE: One moment, your Honor.

BY MR. GORE:

Q. Mr. Roberts, what factors drove the enacted plan you

Page 1493

drew?

A. It would be really politics, preserving cores, repairing county splits, repairing VTD splits.

Q. How about carrying out the request you received from Senator Rankin, Congressman Wilson, and Congressman Clyburn?

A. That too. It does honor those three requests, as well as for Senator Grooms to get more of Berkeley County in his district.

Q. Are you aware of any evidence that anyone used race in the enacted plan?

A. No.

Q. Are you aware of any evidence that anyone intended to discriminate on the basis of race in the enacted plan?

A. No.

Q. Did you use race to draw any lines in the enacted plan?

A. No.

Q. Did you use race as the predominant factor in drawing lines in the enacted plan?

A. No.

Q. And did you intend to discriminate against anyone based on race in the enacted plan?

A. No.

MR. GORE: Thank you, your Honor. Pass the witness.

Page 1494

JUDGE GERGEL: Very good. Cross-examination.

CROSS-EXAMINATION

BY MR. CUSICK:

Q. Good afternoon, Mr. Roberts.

A. Hey, good afternoon.

Q. We met a few months ago when I took your deposition. Do you recall that?

A. Yes, I do.

Q. And you've been sitting in the court — at least a few days this past week — as a representative of the Senate Defendants?

A. Yes.

Q. At the time the congressional map was drafted and passed, you were employed by the Senate, right?

A. That's right.

Q. And you serve in a nonpartisan role?

A. Yes.

Q. Mr. Gore asked you a set of questions about CD 1 and a potential motive that it was to increase Republican advantage in that district. Do you recall that?

A. Yes.

Q. You didn't make that determination because you're a nonpartisan actor, right?

A. That determination was made by the team. And we knew that there was a Republican-controlled legislature and in

Page 1495

order to get a map passed, we would need to do that, politics could come into play.

Q. But I'm asking you. You did not, as a nonpartisan actor, decide to use partisanship to motivate the drawing of CD 1, correct?

A. Could you repeat that question?

Q. As a nonpartisan actor in the Senate, you did not choose to look at partisanship when you were drawing maps for the entire Senate, correct?

A. Not myself, no. It was a group decision to look at politics.

Q. You were instructed to do so, right, as a nonpartisan actor?

A. That's correct.

Q. So, you actually can't say partisanship drove it one way or the another, because you were instructed to look at that data, right?

A. We, as a team, decided to look at the political makeup of the district in order to get a bill passed through the South Carolina Senate.

Q. The lawyer who instructed you to do that was Mr. Terrine, right?

A. Yes.

Q. And you referenced outside counsel a number of times today, correct?

Page 1496

A. That's correct.

Q. You did not expose that that's Mr. Gore, correct?

A. That's correct — I don't think I've stated that.

Q. And Mr. Gore was part of conversations about the drawing of different lines, correct?

A. Not on the drawing of different lines, but we did send reports to Mr. Gore. He never was in the conversations while we were in the process of drawing.

Q. He was in the map room with you, though, right, via Zoom?

A. No, not while we were drawing maps. We could not run Zoom and the mapping software at the same time.

Q. While you weren't drawing maps, you had conversations with him in the map room with other core redistricting team members, correct?

A. I can't say if we met via Zoom with Mr. Gore during that time. I just can't say. I don't recall.

Q. Do you recall during your deposition that you said Mr. Gore joined calls with you about the maps?

A. Yes.

Q. You're not a lawyer?

A. No.

Q. You were asked today about an analysis you created for Senator Campsen, right?

A. Yes.

Q. And in that analysis, you made a determination that there

Page 1497

was no racial gerrymandering, right?

A. That's correct.

Q. You also made a determination that there was no intent to discriminate on the basis of race?

A. That's correct.

Q. And you made those determinations knowing you're not qualified to do so, right?

A. That's correct.

Q. And you made the determination also on racial gerrymandering, correct?

A. That's correct.

Q. I want to begin and just confirm I have an understanding of your role during this process. You were primarily responsible for drawing maps at the request of senators and staff, correct?

A. Yes.

Q. In your role you were the primary map drawer from just a technical perspective, right?

A. Yes.

Q. You did not make substantive determinations about how weight of criteria should be?

A. That's correct.

Q. So, it would be fair to say you simply took direction of people in moving lines on the map, right?

A. Yes. I drew what I was told to draw.

Page 1498

Q. And you take no position on whether the drawing of those lines complied with redistricting criteria, right?

A. I disagree with that. There are functions in the software that can allow us to determine if a map complies with traditional redistricting principles, such as continuity.

Q. Mr. Fiffick was your supervisor?

A. That's correct.

Q. And you ultimately answered to Senator Rankin?

A. That's correct.

Q. Would you say you reported to Senator Rankin?

A. I wouldn't say "reported to," because Senator Rankin is from Horry County. He was rarely in the office, if at all, and Andy basically ran the day-to-day operations in the Senate — for the Senate Judiciary.

Q. We just talked about you took instructions from staff and senators in drawing maps, correct?

A. That's correct.

Q. You primarily sought input and instructions from Mr. Terrine and Mr. Fiffick when drawing staff congressional maps, correct?

A. As well as Congressman Clyburn, Congressman Wilson and other senators.

Q. You never met with Congressman Clyburn, correct?

A. No. I met with Dalton Tresvant on his staff.

Q. So you didn't take any direction from Congressman

Page 1499

Clyburn, correct?

A. I took direction from Dalton Tresvant.

Q. For Senate staff you took primary direction from Mr. Fiffick and Mr. Terrine, correct?

A. As well as Senate members, yes.

Q. And you come to congressional map drawing with experience working with a ton of localities throughout South Carolina, right — you've come to Congressional redistricting having a ton of knowledge about South Carolina localities, right?

A. That's correct.

Q. I think I heard the number of 75 to a hundred localities you've worked in over the past 20 years?

A. Yes.

Q. And you began in January of 2000 — it's not the RFA office anymore. Was it the Office of Research and Statistics?

A. That's correct.

Q. And in that role, you primarily worked with local redistricting school boards, special districts, and so forth?

A. That's correct.

Q. Before this redistricting cycle, you always looked at race data in the 75 to a hundred districts you worked in, correct?

A. Yes.

Q. And the benefits of looking at a BVAP is because it's helpful in assessing compliance with the Voting Rights Act;

Page 1500

true?

A. Yes.

Q. Indeed, while you were at RFA, you provided guidance to localities that they should be looking at BVAP in drawing lines, correct?

A. That's correct.

Q. You even conducted presentations to localities to that effect, correct?

A. Yes.

Q. And it's helpful looking at BVAP when you're moving voters in and out, because you don't want to run the risk of disproportionately moving certain voters in and out of districts, right?

A. That's correct.

Q. It's also important to show BVAP because it helps the general public understand the race of voters getting moved in and out of districts, right?

A. Yes.

Q. And you can consider BVAP without having a target in a district, correct?

A. That's correct.

Q. And you've actually done that a number times throughout your —

A. Yes.

Q. And I heard — I won't go into detail, but you served as

Page 1501

a technical advisor to federal courts?

A. That's correct.

Q. And I think I heard you say, in that role, you always considered race as well?

A. Not necessarily. For the *Backus* case, we did not draw any plans, so we did not analyze the racial breakdown of anything. Working with Judge Gergel, I don't recall ever looking at the racial makeup of the districts. I do recall testifying. Judge Gergel had me on the stand in the Jasper case. And the only question he asked me was how many minority/majority districts there were in the plan that the Court had drawn. Other than that, we didn't — I do not recall ever looking at individual census block racial makeup for the courts.

Q. Looking at majority/majority districts, you have to look at race data, right?

A. Minority/majority districts, yes.

Q. You look at race?

A. You look at the overall BVAP of the plan. That's correct.

Q. And so in your 20 years of redistricting, this was the only time again you didn't look at race?

A. That's correct.

Q. And you were instructed not to do so by Mr. Terrine — I heard that before in your testimony — is that right?

Page 1502

A. Can you repeat that question again?

Q. I think I heard you say that you were instructed by Mr. Terrine when you were in Maptitude to turn off the BVAP signal, right?

A. No. The BVAP was actually displayed in the statistics at the bottom of the screen the entire time we were drawing.

Q. So BVAP was visible on the screen while you were drawing maps?

A. Yeah. It was in the statistics window at the bottom of the screen.

Q. So, you could see BVAP as you were making changes in real time as you were drawing lines?

A. We could see the statistics update after a change was made.

Q. So, if you moved a district line, you could see if the BVAP went up or down, right?

A. You could see on the statistics what the overall district BVAP would be.

Q. So it's not accurate to say you did not look at BVAP as you were drawing lines in Maptitude, right?

A. We didn't look at that information to make a judgment on moving a district one way or another.

Q. I hear you on the judgment determination. My question is just: You saw BVAP as you were moving district lines in real time?

Page 1503

A. We would have to scroll over in order to do that. You have to either scroll down to see it in the pending changes box or scroll to the far right; otherwise, it's not displayed on the screen.

Q. So, you could see it?

A. Oh, I definitely could, yes.

Q. And Mr. Fiffick could see it?

A. If I scrolled over on the screen, yes. Anybody could see it, anyone that was in the room.

Q. Mr. Terrine?

A. He could see it as well.

Q. Ms. Benson?

A. She could see it.

Q. Senator Rankin?

A. Never was in the room with us while we were drawing.

Q. But you gave him BVAP data afterwards, correct?

A. Yes. Yes. And that's what Charlie looked at, was the — for his legal analysis, he would ask what the BVAP was in the districts once the plans were completed.

Q. Given your 20 years of redistricting work in South Carolina, you have a pretty good sense where there are certain concentrations of Black voters throughout the state, right?

A. On a large geographic scale, yes.

Q. For example, you would understand where there are concentrations of Black voters in the county of Orangeburg?

Page 1504

A. Not Orangeburg, per se, no.

Q. What about in Sumter, where you've worked and drawn maps?

A. Yes.

Q. And you would know where those communities exist, right?

A. I would know from the 2010 numbers because I have not conducted any local redistricting as far as county councils or city councils post the 2020 Census release. So, any population shifts I would not know about.

Q. And I think I heard you mention that you even know some distinct communities of interest, like the Gullah Geechee community, as an identifiable community based on race, correct?

A. That's according to public testimony, yes.

Q. In your work in localities, history was important for ensuring that minority voters had an opportunity to elect candidates of their choice, right?

A. Yes.

Q. So in a place like Sumter, the history of discrimination against Black voters would be relevant as you were drawing lines?

MR. GORE: I'm going to object. This sounds like a question about legal compliance with Section 2 of the Voting Rights Act, which he did not testify to and is not —

JUDGE GERGEL: It's up for consideration. Overruled.

THE WITNESS: Yes, that would be a factor in the

Page 1505

local redistricting.

BY MR. CUSICK:

Q. But factoring a history of discrimination in the drawing of congressional lines did not occur, right?

A. I never did a historical review of the congressional districts or anything like that, no.

Q. You were not instructed to do so?

A. No.

Q. You didn't become aware of any analysis?

A. No.

Q. You reviewed public submissions of congressional maps in the map room, right?

A. That's correct.

Q. Including maps submitted by the plaintiffs in this case, the NAACP?

A. Yes.

Q. The League of Women Voters?

A. Yes.

Q. And there were other maps submitted by other members of the public, right?

A. That's correct. Those maps were submitted through the public portal. And Grayson Morgan was responsible for producing the reports and the maps and converting those into a Shapefile format for us to load.

Q. And I think you've testified that you or Mr. John would

Page 1506

run the sheets that included a set of data and statistics, right?

A. On the maps that the senators requested yes.

Q. And for the submissions of public maps, the core redistricting team was you, Mr. Terrine, Mr. Fiffick, Mr. John and Ms. Benson?

A. That's correct. That's the core redistricting team. But, again, the public submissions came through the public portal, went to the Grayson Morgan, who created the maps, the reports, and then sent those on to us.

Q. And those reports include racial demographic statistics?

A. That's correct.

Q. It was automatically there every time you generated a report, right?

A. Yes.

Q. And attorneys were in the map room as well while you were doing this?

A. Everyone was an attorney but me.

Q. And whether maps were publicly posted was a determination by Mr. Fiffick and Mr. Terrine, correct?

A. That's correct.

Q. I know I asked you this question before, but I want to come back to it. You met with Mr. Gore via Zoom from the map room, correct?

A. I can't recall if it was from — it was in either 503,

Page 1507

where we just printed off the maps, or else it was in Senator Rankin's office, which is where we drew maps, but I don't recall which room we met.

Q. But you do recall Zoom meetings with Mr. Gore?

A. Yes, I did have meetings with Mr. Gore. I just don't remember where I was at when they took place.

Q. Were you in the room for Mr. Oppermann's testimony?

A. No, I don't believe I was.

Q. You've worked with Mr. Oppermann on local redistricting efforts, correct?

A. Yes.

Q. And I think during your deposition you said he does great work?

A. He does pretty good work, yes, sir.

Q. You've also worked with Dr. John Ruoff; correct?

A. That's correct.

Q. Indeed, you actually were swapping South Carolina State Conference branch maps during this redistricting cycle, correct?

A. I believe so, yes.

Q. And in those maps, you were looking at BVAP; true?

A. Which — which maps are you referring to?

Q. The ones that you and Dr. Ruoff are swapping on behalf of the state conference on local redistricting matters.

A. On local redistricting matters, yes. Yes.

Page 1508

Q. And I think you said he, too, is a great map drawer?

A. He is.

Q. I won't belabor the point with the NRRT maps, but do you understand what I'm referring to there?

A. I do.

Q. And you didn't share those with all the senators, correct?

A. That's correct.

Q. Not your determination?

A. Not my determination.

Q. But from a map-drawing perspective, it would have been helpful to share those maps publicly, right?

A. They — they look like crap. I don't know what to say other than that. And, you know, I mean, that's — we could release them if we wanted to, but that wasn't my call.

Q. But just from a map-drawing perspective, more maps to the public is helpful, correct?

A. Sure.

Q. You were not asked about the Jessamine map and didn't have a side-by-side comparison of that map with the enacted map today, correct?

A. That's correct.

Q. And that was the third map that was submitted by NRRT; true?

A. I believe so, yes.

Page 1509

Q. And it was submitted I think you said November 19th?

A. I don't know when — you're talking about the Jessamine map?

Q. Yes.

A. I don't know when it was submitted.

Q. But it was before the initial staff plan was publicly posted on November —

MR. GORE: I'm going to object, your Honor. His testimony on direct was that he didn't recall ever seeing that map.

JUDGE GERGEL: Lay a foundation.

BY MR. CUSICK:

Q. You just referenced the Jessamine map?

A. Yes. I've heard of it.

Q. You've never seen it?

A. Never seen it until I was sitting in court the other day.

Q. Only Mr. Fiffick discussed that map with you?

A. I don't recall ever really discussing that map.

Q. I want to now talk a little bit about the benchmark plan.

A. Yes.

Q. From a map-drawing perspective, a previous plan may no longer be justified because of population changes. Simple concept, true?

A. True.

Q. And there might be changes in communities of interest,

Page 1510

especially in a congressional redistricting cycle from 10 years ago?

A. It's possible.

Q. And there might be changes in the way to assess and measure certain traditional redistricting principles?

A. I don't agree with that, because a district is either contiguous or not contiguous.

Q. But for compactness, which you've mentioned before, you're aware that there are tests and advances since 2010 in measuring compactness, right?

A. I haven't studied that, so I can't speak to it.

Q. But you're aware of it?

A. I'm aware that there's algorithms in order to judge compactness.

Q. There's also a risk if you prioritize core — retaining core districts, that you might keep some of the negative features of a previous map as a general matter, true?

A. If there are negative features, I would assume that would be true.

Q. One example might be that a district has a BVAP that is higher than necessary for minority voters to elect a candidate of their choice, true?

A. I'm assuming. Yes, true.

Q. And the inverse is true, there might be changes where it's too low for minority voters to elect a candidate of their

Page 1511

choice, right?

A. That's correct.

Q. And during the deposition, we talked about vote dilution. And you gave an example that that might occur when a BVAP is lower to a percentage in which minority voters might not be able to elect a candidate of their choice. Do you recall that?

A. Yes, I do.

Q. And I think I heard your testimony that you're not qualified to make any assessments whether a minority population in a district is high or low enough to elect candidates of their choice?

A. That's correct.

Q. From a technical side, it's your understanding that only a demographer can do that?

A. That's something a geographer would not — that a cartographer would not do.

Q. A demographer?

A. A demographer would be the one to make that determination.

Q. I think you might recall this. You're not a demographer, right?

A. No, I'm not. I'm a geographer.

Q. You're not aware of any assessment on whether congressional maps — on how congressional districts might

Page 1512

perform for minority voters, true?

A. I have no idea. That's true.

Q. And you were not given any analyses from a demographer or otherwise that assessed whether BVAPs in the congressional districts map were high or low enough to do that?

A. No, I was not.

Q. You've testified that decisions about moving voters in and out of areas were made by the core redistricting team?

A. That's correct.

Q. And whether those determinations were legal, assessments were made by either Mr. Fiffick, Mr. Terrine or Mr. Gore, true?

A. That's true.

Q. You were, in fact, not responsible to make assessments or even review plans on whether they complied with the Senate's redistricting guidelines, true?

A. A majority of them. I would check for compactness — I mean continuity, to make sure that the plans were contiguous. Also, I was in charge of pulling the statistics together to make sure that they were in deviation.

Q. So, just deviation and continuity, those were the only two statistics that you were responsible for producing —

A. As well as —

Q. Total population and continuity were the only two statistics you were responsible for providing?

Page 1513

A. That, along with the split VTD and county splits.

Q. But you weren't making determinations on whether there were too many or too few splits, right?

A. That's correct.

Q. You also weren't aware, or you didn't conduct, any district-by-district analysis about how the districts complied with the guidelines; true?

A. We would just run the same reports that we typically ran, which would look for continuity, look at the VTD, county splits, and then run the population numbers to make sure it complied with the "one person, one vote" criteria.

Q. And while you produced those reports, you didn't do a district-by-district analysis of whether the districts complied with the guidelines, correct?

A. The software would run each individual district to make sure it's contiguous. The stat sheet would have each district on it with the population in the district. And the VTD report would show each district with whatever splits were in it.

Q. You reviewed the racial composition of each district before it was publicly posted; true?

A. That was put onto the stat sheet that we did for every plan, yes.

Q. I heard you earlier discuss the confidentiality agreement that governed the drawing of maps by senators.

A. Yes.

Page 1514

Q. And there were protocols in place in which maps that were drawn by senators were kept with the core redistricting team unless that senator gave consent to share elsewhere?

A. That's correct. Unless it was told — directed by someone — unless someone else from the core redistricting team staff directed me to release information.

Q. So, Mr. Terrine, for example, could say send Senator Bright Matthews' map to Senator Campsen?

A. If he did that, then I would be under the impression that he had cleared that with Senator Bright Matthews before that was sent.

Q. But you did not have any conversations where you were told explicitly to override any commands to keep maps just with you, right?

A. Not that I can recall.

Q. And that included the conversations you had about why maps were drawn in certain ways; true?

A. I believe so, yes.

Q. And that still governs today?

A. Anything that we do, we don't release unless the senator allows us to release it.

Q. You've talked about Senator Bright Matthews' map today and the reasons why she drew those maps; true?

A. I judged the map, but I don't know the reasons why she did certain things in that map.

Page 1515

Q. But you've talked about her map, the MGM (*sic*) map?

A. Yes. MBM.

Q. From a technical perspective, you drew the initial staff plan, right?

A. That's correct.

Q. And that initial staff plan was the basis for sending Amendment 1?

A. I'd say the Milk Plan was the original basis for the staff plan, which then became the basis for Senate Amendment 1.

Q. Sorry. Can you say that again?

A. So, the first plan that came up was the Milk Plan, and that was after our meeting with Dalton Tresvant with the wishes of Congressman Clyburn. That plan evolved into the staff plan, which then evolved into Senate Amendment 1.

Q. Senate Amendment 1 relied on the same application of criteria as the initial staff plan?

A. With some changes to it, yes. Same set of guidelines, right.

Q. Those didn't change, the ones that you were elevating or prioritizing?

A. That's correct.

Q. When I say "you," referring to the core redistricting team?

A. Yes.

Q. The attorneys?

A. Yes.

Q. For S.865, whether that map complied with the criteria, that was a decision by the attorneys before it was publicized?

A. Yes.

Q. I want to talk about these set of instructions that you received for Congressional Districts 2, 6 and 7. Do you recall that testimony today?

A. Yes.

Q. Don't touch Congressional District 7 by Senator Rankin and Mr. Fiffick?

A. I believe it was Mr. Fiffick told us, but we knew it came from Senator Rankin.

Q. And you followed that instruction for Senate Amendment 1?

A. Yes, that's correct.

Q. I'll do the same thing as Mr. Gore. That also refers to S.865 and can be interchangeable?

A. Yes.

Q. For Congressional District 2, you understood Congressman Wilson didn't want Beaufort County in his district; true?

A. That's correct.

Q. And you followed that directive?

A. Yes.

Q. You also followed the directive from what you understood of keeping Fort Jackson in Congressional District 2?

A. Yes.

Q. And then we come to Congressional District 6. And you had a meeting with Mr. Tresvant?

A. That's correct.

Q. I've heard your testimony today that you said you understood Congressman Clyburn wanted a minimal-changed plan throughout the state?

A. We knew it for his district, but we were going to do a minimal change — in order to keep with the traditional redistricting principles of keeping cores to the districts, we were going to honor his request as well as do that across the state.

Q. So, his request was a minimal change for only Congressional District 6 from what you understood?

A. The map that he provided changed the multiple districts in which District 6 touched.

Q. But that was just a screenshot of just CD 6 and part of 2, right?

A. It would have been 6, 2, 5 and 1.

Q. But you didn't have any conversation about the entire map with Mr. Tresvant?

A. We didn't discuss the Greenville/Spartanburg area, no.

Q. But just so I'm clear, the minimal-change instruction from Mr. Tresvant that you said was only for Congressional District 6?

A. The minimal change would have impacted the surrounding districts as well, because District 6

needed to pick up 80,000 people. So, you can't pull them out of thin air, you've got to pull them from another district.

Q. You also understood there was a request to have Sumter County in Congressional District 6; true?

A. He said more of Sumter, so I didn't know if that meant the city or the county.

Q. Do you remember your deposition, Mr. Roberts?

A. Vaguely, yes.

Q. You had a chance to review that deposition?

A. I did.

Q. Do you recall mentioning that it might have been Sumter County that he wanted in?

A. It could have been. It's possible.

Q. So, it could be that Sumter County?

A. Yes. But we did give him more of Sumter County as well.

Q. But your understanding was he wanted the entire county; true?

A. Oh, yes.

Q. And you didn't give him that full request; true?

A. That's correct. The map that he provided us did not give him all of Sumter County, just a larger portion of it.

Q. In fact, you split the city of Sumter?

A. Yes. And it was split in the benchmark as well.

Page 1519

Q. And the county?

A. Yes. And the county was split in the benchmark as well.

Q. And whether to keep Sumter County whole would have been an instruction from Mr. Fiffick or Mr. Terrine?

A. Yes.

Q. You never followed up with Mr. Tresvant, right?

A. No, I did not.

Q. During the conversation, either you or Mr. Fiffick even asked him what he meant by least changed, right?

A. I don't recall asking him, no.

Q. And you just testified it would have been impossible for CD 6 to be a least-changed map because it needed to bring in a lot of population, right?

A. That's correct. That's why we call it a minimal change.

Q. And we've already talked about what was the map that he provided to you in hard copy today that I think is Senate Exhibit 37. Do you recall that?

A. I don't remember the exhibit number, but we have looked at that map today, yes.

Q. Referred to as the Milk Plan?

A. The Milk Plan is not what Dalton brought us. The Milk Plan was a product of the map that Mr. Tresvant brought us.

Q. Mr. Tresvant didn't give you any instructions in creating the Milk Plan, right?

A. He provided us a map which we incorporated into the Milk

Plan.

Q. But he did not give you any instructions on making the Milk Plan?

A. The map that he provided was included in the Milk Plan. The suggestions that he made with the map that he produced was included in the Milk Plan and is included in the enacted plan.

Q. You never followed up with him to share that plan to see if it was accurate, right?

A. No.

Q. It would have been helpful to?

A. He could have called us if he wanted to express comment. We had public meetings. He could have expressed his wishes then.

Q. So, members of Congressman Clyburn's district meets with you, give you suggestions on how to draw a map, you produce that map, and you don't share the map with them to see if it's accurate?

A. No. We released that map — a version of that map to the public right before Thanksgiving.

Q. In releasing that map, you didn't disclose on November 29th that you received instructions from Congressman Clyburn; true?

A. True. That's true.

Q. So, people didn't know that he wanted Sumter County kept whole?

A. The map he provided did not have Sumter County whole.

Q. You didn't share that initial CD 6 map that he provided you with all the Senate subcommittee members, right?

A. That's correct.

Q. Would have been helpful to?

A. Yes, it would have.

Q. It would have given them a sense on how to analyze some of the changes in CD 6?

A. Exactly, yes.

Q. That wasn't your call?

A. That was definitely not my call.

Q. Mr. Terrine and Mr. Fiffick's call?

A. Yes.

Q. It would have been helpful to also publicize that map, right?

A. Helpful, yes. But it was also in a different format than what we're used to receiving. So, it would have been in a different format, and we — it would have been a scanned PDF, the same as you have an exhibit today. The other maps that we had were full plans along with the reports that we ran. Those came in through a public web portal where people could submit. Several of the plans that came in were done through this program called Dave's Redistricting. And that software does not allow people to draw to a population deviation of one person. So, there were several plans that we had to tweak

Page 1522

when Senator Hutto went to the floor and tried proposing some of the public plans as amendments.

Q. You could have asked him for the Shapefiles for the map, correct?

A. I don't know if he had the Shapefiles, because that map was not prepared by Dalton, it was done by someone else that they had hired.

Q. But you could have asked him to get those from someone else?

A. I could have, yes.

Q. I think you've already testified that the instructions we've talked about with CDs 2, 6 and 7 aren't in the Senate criteria, right?

A. Yes, that's correct.

Q. And those instructions were never publicly disclosed by you when you produced the initial staff plan and read it during the redistricting subcommittee meeting on November 29th?

A. That's correct.

Q. I won't belabor this either. But that, too, would have been helpful to members of the public?

A. Yes. It would have explained the districts we were looking at.

Q. You've testified about concerns from a process point of view that people had about the redistricting process?

Page 1523

A. That's correct.

Q. And that would have addressed concerns that the process was rigged?

A. I wouldn't say "rigged." I would say that the process is political in nature. And, with having a

Republican controlled legislature, the reasons why we did what we did in some of the changes were strictly political.

Q. But you've also said that you've heard concerns that it was nontransparent, the process?

A. Yes, I've heard those.

Q. And the instructions that you received to not touch CD 7 and to keep CD 2 with Beaufort County constrained your ability to move certain populations in and out of CDs 1 and 6?

A. That's correct.

Q. In making CD 1 more Republican leaning, you took instructions on what geographic areas to focus on from the attorneys, correct?

A. It would have been from the attorneys as well as respecting Senator Grooms' wishes of putting more of Berkeley County into the 1st Congressional District.

Q. You've talked about the ease of election administration as another benefit to some of the changes you made for VTDs?

A. I wouldn't say ease of election districts, but none of the — I'm sorry, ease of elections, because running elections is a very hard process to do. But it does allow for —

Page 1524

drawing by VTD does allow for easier administration.

Q. That was never disclosed when you were presenting any of the maps either, correct?

A. That's correct.

Q. Mr. Gore asked you a series of questions about the Senate guidelines and the additional considerations; do you recall that?

A. Yes.

MR. CUSICK: I'll ask Mr. Najarian to bring up Senate Exhibit 3, which are those guidelines. And if you could bring both pages side by side. Thank you.

BY MR. CUSICK:

Q. And you can see those, Mr. Roberts?

A. Yes.

Q. And so, Mr. Gore already asked you that these are to be considered — at least in the explicit portion of Roman Numeral III — equal consideration, right?

A. That's correct.

Q. And you were instructed to elevate Roman Numeral IIIB, constituent consistency?

MR. GORE: Objection. Foundation.

JUDGE GERGEL: Lay your foundation.

BY MR. CUSICK:

Q. Do you see constituent consistency here?

A. I do.

Page 1525

Q. Did you have discussions with the core redistricting team about this guideline?

A. Yes, we did.

Q. And I think I've heard you say that it was a priority in the maps that you presented of retaining core districts; is that true?

A. That's correct.

Q. And who made that instruction to elevate this criteria above other ones?

A. We were going to start from the benchmark and make minimal change at the request of Congressman Clyburn. So, in doing that, we maintained the constituent consistency by trying to keep the cores of existing districts intact.

Q. But who gave you that instruction from the redistricting team?

A. I can't recall.

Q. No idea?

A. It would have been something we discussed. Jim Clyburn asked for a minimal-change map. In order to create a minimal-change map, you start with the benchmark and make minimal changes.

Q. I don't mean to belabor this point, but you just said Congressman Clyburn asked for a minimal-change map. You're just saying for CD 6, not for the entire map?

A. Well, his district also touches Districts 1, 2, 5 and 7.

Page 1526

Q. But he did not actually ask you to do that?

A. He handed me a map. Dalton said, This is what we want. We want a minimal change because we've got a campaign coming up and we don't want to have to go trucking all over every place in order to campaign. We don't want a large geographic area that we have to go learn.

Q. And the next portion there you see minimizing divisions of county boundaries for C?

A. Yes.

Q. And then the next one down is minimizing divisions of cities and towns?

A. That's correct.

Q. And minimizing divisions of voting precincts and boundaries?

A. Yes.

Q. You had discussions with the core redistricting team about these three as well?

A. We did. Early on in the process we decided we were going to draw by VTD and try to minimize as many county splits as we could. But then, again, there are other factors that come into play in creating a map. These are just overall guidelines. These do not direct the cartographer on how to produce a map.

Q. But not all county lines are treated equally, right?

A. That's right. We tried to keep the ones that were split,

Page 1527

split; and the ones that we could repair, we tried.

Q. You've talked a lot about conversations you've had with Senator Campsen. Were you aware that he received any documents that some county lines were more important than others as talking points?

A. I can't speak for Senator Campsen.

Q. And so, it's fair to say the application of criteria was not uniformly applied from district to district, right?

A. It depends on what we were trying to — what the directions were for the maps we were creating.

There's a set of choices that everyone's got to make when creating a map. And, you know, these are just overarching, guiding principles, but not directing me exactly how to create a map.

Q. But wouldn't some be weighted more in certain districts vary depending on the district; true?

A. Not necessarily. I mean, it depended on what the other requests were that were coming in.

Q. And those requests would have made different applications of criteria in those districts, right?

A. Again, these are overall guiding principles that we use to do redistricting. It does not direct me on how to create a map.

Q. I think I understood that BVAP was available to you as you were drawing maps in the map room?

A. That's right. It was definitely available.

Page 1528

Q. And you always looked at BVAP when you were looking at a final product after the finalization of it?

A. That's correct.

Q. Mr. Terrine would ask you for it?

A. Yes.

Q. He'd ask for BVAPs, the whole team?

A. That's correct.

Q. You never participated in discussions about maintaining increasing — or maintaining, increasing or decreasing BVAPs in a district, right?

A. Not that I can recall, no.

Q. Those were discussions for the attorneys?

A. Yes. There were multiple conversations of which I was not a part of with the attorneys and outside counsel.

Q. During your conversation with Mr. Gore, you talked about not being qualified to conduct a racially polarized voting analysis, right?

A. That's correct.

Q. But you agree that there are certain areas of the state that you're aware of that are racially polarized?

A. No doubt, yes.

Q. And map drawers, like Dr. Ruoff and others throughout the state, consider RPV when they're drawing maps?

A. They may. But I've never looked at an RPV analysis or a racially polarized voting analysis for any redistricting that

Page 1529

I've done.

Q. You're aware that RFA during this redistricting cycle provided guidance to localities to look at RPV?

A. Yes.

Q. We've talked about compactness a little bit; do you recall that?

A. Yes, I do.

Q. I think you might have heard Dr. Duchin's testimony. You were in the courtroom for some of the statistical ways you can measure compactness?

A. Yes, I did.

Q. And the Maptitude software had the capacity to generate scores, right?

A. That's correct.

Q. You and the core redistricting team just didn't understand how to assess those outputs, right?

A. That's correct.

Q. It would have been possible to seek guidance to understand those?

A. Yeah. We looked a little bit into it, but we just used the eyeball test.

Q. Jones Day was hired as outside counsel for assessing congressional maps during this cycle; true?

A. I'm assuming. I didn't hire him, so I can't speak to that.

Page 1530

Q. You were directed to send some congressional maps to Mr. Gore during the process?

A. Yes.

Q. Some that you drew?

A. Yes.

Q. And the only other outside counsel was Mr. Terrine, who was providing legal advice?

A. Yeah. He was in the room with us every time we were drawing.

Q. And after you produced those reports, you didn't join in any conversations about the compliance of redistricting guidelines with maps that you were considering from the public or that you drew?

A. No. That would have been — I guess that would have been a call the attorneys made between each other.

Q. So, you're offering no testimony today on compliance with any traditional redistricting principles?

A. I can speak that the enacted map is contiguous. It falls within the one-person-one-vote criteria that was adopted by the subcommittee, and I can tell you how many counties and VTDs were split in, but I cannot tell you if it adheres to the Voting Rights Act. No, I cannot.

Q. As someone with 20 years of map-drawing experience, you would agree that not diluting minority voting strength does have an impact from a technical perspective on how you draw

Page 1531

maps, right?

A. That's correct.

Q. Compliance with the voting rights, for example, impacts the way maps look in the process for drawing those maps?

A. That's correct.

Q. From a technical side, if you were assessing vote dilution, you would have to look at minority populations in a district, right?

A. You would look — yes.

Q. And, again, that was for a demographer to consider?

A. That was outside my scope of work. I was just drawing maps.

Q. But you agree it would have been helpful to have a demographer as another set of eyes in that area?

A. Oh, no doubt, yes.

Q. I think I heard you say earlier that Mr. Terrine used race in his legal analysis. Did I hear that right?

A. I'm not sure. He would just ask for the BVAP after each plan.

Q. You testified that the initial staff plan had a lot of negative feedback from members of the public?

A. That's correct.

Q. There was also a lot of comments made about the process being rigged?

A. Yes.

Page 1532

Q. You talked about looking into former Congressman Cunningham's allegations during the redistricting process at the November 29th meeting?

A. That's correct.

Q. And you said you conducted an analysis?

A. We went and looked at the demographics of the areas that we had moved in between CDs 1 and 6 in the Charleston area.

Q. And that was written down?

A. I don't believe it was.

Q. Was it shared with any other subcommittee members?

A. I cannot say for sure.

Q. And so at least from November 29th, you were keeping that in mind as you were drawing maps, allegations of racial gerrymandering?

A. Could you repeat that question one more time?

Q. The allegations of racial gerrymandering that former Congressman Cunningham made were front

and center after November 29th when you were drawing maps?

A. Yes. That's part of the reason why we ended up following natural geographic boundaries in Charleston County.

Q. You didn't speak with any members of the South Carolina House of Representatives regarding congressional maps, right?

A. No.

Q. Collaboration was minimal to the extent you just shared data?

Page 1533

A. Yes. It was in passing I saw Patrick Dennis a couple times and then exchanging data with Thomas Hodges.

Q. You didn't even review the House's criteria, though, right?

A. No.

Q. Do you ever recall if you went live, or watched House hearings?

A. I don't recall.

Q. I think I heard you say you drew maps for Senator Grooms on the congressional side; is that right?

A. No. We took input from Senator Grooms, but we never did produce an actual map for Senator Grooms.

Q. Would you say you primarily drew maps just for subcommittee members who reached out to you?

A. As well as Senator Hutto, yes, and Senator Martin, and Senator Climer.

Q. Who was the last one?

A. Senator Climer.

Q. Oh, Climer. After Senate Amendment 1 was produced on January 13th, then there was a hearing held on it; do you recall that?

A. I do.

Q. You attended that hearing?

A. Yes.

Q. Members of the public provided feedback?

Page 1534

A. Yes.

Q. And at that time, you were not in any position to weigh the public feedback, right?

A. That's correct.

Q. You were simply tasked with implementing instructions moving forward by Senator Rankin, Senator Campsen or other senate staff members, right?

A. That's correct.

Q. And so, if more members of the public supported Senate Amendment 2, that didn't influence or impact any of your roles or responsibilities?

A. That's correct. I don't have a vote in the General Assembly.

Q. But you've talked about you took into consideration whether a map would pass a Republican-led General Assembly; true?

A. That's true. And that was told to us by members of the Senate.

Q. So, you were instructed to take that into consideration?

A. Yes.

Q. And you're aware that it would have been possible to keep Charleston and Beaufort Counties whole and in Congressional District 1?

A. Yes. And I believe I did a whole map for Senator Sabb to that point.

Page 1535

Q. Earlier, Mr. Gore asked you questions about Dr. Duchin's report; do you remember that?

A. Yes.

Q. And that there were potentially purported inaccuracies with her depiction of municipal and county boundary lines —

A. That's correct.

Q. — in her report?

A. That's correct.

Q. If Dr. Duchin was using whole precincts, including an entire precinct in city borders, when any part of that city was in a precinct, could that explain some of the differences?

A. Yes. And that's my theory on why those maps look like they do. But they are not depictions of the actual municipal boundaries.

Q. And so, that would explain it?

A. Yes. But to put in front of this Court that those were actual municipal boundaries is misleading.

Q. You were also asked questions about Exhibit 243; do you remember that?

A. I don't know what Exhibit 243 is.

MR. CUSICK: It was admitted today.

MR. GORE: It's on the website.

MR. CUSICK: Do you mind if you could give us a second, your Honor?

JUDGE GERGEL: Take your time.

Page 1536

MR. CUSICK: Your Honor, it might take us a few minutes.

JUDGE GERGEL: Do you want to move on to something else and come back to it? How about that?

MR. CUSICK: Sure.

JUDGE GERGEL: Give them a chance to look it up.

MR. CUSICK: I think we might actually be able to get it on the screen.

JUDGE GERGEL: It's a miracle.

MR. CUSICK: Thank you.

JUDGE GERGEL: Lawyers are usually very fallible in finding things on the Internet while we're sitting in court. Congratulations. I'm probably speaking too early.

MR. CUSICK: Fair enough.

BY MR. CUSICK:

Q. Mr. Roberts, do you recall the data from Senate Exhibit 243 that's on the screen?

A. Yes.

Q. And the portions that you were asked questions about contain political data at a county precinct and block level?

A. Yes.

Q. And it includes GIS files that match the data down at the precinct and census block level?

A. That's correct.

Q. And it includes information from the presidential and

Page 1537

senate races in 2020, correct?

A. That's correct.

Q. Are you aware that the county level data and the GIS file here don't match?

A. I remember that there was an issue with the numbering format, but I didn't put this data together. This is something that the Senate paid for, and we just posted it to the website.

Q. South Carolina does not report election results at the census block level right?

A. That's correct.

Q. Are you aware that the block total file in this data uses only round vote totals?

A. I couldn't speak to the data. We paid for this data. I didn't put it together.

Q. So, you couldn't speak to whether the data shows different election result totals than the actual election results reported by the South Carolina Election Commission?

A. I couldn't speak to that, but this is the data I used for our analysis.

Q. Are you aware that there are more than 14,000 voters missing in both the senate and the presidential elections in the GIS data here?

A. I'm not aware of that.

Q. So, in S.865 you've talked about a number of different

Page 1538

counties — is that right — today —

A. Yes.

Q. — and why decisions were made?

And in Beaufort County there was an instruction to you to keep that whole even though it was split in the benchmark plan?

A. That's correct.

Q. And if somebody instructed you to make or to still have Charleston whole, you would have implemented that as well?

A. Yes.

Q. And it's reasonable, based on your work that Charleston, as a county, represents a community of interest?

A. Yes.

Q. And you're aware that there are portions of North Charleston that have distinct communities of interest that might want to be kept within the whole county?

A. Yes.

Q. You think that's common knowledge throughout the Senate in the interactions you've had?

A. I can't speak for what some of the Senate members do and do not know.

Q. And the 2012 plan kept Jasper County whole, but you were instructed to make cuts in the Senate 865, right?

A. That's correct.

Q. Again, instructed to do so?

Page 1539

A. Yes.

Q. You've talked about some of the public hearings in Orangeburg and other places, right?

A. That's correct.

Q. There were ten of those that were held in the summer of 2021?

A. Yes.

Q. And they ranged anywhere from an hour to two hours?

A. Roughly, yes.

Q. There was oral testimony?

A. Yes.

Q. Written testimony?

A. Yes.

Q. You didn't take any notes during those hearings; true?

A. No, I did not.

Q. Didn't go back and review those transcripts when you were drawing any maps or looking at communities of interest?

A. No, I did not.

Q. In fact, you didn't take any notes during the entire redistricting process, correct?

A. That's correct.

Q. You didn't conduct any review of Senate Amendment 2 outside of just creating statistics in the

map and putting those in binders for the core redistricting team, right?

A. That's correct.

Page 1540

Q. And so, you have no reason to dispute — let me back that up for a sec.

Do you remember Mr. Oppermann's written testimony about Senate Amendment 2?

A. Vaguely, yes.

Q. You didn't make any assessments of the claims that he submitted in that testimony?

A. I barely recall his — I remember his speaking at one of the meetings, but I don't remember reviewing his written testimony. I may have, but I just don't recall at this point.

Q. You testified that the General Assembly had the task to weigh tradeoffs along redistricting principles, right?

A. I'd say there's decisions to be made. The principles are the principles, and those are the overall guiding principles. But there's decisions that have to be made both politically and geographically that the General Assembly has to weigh.

Q. And you're not speaking here today on behalf of the entire General Assembly on any of the votes that were cast, right?

A. Right, that's correct.

Q. You'd have to go to each senator?

A. That's correct.

Q. And what information was conveyed about criteria that the core redistricting team might have had or not had, that free flow or that exchange of information was, again, Mr. Terrine,

Page 1541

Mr. Fiffick making determinations, right?

A. They would give suggestions on how to create maps, yes.

Q. I think I heard you say that there were talking points that were created in one of your exhibits?

A. Yes.

Q. And only Republicans had access to those talking points?

A. Those were requested by Senator Campsen, and we gave those to whoever he allowed us to give them to.

Q. Mr. Roberts, I'm not going to go through all of those county maps that we went through, but Mr. Gore asked you a number of questions about those maps, right?

A. That's correct.

Q. And at the end of each one he asked was race a consideration in the movement, right?

A. That's correct.

Q. And you said no?

A. That's correct.

Q. And that is only to the extent that you were instructed to draw lines in certain ways of any testimony about how race factored into that decision, right?

A. We took public testimony. A lot of the changes we made were based on public testimony. I don't know the demographics of the areas that we changed.

Q. But when you said race was not a factor in how the lines were drawn, you're simply saying that BVAP was not looked at

Page 1542

when you were making changes, right?

A. I'm telling you I do not know the demographics of the areas in which we changed.

Q. Right. But somebody was considering BVAP from a legal and from a compliance side, right?

A. Once the plan was completed, yes.

Q. And so, when you were asked those questions, you're just simply saying that it was there, but you, yourself, didn't look at it and can't speak to any other core redistricting member?

A. I can't speak to the demographics of the areas that we changed, no.

Q. And you don't know if senators looked at BVAP and considered the impact on how the map that you drew might have impacted Black voters?

A. I have no idea what senators saw, and no.

Q. And we talked earlier about your local redistricting work in Richland County; is that right?

A. I've not done any redistricting in Richland County, no.

Q. Columbia?

A. I have done City of Columbia redistricting, yes.

Q. And you're aware of the racial demographic makeup of Columbia?

A. Just vaguely from the 2010 census.

Q. And so, before, you said you sent maps to assess

Page 1543

compliance?

A. I sent them. I don't know what they're doing with them.

Q. You had no subsequent conversations with them?

A. No.

Q. Didn't see any analyses?

A. No.

Q. Didn't have any understanding of what their assessments were?

A. I have no idea.

Q. Did you do any mathematical analyses or were asked to do so in response to their assessment?

A. Just run the reports and send the reports on to whoever asked.

Q. And so, even though you drew several maps for the congressional conference, which one to evaluate or to vote on was the entire General Assembly, not you, right?

A. That's correct.

Q. And so, you can't talk about whether people relied on how it complied with the law or not?

A. That's correct.

Q. Or what their motivations were at all?

A. That's correct.

Q. So, my final few questions, Mr. Roberts, just to close out: You were instructed as a first order priority to make CD 1 more Republican?

Page 1544

A. Yes — not as a priority, but it was in the mix. It was one of the criteria that we — not criteria. It is one of the objectives that we looked at.

Q. Never publicly disclosed?

A. No.

Q. And you reviewed talking points throughout the process that didn't mention partisanship as a motivating factor, right?

A. I don't have the talking points in front of me. I'd have to go back and review them.

Q. In any of the talking points for how you drew the map, did you suggest that we should disclose making CD 1 more Republican leaning would be helpful?

A. Never did I state that to any of the members, no.

Q. That's because you're nonpartisan?

A. That would be a decision for the General Assembly to make, not staff.

MR. CUSICK: I think that's it, your Honors.

JUDGE GERGEL: Let's take an afternoon break.

(Recess.)

MR. MOORE: We don't have any questions. So that's good, right?

JUDGE GERGEL: That would be one step forward.

MR. MOORE: Yes, sir. I did want to ask one question. I know we have a rule that there's a representative

from each group, each defendant and each party. Is someone who is a party allowed to be in? We're going to call representative Jordan tomorrow. He's here.

JUDGE GERGEL: Representative?

MR. MOORE: Jordan.

JUDGE GERGEL: Yes.

MR. MOORE: He's here and he is a named party in this case. Can he come in, is my question?

JUDGE GERGEL: Okay. If he's one of the named parties —

MR. MOORE: Yes, sir.

JUDGE GERGEL: — he can be here.

MR. MOORE: That's what I thought. I just wanted to make sure. Thank you, your Honor.

JUDGE GERGEL: Yes.

Okay. Redirect, Mr. Gore.

MR. GORE: Thank you, your Honor.

REDIRECT EXAMINATION

BY MR. GORE:

Q. Mr. Roberts, Mr. Cusick asked you a few questions about the attorneys.

A. Yes.

Q. Who did you understand him to be referring?

A. Charlie Terrine and Andy Fiffick.

Q. And I was flattered to hear my name come up in the

cross-examination.

JUDGE GERGEL: We didn't really care, Mr. Gore.

MR. GORE: Rightly so.

BY MR. GORE:

Q. Did I ever draw any plans?

A. No.

Q. Did I ever direct the drawing of any plans?

A. Never.

Q. Did I do anything other than give legal advice?

A. No.

Q. I believe you testified that in Maptitude there are two kinds of shading functions, one for race data and one for political; is that right?

A. You could select different attributes to shade it different colors. And we tried it one time with the political data, and we started moving the map around for a couple seconds, but Charlie said he was about to throw up and to turn it off.

Q. And so, when Charlie asked you to turn off the shading, it was for the political data, right?

A. That's correct.

Q. And it was because it was giving him a headache or something like that?

A. Exactly. He was getting motion sick.

Q. And I think you testified earlier today that you could

Page 1547

testify about splits and contiguity and some other issues; is that right?

A. That's correct.

Q. And does that include the core preservation numbers?

A. It does.

Q. Mr. Cusick asked you a couple questions about Mr. Tresvant. After you released the staff plan to the public, did you ever hear from Mr. Tresvant?

A. Never did.

Q. And do you know whether Mr. Fiffick or anyone else had any contact with him?

A. I can't speak to what they know.

Q. And one more question about the availability of race data in Maptitude. I believe you said it was in the pending changes box; is that right?

A. There was a pending change box as well as the overall statistics at the bottom of the screen.

Q. And when you were drawing in Maptitude, could you see those, or did you have to scroll through them?

A. You'd have to scroll to the very end on the bottom table, and all the way down to the bottom on the pending changes table.

Q. Now, during your cross-examination for Mr. Cusick, you mentioned you drew plans for a few senators; do you recall that?

Page 1548

A. Yes.

Q. Did you also draw plans for Senators Scott and Sabb?

A. I did.

Q. And I think you also said a few times in the cross-examination that you can't speak to the demographics of areas you moved; do you recall that?

A. Yes.

Q. Are you able to speak to the demographics of West Ashley, Deer Park, Ladson and Lincolnville?

A. Yes, I can speak to those. Those were the areas that we actually went and took a look at after Joe Cunningham's comments at the public hearing. But the other changes, such as Sumter, Florence, the other changes, I do not know the demographic changes of those, but just the ones in Charleston County.

Q. And I believe that Mr. Cusick asked you about Senator Margie Bright Matthews; do you recall that?

A. Yes.

Q. And do you recall whether she publicly supported moving Sun City into District 1?

A. She did.

Q. And Mr. Cusick also asked you about the use of race to draw local redistricting plans; do you recall that?

A. Yes.

Q. And when you're drawing those plans, was race a factor

Page 1549

for those plans?

A. It was.

Q. Were you drawing plans to comply with Section 2?

A. More predominantly to comply with Section 5 of the Voting Rights Act.

Q. And that was before — that was while there was still a non-retrogression requirement; is that right?

A. That was before the *Shelby* case, yes.

Q. And, Mr. Roberts, did you understand the Senate guidelines to require use of algorithms or mathematical measures for judging compactness?

A. No.

Q. And I believe Mr. Cusick asked you if the process was rigged. Do you recall that question?

A. I do.

Q. Do you believe the process was rigged?

A. It's not rigged, no.

Q. Do you care to elaborate?

A. Redistricting is a political process. And you can't take politics out of a political process. So, you know, it's a Senate majority, House majority, both Republicans, so we expected a Republican leaning plan to ultimately pass the General Assembly.

Q. And who was ultimately responsible for enacting the plan?

A. That would be the General Assembly itself.

Page 1550

Q. And was it up to the General Assembly and the senators or someone else to determine whether the guidelines had been followed?

A. It's up to the House and Senate members.

MR. GORE: I have no further questions.

JUDGE GERGEL: Thank you.

I have a few questions for you, sir.

THE WITNESS: Yes, sir, Judge Gergel.

JUDGE GERGEL: I've always liked asking you questions. You've always been helpful to me when we had our school district case.

Charleston County, let's focus on that, because I know you've spent some time there. The Lincolnville area, that's up in North Charleston; is that correct?

THE WITNESS: That's correct.

JUDGE GERGEL: That formerly was in CD 1, and it became part of District 6; is that right?

THE WITNESS: I believe so, yes, sir.

JUDGE GERGEL: And what is the racial composition of Lincolnville?

THE WITNESS: I know the Lincolnville and Ladson area together is predominantly White. I don't know the individual makeup.

JUDGE GERGEL: I know about it's predominantly White, but is it — you know, the issue here is — you're talking

Page 1551

about partisanship, and I'm looking at racial numbers trying to see if there's an issue there. The previous district had been around 17-and-a-half-percent African American, correct, CD 1?

THE WITNESS: I believe so, yes, sir.

JUDGE GERGEL: And that's where it ended up again, correct?

THE WITNESS: That's correct.

JUDGE GERGEL: Okay.

THE WITNESS: There's a slight increase from the benchmark as far as the —

JUDGE GERGEL: Right. Very slight. And there was a — and if you put a district, say, 35 percent African American into that — you kept that in a district — that could affect, you would say, the partisanship, and it might also be the racial numbers of the district, correct?

THE WITNESS: That's correct.

JUDGE GERGEL: So, looking at majority Black districts is not necessarily as helpful as — Lincolnville has a very significant African-American population, does it not?

THE WITNESS: It does.

JUDGE GERGEL: The origin is Lincolnville was a freed slave community named for the President, the deceased president, correct?

THE WITNESS: I'll take your word for it, sir.

Page 1552

JUDGE GERGEL: Trust me on that. And it was previously in CD 1 and it was moved to CD 6, correct?

THE WITNESS: That's correct.

JUDGE GERGEL: And what is the communities of interest of the people in Lincolnville in being in a district in Columbia?

THE WITNESS: I'll say the only thing they have in common is right around I-26, the area around the I-26 corridor.

JUDGE GERGEL: They're along the same highway?

THE WITNESS: Yes.

JUDGE GERGEL: Other than that, anything you can think of? They're 120 miles apart. Other than that, anything else?

THE WITNESS: Not off the top of my head, your Honor.

JUDGE GERGEL: And then let's turn to the Deer Park area.

THE WITNESS: Yes.

JUDGE GERGEL: That has a significant African-American population, does it not?

THE WITNESS: It does.

JUDGE GERGEL: A couple — I think at least one majority African-American precinct and some with significant numbers; is that about right?

THE WITNESS: I believe so, yes, sir.

Page 1553

JUDGE GERGEL: And that had been in CD 1 and was moved to District 6, correct?

THE WITNESS: That's correct.

JUDGE GERGEL: And there had been a considerable growth in those precincts between 2010 and 2020, had they not?

THE WITNESS: I don't recall looking at the population numbers.

JUDGE GERGEL: Sir, you've heard discussions and you've heard about the gentrification of North Charleston and African Americans moving into those areas because they couldn't afford to live in the city, correct?

THE WITNESS: That's correct.

JUDGE GERGEL: And do you know whether or not those precincts were affected by that migration to North Charleston?

THE WITNESS: I can't speak to that, sir.

JUDGE GERGEL: But you know there was a significant African-American presence in those Deer Park precincts?

THE WITNESS: Yes. I believe the racial breakdown for Deer Park is approximately 10,000 Whites to 8,500 African Americans.

JUDGE GERGEL: So, it's higher than the 17 percent?

THE WITNESS: Yes.

JUDGE GERGEL: And what is the community of interest of the Deer Park residents with Columbia?

THE WITNESS: Not with Columbia but with the

Page 1554

peninsula of Charleston and North Charleston.

JUDGE GERGEL: Well, they're now in the 6th District, which goes all the way to Columbia. I'm just wondering what is their community of interest, because they certainly would have a community of interest with Charleston generally, correct?

THE WITNESS: That's correct, yes, sir.

JUDGE GERGEL: You know, a lot of the North Charleston residents work in the port, correct?

THE WITNESS: Yes, that's correct.

JUDGE GERGEL: And they have a lot of interests — economic interests in Charleston. So, those

precincts, the line moved up. It was — North Charleston was already split, correct?

THE WITNESS: That's correct.

JUDGE GERGEL: And it moved up further, correct?

THE WITNESS: That's correct.

JUDGE GERGEL: And it followed the migration of African Americans from the city of Charleston to the city of North Charleston, didn't it?

THE WITNESS: I haven't studied the migration, but I'll take your word for it.

JUDGE GERGEL: Okay. And then let's turn to West Ashley for a minute. You talk about a least-changed plan.

THE WITNESS: Yes.

Page 1555

JUDGE GERGEL: And there is no question a significant amount of this plan is a least-changed plan. It substantially tracks it. Some of it is almost identical, right?

THE WITNESS: Yes, sir.

JUDGE GERGEL: But Charleston is actually different, is it not?

THE WITNESS: It is. It's where most of the change occurred.

JUDGE GERGEL: And most of the change occurs in Charleston. And if I'm not correct — well, I believe I'm correct on this: The majority of Charleston was in CD 1 in 2010. Does that sound right?

THE WITNESS: Population wise?

JUDGE GERGEL: Yes. Population wise.

THE WITNESS: Yes. Yes.

JUDGE GERGEL: It was an overwhelmingly Charleston County district, with some intrusion by CD 6, correct?

THE WITNESS: I would agree with that, yes, sir.

JUDGE GERGEL: And then by the 2020 plan, a majority proposed into CD 6 out of CD 1, correct?

THE WITNESS: It was roughly a hundred and some odd thousand people moved from CD 1 to 6.

JUDGE GERGEL: But that's not a least-changed plan, is it?

THE WITNESS: Not for Charleston County, no, sir.

Page 1556

JUDGE GERGEL: I didn't think so. And then when you look at the percentage of African Americans who were in CD 1 in 2010 versus CD 6, it was almost a split. We've had data that it's 51-49. Does that sound about right?

THE WITNESS: I believe so, yes.

JUDGE GERGEL: Okay. But by the time — in 2020, that shift, 80 percent of the African Americans are in CD 6, 20 percent are now in CD 1, correct?

THE WITNESS: For Charleston County?

JUDGE GERGEL: For Charleston County.

THE WITNESS: I believe so. That sounds roughly correct, yes.

JUDGE GERGEL: Yeah. And that's a pretty dramatic change, is it not?

THE WITNESS: I believe so.

JUDGE GERGEL: Okay. And then we look at the city of Charleston. Have you looked at the data on the city of Charleston?

THE WITNESS: No, I have not looked at the city of Charleston.

JUDGE GERGEL: Well, would it surprise you that the city of Charleston is now split about 85 percent in CD — 85 percent of the African-American population is in CD 6 now and about 15 percent in CD 1, correct?

THE WITNESS: I'll take your word for it, yes, sir.

Page 1557

JUDGE GERGEL: And the city of Charleston, which had substantially been CD 1, moved to CD 6, correct?

THE WITNESS: I'd speak for the peninsula but —

JUDGE GERGEL: The peninsula and St. Andrews is a part of the city of Charleston, correct?

THE WITNESS: That is correct, yes.

JUDGE GERGEL: So, it's a pretty big shift into — from CD 1 to CD 6 in Charleston County, correct?

THE WITNESS: That's correct. In Charleston County, yes, sir.

JUDGE GERGEL: So, it would be fair to say that, though it's clearly true for a substantial part of the state, it is not true for Charleston that it was a least-changed situation, correct?

THE WITNESS: I'd agree with that for Charleston County itself, yes.

JUDGE GERGEL: Yes, sir. And you told me you haven't looked at the racial numbers. But to have 80 percent of the African Americans in a very diverse county put into one district when they're spread across the state — spread across the county is something that requires some attention, does it not?

THE WITNESS: It does. But then, again, you have to look at the geography of Charleston. You don't have a large African-American population in Kiawah, Isle of Palms, Folly

Page 1558

Beach, Sullivan's Island. That's a predominantly White area. So, if you're trying to keep a coastal community of interest together, of course, you're going to have a large racial — White racial population.

JUDGE GERGEL: Well, of course, if you want to worry about a community of interest, the African Americans living in Charleston have a very close community of interest with the rest of Charleston County, do they not?

THE WITNESS: I agree with you on that.

JUDGE GERGEL: Far more than they would have in Columbia, correct?

THE WITNESS: That's correct.

JUDGE GERGEL: And Congressman Clyburn did not request going into St. Andrews, did he?

THE WITNESS: Not from the map we received, no.

JUDGE GERGEL: No. And that was basically an effort you would describe as focusing on the partisan lean of the district, correct?

THE WITNESS: One hundred percent, yes, sir.

JUDGE GERGEL: Okay. And moving that line up into those African-American areas of North Charleston, you would also say was for a partisan lean, correct?

THE WITNESS: Yes, sir.

JUDGE GERGEL: But they substantially affected the African-American placement in CD 1 and CD 6, did they not?

Page 1559

THE WITNESS: It did increase the African-American percentage.

JUDGE GERGEL: It created tremendous disparity between CD 1 and CD 6 that had not been consistent, correct?

THE WITNESS: In Charleston County, yes.

JUDGE GERGEL: Okay. Mr. Gore, I'm sure you have questions in response to the Court.

MR. GORE: Thank you, your Honor.

FURTHER REDIRECT EXAMINATION

BY MR. GORE:

Q. So, speaking of Lincolnville, Ladson and Deer Park, did drawing the district the way you did up there fix a county split?

A. It did. We followed the county boundary all the way up the neck of Charleston County.

Q. And do you know what changes happened to the racial demographics of Charleston County over the last 10 years?

A. I believe the White population has increased in Charleston County, bringing the Black voting age population down in Charleston County.

Q. And did that have any effect on where you drew the lines?

A. No, not at all. We were following the geographic features around Charleston, such as the Cooper River, the Wappoo Creek, Stono River and Wadmalaw Sound.

MR. GORE: That's all I have.

Page 1560

JUDGE GERGEL: Thank you.

Anything occasioned by the Court's questions?

MR. CUSICK: No, thank you, your Honor.

JUDGE GERGEL: Don't buy it back, Mr. Cusick.

MR. CUSICK: No thank you. Sitting back down.

JUDGE GERGEL: Thank you, Mr. Roberts.

THE WITNESS: Good to see you.

JUDGE GERGEL: Good to see you, sir.

I've got to tell you, one of the great things that the State has done over the years is had this research office. Mary Katherine over here is there. Frank Rainwater. My dear long-time friend, the late Bobby Bowers, and Will here all have worked for years. They are a tremendous benefit to our panel, and they have been for other panels over the years. And where a lot of other panels have to go figure out how to pay money to hire, the State provides this without cost. And I think the Court is blessed for having this help, and certainly the legislature's blessed to have Mr. Roberts.

Okay. Call your next witness.

MR. GORE: We're bringing in the next witness who's Senator Shane Massey.

JUDGE GERGEL: Good.

ANTHONY SHANE MASSEY, having first been called as a witness, was duly sworn and testified as follows:

JUDGE GERGEL: Senator Massey, good to have you here

Page 1561

with us, sir.

THE WITNESS: Thank you, sir.

DIRECT EXAMINATION

BY MR. TYSON:

Q. Hi, Senator. Can you tell us your name, please?

A. Sure. Anthony Shane Massey.

Q. And you're a senator, correct?

A. I am, yes.

Q. In what district?

A. I represent District 25, which is portions of Aiken, Lexington, McCormick, Saluda and all of Edgefield County.

Q. Do you serve in a leadership position in the Senate?

A. I do.

Q. And what was that?

A. I was elected majority leader in April 2016, and I've served in that capacity since.

Q. Let me just ask you a quick question before we get to that. The Court and both the plaintiffs have acknowledged that partisanship and politics played a role in redistricting. But let's go another step further. In your opinion as leader of the South Carolina GOP Caucus, was partisanship a factor used by the Senate in drawing the plan?

MR. HIRSCHER: Objection, your Honor.
Mr. Tyson's opinion, your Honor.

JUDGE GERGEL: It's not. Overruled.

Page 1562

BY MR. TYSON:

Q. In your opinion?

A. Well, I think saying that it was a factor is an understatement. It was one of the most important factors. But the Senate was not going to pass a plan that sacrificed the 1st. And so, making sure that we retained the 1st was — I'm not going to say it was paramount, but it was pretty important.

Q. In the criteria that the Senate used, was politics listed as a factor for the Senate to consider?

A. I believe it was. I didn't look at those before coming in here today, but I looked at those criteria before, and politics was one of them that was indicated.

Q. And is partisanship a districting principle?

A. Yeah, absolutely. My recollection is — and I'm certainly no expert on this, but I think the U.S. Supreme Court has even blessed that. So, we knew that going in. We knew that that was something that we could consider, and so we did.

Q. Senator, now that we've hit the high points, let's work our way back through. How long have you been a senator?

A. I was elected to the Senate in a special election in November 2007.

Q. And tell me again how many counties District 25 encompasses?

Page 1563

A. Right now, it's five. When I was first elected, it was four. But I've had to pick up more population.

Q. And what are the five counties?

A. Aiken, Edgefield, Lexington, McCormick and Saluda.

Q. Of those five, which of those would you call rural or small counties?

A. Well, Edgefield, Saluda and McCormick definitely fit that category of rural and small. I would say that the portion of Aiken County that I have is rural as well. I don't have the downtown Aiken — I don't have Aiken Proper or North Augusta Proper. The parts of Lexington County that I have are peach farms and poultry farms in the Gilbert Summit area primarily, some in the Leesville area. So, I mean, I go a little bit into Lexington. But I would say my district is a very agricultural district, so it's very rural overall.

Q. And where do you live, Senator?

A. I live in Edgefield.

Q. And what congressional district is Edgefield?

A. It's in the 3rd.

Q. And how long has Edgefield been in the 3rd Congressional District, would you say?

A. Since before I was born. I mean, I'd say it's been in the 3rd for generations. In fact, I was looking — not too long ago, I was looking at some election for summaries. I was looking at some election data from like the 1950s when William

Page 1564

Jennings Bryan Dorn was our congressman, and he was from Greenwood, and Edgefield was in the 3rd then.

Q. So, at least 70 years it's been in the 3rd Congressional District?

A. It's a little bit beyond my memory, but it's been a long time, yeah.

Q. And you said you were elected Senate majority leader when?

A. April 2016.

Q. And what are your responsibilities as majority leader?

A. It's — a lot of it is just keeping the team together, which is a lot of one-on-one conversations with individual senators, trying to make sure that somebody hasn't gotten their feelings hurt and going to do something different. So, just trying to stay in touch, trying to stay engaged.

A lot of my job is also trying to manage the legislation that we're going to take up. So, part of it is strategy about what we're going to take up, when we're going to take it up, that type of thing, and try to stay engaged with the committee chairman to say, look, we need to do this by a certain date so we can move along.

And then when it gets to the senate floor, I'm typically involved in running the floor and trying to manage the legislation from there. I mean, sometimes there will be a committee chairman or a subcommittee chairman that's doing

Page 1565

some of that work, but I'm typically right in the middle of that. Anything that's controversial, I somehow get dragged into it. And then there's also the campaign side that the leader has to be involved in.

Q. And you mentioned — right off the bat, you said you're on the team. Who is the team of your team?

A. Well, typically, it is — it's Republican senators. And we tend to work pretty well in the Senate. It's not nearly as bad as you see on television out in Washington. We get along. We like each other for the most part. And I mean that bipartisan wise. We all get along really well. But what I was talking about there specifically as the majority leader, my job is to keep the team of the majority, which is the 30 Republicans, as much as possible together.

Q. And how many members are in the South Carolina State Senate?

A. We have 46 total. And right now following the 2020 elections, it's 30 Republicans and 16 Democrats.

Q. And you just mentioned a second ago that part of your responsibilities are that you have to run the floor. Can you explain that for us a little bit better, please?

A. Sure. I mean, almost always the legislation that we take up is legislation after it's been voted on at the

committee level. Sometimes it's very rare that we'll pull stuff out of a committee without it having the committee work, but that's

Page 1566

very rare. But when it comes out of the committee, then somebody's got to explain it, somebody's got to answer questions about it, somebody's got to figure out where the votes are. That type of thing. That's what I mean by running the floor. I mean, I'm typically engaged in — even if it's legislation that I haven't been involved in at the committee level, like even if it came from a committee that I wasn't involved in, I don't serve on, I often am involved in trying to manage that debate and count the votes and things of that nature.

Q. Let me move to this process for redistricting. There's been a lot of discussion about the opportunities for the public to have input. Did you participate in any of those public meetings, or did you attend any of those public meetings?

A. I did. And I'll say, first of all, you know, typically most pieces of legislation in the Senate, they'll have a subcommittee meeting and then a full committee meeting. It's very rare for a piece of legislation to have more than maybe two, three subcommittee meetings. And a subcommittee meeting is where you have public input. And those meetings are almost always held in Columbia on the campus, the capitol campus.

The redistricting legislation was very different in that they had public input sessions across the state. And I don't know how many they did — probably five or six. They also had

some in Columbia. But I attended — there was one that was held in my senate district. It was in Graniteville at Aiken Technical College. So, I attended that one.

Q. So, the Senate had a number of these public meetings across the state. And are you aware that the House had a number of those public meetings across the state?

A. I do know they had public meetings. I remember seeing advertisements for them. I don't remember where they went, but I know the House also did that.

Q. When you're talking about there was more public input on this rather than a normal piece of legislation, can you describe the legislative process for just a bill, just quickly? I apologize for asking the civics question, but I want to kind of understand how the redistricting legislation gets through as compared to a normal bill.

A. Yeah, it's different. So, typically a bill — let's say a bill gets introduced by a senator. So, the Senate is the originating body. It gets introduced, and once it's introduced, it gets its first reading, and then it's referred to a committee. And our senate rules identify which committees have jurisdiction over different subject matters. So, it will get referred to a committee. And then, it's really up to the committee chairman as to what happens from there. Lots of times bills just die at that point. But the ones that move along are the ones that the chairman of the

committee assigned to a subcommittee. Most of our subcommittees in the Senate are ad hoc. You may have a few standing committees on the finance committee, but for the most part they're ad hoc. The chairman makes them up as he goes along. And then the bill will go through the subcommittee process. Probably 75 percent of legislation you're going to get one subcommittee meeting. Then it will get passed on to the full committee. The committee will debate it, explain it, maybe make some changes. Most of the work is done at the subcommittee level. It goes to full committee, maybe a few more changes. Then it goes out to the full Senate. Then it could take it a little while to come out even when it gets up on the floor, depending on what the subject matter is. But it goes to that process. It's going to get two more votes — it's going to get two votes for three readings. Then it goes to the House. And it's essentially the same process in the House. And then what the House passes has to be exactly the same as what the Senate passes. Every comma has to be in the same place, or else we have to work things out in conference committees.

That's the typical process for a regular piece of legislation. This piece of legislation, redistricting, it follows the same process, but it's much more intense, and there's a lot more to it because there's a lot more public input opportunities. You know, we don't have court reporters

and recordings of testimony typically. You'll have some things that are done by video, but it's not nearly

what is done with this, all of the expense that goes into this because we know it's not important.

But it's much more involved from soliciting public input, advertising, hey, we're coming to Aiken. It's going to be about this. If you've got any interest in the redistricting process, come out to this meeting. That type of thing goes on that typically you don't see in legislation.

Q. The public had an opportunity to provide comments at the subcommittee level too, correct?

A. Yeah, absolutely. They had some subcommittee meetings — in addition to the public input sessions, they had opportunities to do that. And I think if I remember right, they allowed for electronic submissions that typically you don't see in regular legislation.

Q. And moving on as to your role in the redistricting. You attended a public session. But beyond that, can you explain a little bit about your role specifically in this congressional redistricting leading up to the floor debate?

A. It was pretty limited. I was not on the subcommittee. I really was not all that involved at all until — I think it was January 19th when the full Judiciary Committee met. I served on the Judiciary Committee. So when the full Judiciary Committee met to consider it, I was there for that. And then

Page 1570

after that committee meeting, as best I recall, I got asked to help with the floor debate. And so really up until the 19th, I had very limited involvement.

Q. So, let's just walk through then, starting with the benchmark plan. What's your understanding of how the new map — the enacted map is what we've been calling it — compares to the benchmark plan?

A. Well, from my review of them, I mean, they're very similar. I mean, there were a few changes because of population differences in the 1st and the 6th, and there might have been some tweaks in other places, but for the most part, as I remember looking at it, the 1st, 2nd, 3rd, 4th and 5th were all pretty close to where they needed to be. But, overall, it's very similar to where we were under the old plan.

Q. And we're not going to walk through the guidelines. The panel's seen that a whole bunch. But, in the guidelines, are you aware of whether that's a traditional criteria that's listed in the guidelines?

A. I think, if I remember right, when I was looking at those — when we did the deposition, I had to look at those. But I think maintaining core constituencies, it was one of those criteria, which was one of the things that we looked at. I mean, you don't want to — you don't want somebody having a different member of Congress every — every few years. So,

Page 1571

trying to keep people together and having all those things together was one of the things that we looked at.

Q. And I think in your deposition you had a good example when you talked about Representative Duncan, who's the current congressman for District 3, right?

A. He is.

Q. And you talked about the importance of preserving his district. Can you explain a little bit about that or walk us through that, please?

A. Well, I mean I think it's important that people know who their congressman is or their congresswoman is, that the congressman and congresswoman know his or her constituency. Because you get a better feel for who you're representing, what they believe, what they — how they feel about certain issues. The more you know them, the better you're going to be able to represent them. And from a constituent's perspective, just a citizen's perspective, the more I know my member of congress, the more comfortable I am in communicating with that person, and it's easier to — I mean, I think it's just a better relationship overall if you change around — and sometimes that's got to happen, right, you have population shifts.

Q. That's right.

A. But I think you want to minimize that as much as possible and try to keep those cores together. I mean, you know, like

Page 1572

I said, I wasn't involved that much in the beginning of it, but that was something I think that if the Judiciary Committee had come out with a plan that just completely shook everything up, you're going to have a real problem on the Senate floor on the day of the debate because of that.

Q. That's right. Let's go to Senate Exhibit No. 3, the guidelines. I just want to ask you one question about these, if we can. And let's go to the second page.

Senator, if you look at Roman Numeral III, you see the additional considerations, and then we've got the definition of communities of interest. Do you see that in A?

A. I do.

Q. And I asked you the question earlier about whether a political was referenced in the guidelines. Do you see it anywhere in the communities of interest?

A. It's in the third line.

Q. And what's the lead-in to that? What are the guidelines saying about those communities?

A. It's talking about different communities of interest. There's different things that can bind people together. And there are lots of things that can do that, right. It identifies a number of things. But political interests is one of those communities of interest that's identified.

Q. And let's scroll down to the bottom to Roman Numeral IV, too. And then Roman Numeral IV talks about data. And then

Page 1573

the last sentence, can you read that, please, Senator?

A. "Other succinct and importable sources of demographic and political information may be considered in drafting and analyzing proposed redistricting plans."

Q. So, your guidelines clearly say that you can review political information, correct?

A. Yeah, that's what they say. And I'll tell you, it was going to be considered regardless.

Q. No. That's right. Why do you say that?

A. Well, I mean, we're a political body, right? For better or worse, we're a political body. And we have — as I said earlier, we have 30 Republicans and 16 Democrats. The Senate was not going to pass a plan that sacrificed the 1st. We were not going to pass a plan that made it more likely that a Democrat was going to win the — it's political malpractice.

Q. Did members of the Senate understand that concept?

A. If you had a plan that came out of the Judiciary Committee, and when you looked at the numbers in the 1st district, if it was one that the Trump/Biden numbers were closer than where they were in the benchmark plan, it would have been a free-for-all, because that was something — I mean, our senators, our 30 senators were not — this was one of the few things — this doesn't happen very often. This is one of the few things where we had all 30 people on the team. And those 30 senators were not going to allow something to

Page 1574

pass that was going to sacrifice the 1st.

Q. So, would it be fair — or could partisanship ever not be a predominant part of redistricting, in your opinion?

A. No. I don't think it should. There's definitely no way that's going to happen if the legislature is the one drawing the lines.

Q. Right.

A. And there are a number of people who advocate for independent commissions. And I've been willing to

listen to those things in the past, but you're going to have partisanship involved in that, too. I mean, it's hard — all of us have different preferences on things. So, wherever you put it, there's going to be partisanship engagement. At least this way, you have some accountability to the public.

Q. Why do persons promote redistricting commissions or independent commissions?

A. Well, we've had that — I mean, there was a big push — what, I guess it was last year — for a redistricting commission. I mean, you know, that idea was: Let's take partisanship out of the process. So I think there was a recognition from everybody that: Partisanship is a big part of the process. We want an independent commission so it's not as much of a part of the process.

And, like I said, I've been open to considering those things in the past. The more I've looked at them, the more

Page 1575

skeptical I've become about how it works, because it's hard to find people who are truly independent. And if you're really independent and don't know anything, I don't know that I want you to be involved in something like this, you know?

Q. Did you talk to Senator Rankin — or let me step back.

Senator Rankin was the chair of the Judiciary Committee, correct?

A. Luke Rankin is chairman of the Judiciary Committee, that's right.

Q. And what's his role in redistricting?

A. He's the chairman of the committee. And I think Senator Rankin even chaired the subcommittee as well, so he was intimately involved with the process.

Q. Did you talk to Senator Rankin about your political concerns?

A. Just one. I mean, I said earlier I had very limited involvement before the full committee meeting and the floor debate. But there was some time — it was either December or early January, I heard a rumor. And the rumor was — and you know how rumors are, especially in our business. But the rumor was — at that point — this was after we had passed — we came back in early December of 2021, and we passed the State House and State Senate lines. This litigation was already pending. And at that point, the litigation included challenges not just to the congressional lines, but also to

Page 1576

the State House lines. And so, there was a rumor — late December, early January — that the House of Representatives might be willing to sacrifice the 1st if that meant that they could resolve the challenge against the State House lines.

And I heard that, and that concerned me. So, I called Senator Rankin just to make sure that he wasn't planning to do something like that, because, look, when I'm looking at the congressional map, the first thing I look at is where my district is. And my district is split between the 2nd and 3rd. And I want to see if there's any changes there because I'm going to hear from my people before I hear from anybody else. So I want to know what that is. But after that, I also knew that the most competitive district in the

state was the 1st. And I wanted to make sure we weren't going to sacrifice the 1st. And so that's what prompted my call to Senator Rankin, to make sure that he was going to do something — because I hadn't been involved, like I said, and I wanted to make sure he wasn't going to propose something that was going to maybe flip the 1st, because if that were going to happen, we were going to have a real problem.

Q. I mean, presumably the enacted map doesn't do that because there wasn't a real problem that you're talking about, right?

A. I don't think it sacrifices the 1st. I mean, I've — if I'd been involved in drawing it, it would have been safer for

Page 1577

Nancy Mace. But it doesn't — at least not yet. I mean, I'm concerned that before 2030 gets here, with the growth this area is experiencing, that it's going to change, but it doesn't sacrifice it, so we were okay with that.

Q. And, Senator, that comment, what makes CD 1 staying — you just mentioned the growth. What makes it difficult? Why does the growth play a role in that?

A. Well, for anybody who — especially anybody who lives in Charleston or who visits — I mean, heck, I came in just a couple hours ago, you can't find a parking spot anywhere, right? I mean, Charleston is a very appealing place. Berkeley and Beaufort and Dorchester are attractive places to live. And you can see that not only from the tourism but also when you look at the number of folks that have been moving into the area.

So, when you're looking at District 1, the growth plays a significant factor, because what we have seen over the years is that much of that growth that is coming in is coming in from northern states, from places that typically vote Democratic, and it's having an impact on the outcomes here.

But District 1, the concern about District 1 is growth and trying to figure out where that growth is going to be, and how do we draw it in such a way that the growth is not going to overtake us. And we can't hold on to that. I mean, growth was — when you're looking at District 1, growth was extremely

Page 1578

important. I mean, that's the thing you look at from a partisanship perspective.

Q. Let me ask you then: If you're worried about keeping Congressional District one in the GOP column, did race play a factor in that decision or in your consideration?

A. No. I mean, as a matter of fact, as Senator Campsen said on the floor, they didn't look at it at all, because — well, for a number of reasons. One is, I mean, we're all smart enough to know we can't. I mean, that's not — you can't — we know — I'm no expert in the redistricting law, but I know enough to know that you can't do that.

But besides, that wouldn't be the issue. Even if you wanted to draw it based on race, that wouldn't help you with the 1st. That's not the issue. You know, we talked about this some in my deposition, but if you look at the racial breakdown numbers, the Black voting age population in the 1st is very, very close to

the Black voting age population in the 3rd. It's less than a half of a percentage point difference.

Q. Sixteen-and-a-half percent sound right?

A. Yeah, that sounds about right. I think the difference between the two is very small.

Q. Right.

A. But, you know, if you look at November general elections, Jeff Duncan, who is my Congressman, who represents the 3rd, I mean, Congressman Duncan is going to get 80 percent of the

Page 1579

vote in a general election; whereas, down here, whoever wins in the 1st District is not going to get anywhere near 80 percent of the vote. But the issue down here is growth, and it's growth from northern states that's having a change in the political environment in this area. We don't have that in the 3rd. So, race isn't an issue in the 1st.

Q. Let me just kind of follow that up. Representative Joe Cunningham won back in 2018, correct?

A. I remember that.

Q. And with just a little over 50 percent?

A. Yeah, it was real close.

Q. And so, if the BVAP was approximately 16-and-a-half percent at that point in time, what does that say about the White vote that he received?

A. That means a lot — well, that means he got a lot, right? I mean, he had a lot of White vote. I mean, he had to. I mean, I don't know how the Black vote broke down because I don't like to stereotype things. And I think you're going to have a lot of crossover with that

— with any type of groups. You know, all Black folks don't vote the same. They don't all think the same. All White folks don't think the same. They don't vote the same. Same thing for Asians or in any other type of group. And I know there are some statisticians and political folks who try to drill down deep and look at stuff, but it's pretty clear from that, if 16-and-a-half percent of

Page 1580

the voting population is African American — and Cunningham won with over 50 percent — he got a lot more than just Black folks voting for him, which is what you would hope from any perspective. And then, you know, I think even when Nancy Mace beat Joe Cunningham, it was real close too.

Q. Right. Now, Senator, I'm going to show two the maps for you.

MR. TYSON: Your Honor, The Panel has said, Let's get to maps. And I just want to ask you two, and I'm going to ask you two questions about both of them. So we're not going to be here too long, your Honor. But let's go to 68a.

Q. And this is one of the maps that was submitted to the Senate by the League of Women Voters, okay? And so, I've got a simple kind of question.

MR. TYSON: Let's blow up Edgefield if we can.

BY MR. TYSON:

Q. Senator, I'm showing you the League of Women Voters' map. Have you seen this before?

A. I think it was in the information — the packet that was included in my big notebook of deposition exhibits.

Q. And this map proposed by the League of Women Voters, what does it do to Edgefield County?

A. You didn't have to blow this one up because, like I said earlier, that's the first thing I'm going to look at, I'm going to look at my Senate district, but this map splits

Page 1581

Edgefield County.

Q. And that's a good thing?

A. That was never going to happen.

Q. What do you mean?

A. There was no way that we were going to pass a map that does that. And I know there are people who don't like counties being split, and I would prefer that too. But, you know, my understanding of the congressional redistricting is that you've got a deviation of zero, so you've got to have the populations balanced. And I saw Will Roberts out there. He does some magical work in trying to get all these things together, and we split fewer counties than we did before than we did in the previous map. But you're going to have to split some. But, here, like, if you do this, Edgefield never matters because Edgefield is small anyway. We have fewer than 30,000 people.

Q. Fewer than how many?

A. Fewer than 30,000 people in the whole county. And right now we're at the edge of the congressional district. But if you split Edgefield into two different congressional districts, we don't have enough people to matter to any member of Congress, whichever district it is. And it would be the same — well, actually you kind of zoomed out there. I see they've

done the same thing with Barnwell. It would be the same thing that happened with Barnwell, right? They're never

Page 1582

going to have any attention at all because of that. Whereas, if you look at — like, I think Greenville is split, Richland is split, Charleston is split. The larger populated areas are split. But look in those places, you've got so many people there that the members of congress who represent that county — like in Greenville, it's William Timmons and Jeff Duncan, well, there's enough people that both of them have to pay attention to it. Now, William Timmons lives there, but even with Duncan, he's got a bunch of other stuff, but there's a lot of people in that little small part of Greenville County that he's got. He's got to pay attention to them.

But that is not the same as what you would have happen if it were Edgefield or Barnwell or some smaller counties do that. I mean, if this map had come up on the floor, there's no way in the world that I was going to let this happen.

Q. And your role as majority leader, you would have had significant impact on whether a bill passes; is that correct?

A. Well, I hope I would have.

Q. Yeah.

A. They would have heard from me for a long time, I know that.

Q. Let's move — well, tell me about Allendale and Barnwell. You said it splits them? Where's the Savannah River site? Can you tell if we blow that up?

A. I don't know if it splits Allendale, but it splits

Page 1583

Barnwell. But I think this one has all the Savannah River site together.

Q. Okay. That's right. All right. Let's move to one other map real quick, Senator Harpootlian's Amendment 2A, which is Exhibit 31a.

Before we get to that map, were you surprised that Senator Harpootlian and the Democratic Caucus got involved?

A. Of course not. I mean, I would have been disappointed if they didn't.

Q. What does this map do to the 3rd Congressional District? Let me ask that question again. Where's Edgefield?

A. It completely changes the 3rd. I mean, it takes it up to — I don't even know if Duncan still lives in that district, where that is. But it puts Edgefield in the 2nd. Edgefield, Saluda, McCormick — even up to Greenville and Abbeville, it puts them all into the 2nd. That's different.

Q. What are communities of interest in that district?

A. Well —

Q. Are there communities of interest in that district?

A. Well, I mean, there are some, but they're not the same. I mean, Aiken — at least part of Aiken has been in the 2nd for as long as I can remember. I think it used to be in the 3rd way back. And then, as it's grown in population, it's been moved out piece by piece. And now the entire county is in the 2nd, because we had a fight about that in 2011.

But in this District 2, Aiken and Lexington are going to dominate the rest of it. And so, your congressman who is — and the 2nd, it's Joe Wilson, who's from Lexington, I mean, he's going to pay attention to Lexington and Aiken. This is different.

Now, this one, you were talking about the Savannah River site, this one does split the Savannah River site.

Q. Oh, yes.

A. Because the Savannah River site — which is a major economic engine for the state, and it is also the source of — probably at the federal level. I mean, one of the things that our federal delegation has to engage on is with the Savannah River site; one of the few things that pulls them all together. But this one splits because this one's got all the plutonium in the 6th, and then it's got the other parts in the 2nd because the plutonium is mostly in Barnwell County. But it's kind of the south portion — Savannah River site is in the southwestern portion of Aiken and then I guess the northwestern portion of Barnwell. And it also goes into some of — it comes into Allendale just a little bit right there in that corner.

Q. Senator, in this one, if we scroll back up to District 5, I think you made a comment about communities of interest from York County to Lake City. Is that a community of interest?

A. Yeah. This has got Lake City and Rock Hill in the same

district. And, you know, there's a lot — if you're going to have congressional districts, unless we're going to be Wyoming and have everybody in the same one, if you're going to have districts, Lake City and Rock Hill probably don't need to be in the same district.

Q. Understood. All right. Let's go to the floor debate. And we'll finish up here in the next five or so minutes.

MR. TYSON: Lisle, can we pull up Exhibit No. 62?

BY MR. TYSON:

Q. What role were you asked to perform for the floor debate on January the 20th?

A. Yeah. So, after the committee meeting on the 19th, the full Judiciary Committee meeting on the 19th, when the committee voted out the plan, sent it to the floor, we knew we were going to take it up the next day. After that meeting, some of the committee staff asked me if I could come meet and talk, and there were a couple senators in there, too. But they basically asked me if I would help on the floor. And I really had two roles. I mean, really I guess from that meeting, I had one role. And that role was they broke the state up into different segments, and they had different senators explaining the changes in those segments. And I was assigned the Midlands area to explain that.

And I think what happened is one of the senators who was on the subcommittee changed committees so he wasn't on the

subcommittee anymore. And so somebody had to come in, and I just happened to get drafted to do that. So they wanted me to explain the Midlands section.

And then my other role, as it turned out to be, was that I ended up responding to Senator Harpootlian's amendment and debating that issue.

Q. This exhibit here, are talking points sent by Breeden John, they were sent to you, correct, and a number of other people?

A. I think he sent them that morning — yeah, that morning. It was the 20th.

Q. And, Senator, when there's a big bill that's coming up, is it uncommon or is it common for staff to prepare talking points and provide them?

A. No. That's — I mean, that's normal. Especially if you've got a bill that's more than a page or two, you're going to have some notes just to help you answer questions if you get something like that. And that's definitely the case for something this massive.

Q. And, Senator, you're a well-spoken senator. If you didn't like something in the talking points or disagreed with it, you could say whatever you wanted to, right?

A. Well, yes. I typically read most things on my own. And I think when I've gone back and read the transcript from the floor debate, I used some of the information that Breeden

provided me here, but a lot of it I added in myself, just from looking at the map, looking at some of the data that we'd been provided. So, yeah, I mean, sometimes

I use it, sometimes I don't. It just kind of depends on how comfortable I am in talking about legislation.

Q. Let's scroll down to page five, and that's the Midlands talking points. And then this is the overview. And it provides comments on District 2, District 3, District 5, and District 6.

Senator, you want to hit any highlights of some of the things that you recall that were important to you about — well, let's talk about District 2.

A. I remember. And I did make some comments about this. I mean, District 2 — and I think one of the important things here is that Fort Jackson is in Richland County, and under the map — under the existing — the benchmark and the new one, Fort Jackson is in District 2. And, you know, for those who aren't familiar, Fort Jackson is, I mean, it's like — it's the basic training facility for the U.S. Army. It is a major military installation. And South Carolina is a big military state. But Fort Jackson is probably one of the main ones.

So, Fort Jackson has been in the 2nd for a number of years. And it just so happens that it's represented by Joe Wilson who's been in congress probably for about 20 years. But Congressman Wilson, he tends to focus a lot on military

Page 1588

issues.

And I remember talking about this on the floor, because I said, you know, if the majority in the U.S. House were to flip — and grant it, you don't know, but it certainly is a possibility. But if the majority of the U.S. House flips and Republicans take control of the

U.S. House, Joe Wilson is in line to be chairman of the Armed Services Committee. And so having the chairman of the Armed Services Committee represent Fort Jackson would be a big deal not just for the 2nd, it would be a big deal for the state, if not the country as a whole. So, I thought that was important about the 2nd.

Q. And how about just hitting some highlights of District 5?

A. But that one — again, I think that one was the one — that was the one where I was concerned about with Senator Harpootlian's amendment, because it changed it so much that it put Rock Hill in with Lake City.

I mean, there's not a whole lot of difference between the benchmark plan and the plan we adopted. I mean, it's, what, 94.38 percent of the population. And that was probably a little bit less than the others. But we tried as well as we could to keep the core constituency together.

Q. And you have District 6 right there. How about the highlights of that?

A. Yeah. Similarly, I mean, you tried to keep as much as you could together. I mean, those folks — the folks who live

Page 1589

in the 6th, I mean, Congressman Clyburn has represented them for a long time. I don't know how long Congressman Clyburn has been in office, but he's been there for a long time. They know him. He knows them. I think that's important.

Now, this is one where, you know, as I recall, the 2nd through the 5th — well, 2, 3, 4, 5 and 7, the populations were about where they needed to be, so you didn't have to make many changes. The 6th, though, was underpopulated. So, we kept 87 percent of it together. But it was underpopulated, so you're going to have to add people to it. And as I recall, it just happened to be that the 1st was overpopulated about as much as the 6th was underpopulated. And so, that's why you get some of the shifts. But we tried to keep as much of that together as we could. So, I think that was important.

Also, you know, it runs along a lot of I-95. And, you know, we hear a lot about — over the last ten years or so, I mean, we've heard about the I-95 corridor. You know, when it comes to education, we hear about the "corridor of shame." Having somebody who is familiar with those issues, who can articulate them — and Congressman Clyburn has been very successful in articulating a number those issues, gained a lot of national attention for that. Having somebody who understands those issues and having people who have confidence in him matters.

Q. There were a number charts over here at the end. Let's

Page 1590

just scroll down and look through those as we conclude.

The first chart after the talking points is splitting counties, splitting VTDs, and splitting cities. And this is Breeden's talking points that puts all of those and highlights those. The benchmark plan, we know what

that is. Amendment 1 was Senator Campsen's plan, correct?

A. That's the one we passed, right?

Q. Right.

A. Yeah.

Q. Amendment 2A is Senator Harpootlian's proposal, correct?

A. Yes. I think that is correct.

Q. And then the League of Women Voters Plan. So, there are a variety of numbers on the split counties, split VTDs, and the split cities. All of those are traditional criteria, correct?

A. Yeah, they were in the criteria. Right.

Q. And so, the Senate, when they passed it, they looked at whether it made sense to have less split counties, to have less split VTDs. And let's look at VTDs. How many VTDs were split in the benchmark plan?

A. Daggone, 65.

Q. And then the plan that the Senate passed — or that was enacted, how many were there?

A. Thirteen.

Q. That's a significant decrease, correct?

Page 1591

A. Yeah. I would think it's a significant decrease.

Q. All right. Let's go to the next chart. Black voting age population, did you look at this chart as part of your consideration?

A. I looked at this chart only in response to Senator Harpootlian's amendment. I don't know that I looked

at this chart at all until that point. But, you know, Senator Harpootlian when he presented his amendment, he made the argument that — well, his argument was what we had drawn was all about race. And he made the argument that the plan that the Senate had adopted — because we had just voted on an amendment, and he was putting up another amendment here. His argument was that we had bleached the 1st in order to pack the 6th. And when I was listening to him, I was flipping through the notebook looking at different things, and I was looking at this in relation to that. So, that was really the first time that I really paid any attention to any of these numbers, was in relationship to Senator Harpootlian's amendment.

Q. Was he factually correct?

A. When I look at them, he was just wrong.

Q. How so? How do we see that?

A. Well, you know, I made this argument on the floor. Like I said, again, Senator Harpootlian made the argument that we were bleaching the 1st and packing the 6th. Now, my interpretation of that is he was saying that we were pulling

Page 1592

African Americans out of the 1st to make it Whiter and putting those African Americans into the 6th. But when I look at these numbers, this tells me that, under the benchmark plan in District 1, it was 16.56 percent BVAP, but under what we adopted was 16.72. Now, it's not a big number, but this suggests to me that the Black voting age population is higher under what we adopted than what it was originally.

Q. Not a bleaching?

A. It was the opposite of that.

Q. Yeah. How about Congressional District 6?

A. It's the same thing, but in reverse, right? The idea was that we had packed more Black folks into District 6. But that's not what these numbers say. I mean, what this chart says is that in District 6, it was 51.44 percent beforehand, and it was now going to be 45.9. So, the Black voting age population actually decreased by five-and-a-half percent. So, I mean, if the goal was to bleach the 1st and pack the 6th, we did a pretty bad job at it.

Q. Let's move to the next chart. This one is labeled "partisan analysis." Do you see that, Senator?

A. I do. And I did look at this.

Q. And why did you look at this?

A. Well, because, again, I wanted to make sure that we weren't doing something — if you look at — if you look at this under District 1, you look under the benchmark plan,

Page 1593

where just over 53 percent voted for — I think this was the Trump/Biden numbers.

Q. That's right.

A. But just over 53 percent voted for President Trump, and just under 47 percent voted for President Biden. If you look at that — and then I remember that was a close race. The congressional race, when Nancy Mace beat Joe Cunningham, it was tight — I don't remember what those numbers were, but it was real tight. So, when I'm looking at it, I don't want a

scenario that is going to make it even tighter or less likely that Nancy is going to be able to hold on. And if I'd have seen something that was going to be tighter, then we were going to have a blowup on the floor. So, when I look at this, what I see is that they increased the spread marginally.

Q. Increased what spread?

A. So, whereas, under the benchmark plan, 53 percent of those voters voted for Trump, under the proposed amendment, if you had those same people in there, it would have been 54.39. So, then the Democratic numbers went down by 1.3 points. So, it increased it a little bit.

So, when I look at that, I'm thinking, okay, I mean, I can live with that. I actually wished they'd have gone further, but I can live with that because it didn't regress. And, I mean, I'm concerned — I think I said this earlier. But I'm concerned that with the growth this area is getting,

Page 1594

that even that may not be enough of a spread, because, man, this area has been growing like crazy. But, in looking at those numbers, I felt more comfortable. And if it had been the other way, I wouldn't have.

When I look at this map, right, and the first thing I look at is my district, because that's who I'm going to get questions from. But after I look at my district, I look at District 1. And I look specifically — this is the number that I looked at.

Q. So let me make sure I understand it. And you see under where it's labeled partisan analysis up top? Do you see it says: Percentage of voters in the 2020

presidential election. And so there's Trump/Biden numbers.

A. Right.

Q. And then in the benchmark plan it's 53 percent Republicans for District 1, right?

A. Right.

Q. And what you're talking about is the increase just went up one percentage point — 1.36 — for Republican, right?

A. Yeah.

Q. All right. Let's move over to the next column. What did Amendment 2A, Senator Harpootlian's Democratic Caucus plan do? What did it do to the Republican votes?

A. Senator Harpootlian's plan did what I would expect Senator Harpootlian's plan to do. I mean, my goal was to keep

Page 1595

6 out of the 7 congressional seats Republican. Senator Harpootlian's goal with this was to create at least two — and, really, two and a half — so, two maybe could go three — but at least two seats Democrat. Well, I understand that. I don't blame him for trying that. But his amendment flips the 1st. I mean, it flips it, because Congresswoman Mace won very closely under 53-47. He's got it flipped to 48-52. So he flips the 1st, all right? That's all I need to see. At that point, there's no other consideration. All right. He's not getting more than 16 votes once that happens.

Q. And, in fact, that that's what his plan got, right, when it came up for a vote?

A. If everybody was there, he would have gotten 16 votes.

Q. That's right. And the reason that you're saying that that's — your justification for that was based on partisanship, correct?

A. Yeah. And I get it, there's some people who don't like this being the issue or, you know, you may be upset with me for this being the issue, but that's the issue, right? We were not going to do something — we had — we were one vote away from a super majority in the Senate, 30 votes in the Senate. We are not going to pass a plan that flips the 1st.

Q. In your opinion, did race play a role in drawing the 1st District?

A. No.

Page 1596

Q. Are you aware of any evidence that the new congressional map was based on race?

A. Well, again, I'll say, if it was based on race, they did a poor job of it. What it was based on, I mean, from my perspective, from my involvement in it, when I really got involved in it and I started looking at it and I know what the effect of it is, this was about making sure that Republicans have a better-than-even chance of holding the 1st. That was my goal on the floor. And when I spoke on Harpootlian's amendment, that was what I talked about. I mean, he brought race into the conversation, and so I wanted to address that. But, really, this was what we were looking at, was whether she could win or not. That's what we were looking at.

Q. Thank you, Senator.

JUDGE GERGEL: Cross-examination.

MR. HIRSCHHEL: Good afternoon, your Honors.

And good afternoon, Senator Massey.

CROSS-EXAMINATION

BY MR. HIRSCHHEL:

Q. Senator Massey, you mentioned that you're responsible for running the floor. Do you know how many members of the South Carolina Senate are Black?

A. There are — I think it's — is it 12?

Q. And do you know how many of them are Republicans, how many of those 12?

Page 1597

A. Actually, it's probably 13. There's one.

Q. And the rest are Democrats?

A. Yes.

Q. Senator Massey, you weren't on the Senate Redistricting Subcommittee, right?

A. That's correct.

Q. You didn't attend meeting of the redistricting subcommittee for congressional redistricting?

A. Just the one meeting that was held at Aiken Technical College.

Q. And that was back in the fall of 2021?

A. It probably — I think we were not in session then, I think, so it probably would have been the fall. I can't remember the time frame. Yeah, I'm sure it would have been the fall. Yeah, they would have been doing that in the fall.

Q. You weren't involved in the creation of any of the congressional redistricting guidelines, right?

A. I was not.

Q. And at the time that you voted on the congressional map, you didn't actually know whether any formal guidelines existed, right?

A. I — I — when I look back at the transcript on the floor, I — I did reference some criteria, which I'm guessing that was the guidelines. But I didn't really know there were any guidelines, no. Because I wasn't involved, as you

Page 1598

mentioned — I mean, I wasn't involved in the subcommittee process.

Q. You didn't personally draw any congressional maps, right?

A. I did not.

Q. You didn't access the map room for congressional redistricting purposes?

A. I did not.

Q. You didn't get involved in the details of where specific lines were being drawn or not drawn in any particular congressional map proposal; is that right?

A. I did not. I mean, I looked at that from a partisanship perspective once we get to the committee level, but before that, I wasn't involved in that at all.

Q. So, you didn't personally review any draft congressional maps before they were released to the public; is that right?

A. No. That's correct. I did not.

Q. You don't actually know who drew the Senate's map proposals, right?

A. I don't know.

Q. During the congressional redistricting process, if other legislators came to you with questions about congressional redistricting, you tended to direct them to Senator Rankin, right?

A. Yeah. That's what I would have done.

Q. And you testified today that, prior to the meeting of the

Page 1599

Judiciary Committee on January 19th, you really had no role in the congressional redistricting process; is that correct?

A. That's true.

Q. You did mention one conversation that you may have had with Senator Rankin about a rumor. In that conversation you didn't discuss the details of any particular map proposal, right?

A. I did not. My only — I just wanted to make sure that Luke and I were on the same page, that he was not going to do something to sacrifice the 1st. And I can't remember what he told me specifically, but I came away from that conversation feeling confident that he was not going to sacrifice the 1st. And so, we didn't get into details about which line is where and what the numbers are. I just wanted to make sure that we weren't going to give up the 1st.

Q. Right. And besides that conversation with Senator Rankin and everything that happened starting with the Judiciary Committee meeting on January 19th, you didn't take any other personal action to make sure

that any map got drawn in any particular way that you desired; is that right?

A. No. I really didn't get involved in the drawing of the congressional maps and really probably didn't pay a whole lot of attention to them until the 19th. And I probably looked at some maps heading in just to prepare myself a little bit for that committee meeting, but I didn't get involved in anything

Page 1600

up until that point.

MR. HIRSCHHEL: Mr. Najarian, could you pull up Plaintiffs' Exhibit 722, please?

BY MR. HIRSCHHEL:

Q. Senator Massey, you received this e-mail on the morning of January 20th, 2022, right?

A. It looks like it — my e-mail address is on there, yeah. Are these the talking points — no, this is something different. That is my e-mail address, yeah.

Q. And this is an e-mail from Andy Fiffick, who's a senate staffer, right?

A. He is, that's right.

Q. And it looks like he was sending you a document called: General Questions for Congressional Redistricting Amendment 1; is that right?

A. That's what the subject is.

Q. Amendment 1 means Senator Campsen's map, right? If I call it Senator Campsen's map, we're on the same page about it?

A. That's fine.

Q. Okay. And that would be the map that the Senate ultimately passed, right?

A. I believe that's correct.

MR. HIRSCHHEL: Mr. Najarian, can we look at the second page?

Page 1601

BY MR. HIRSCHHEL:

Q. So, in these general questions for congressional redistricting that you received from Mr. Fiffick on the morning of the meeting of the Senate, there's no reference to partisanship, is there?

A. I don't see any references to partisanship on this page.

Q. And nothing about preserving a 6-1 Republican split?

A. I don't see — I don't see that on this page.

Q. Or about showing up Nancy Mace's seat in Congressional District 1?

A. No, I don't see that on here.

Q. There is a line, though, at 3C that says: "County lines are more important in some places than others." Right?

A. That's what it says.

Q. And that is reflected in the map that was ultimately passed, right?

A. I mean, I agree with that statement.

Q. Mr. Tyson also showed you some talking points that you received from Breeden John on the same morning. There's nothing in that document about

partisanship or 6-1 Republican split or Nancy Mace either, was there?

A. I don't remember seeing it. I don't know.

MR. HIRSCHHEL: Mr. Najarian, would you pull up Plaintiffs' Exhibit 474?

THE WITNESS: I doubt it. I mean, those talking

Page 1602

points, as I recall, were just explaining what the differences were in each area. And honestly they probably — I mean, I wouldn't have expected any of the staff to have sent me political talking points.

BY MR. HIRSCHHEL:

Q. Okay. So, just to be clear, the talking points you received from Breeden John on the morning of the meeting of the full Senate didn't say anything about preserving a Republican advantage or showing up Nancy Mace's seat, right?

A. Yeah, I don't think — I think you're right about that. I don't think it did.

Q. And so, later that day, the full Senate meets, and you spoke on the Senate floor about the congressional map, right?

A. I did.

Q. You were there to present Senator Campsen's map, and then you also defended it against some comments that Senator Harpootlian made, right?

A. I presented a portion of that, only the Midland section. And then, yes, I responded to Senator Harpootlian.

Q. Because Senator Harpootlian made some comments that you thought were inaccurate, right?

A. I thought they were inaccurate. And also Senator Harpootlian was offering an amendment on redistricting. That's probably all I needed to know.

Q. And one of those comments that Senator Harpootlian made

Page 1603

that you objected to was that Senator Campsen's map was, quote, "all about race." Do you remember that?

A. Yeah, I remember him making that comment.

Q. And in order to rebut that argument, you looked at some race data, right? You just spoke about it with Mr. Tyson.

A. Yes.

Q. And in everything that you said on the floor that day in presenting the portion of the map that you were there to present and defending it against comments by Senator Harpootlian, at no point did you say anything about securing a 6-1 Republican advantage in South Carolina as an objective of congressional redistricting, right?

A. That's probably true. I mean, the sky was blue; I didn't say that either. I mean, you know, I didn't have to say that. There were things that Senator Harpootlian said that needed to have a response on the record. Because I knew that's what he was doing anyway, Harpootlian was playing to the Court. And so I wanted to respond to that and make some points to try to make sure everything — and honestly, I didn't have any real advance notice. This is something that I just kind of came up with on the floor there as I was looking through stuff as he was talking. Because, you know, Senator Harpootlian, usually he'll

give me plenty of time to prepare because he's going to talk for a while. But so I had some time to flip through some notes to get that. But I wanted to make those points.

Page 1604

But you're right, I didn't say specifically, Hey, we want to keep 6-1, he flips it to 5-2. I didn't have to say that.

Q. And so, when you were responding to his criticism that the map that the Senate would ultimately pass was all about race, you didn't feel moved to explain that the lines had been drawn in order to the protect Nancy Mace?

A. No. I didn't think that was necessary because what he was doing is he was attacking it based on race. And so, what I wanted to do was to respond to the allegations because I thought that was important, especially when I looked at the demographic data that Mr. Tyson and I were talking about, and I see on this chart what the BVAP is under the benchmark and under Senator Campsen's plan, and then I see how that compares with the benchmark versus Senator Harpootlian's plan. I wanted to point those things out.

But I was just responding to his argument. I mean, I wasn't making — I didn't think that I needed to make an argument about why we did certain things. I wanted to make an argument about why he's wrong.

Q. No further questions. Thank you, Senator.

JUDGE GERGEL: Mr. Moore?

MR. MOORE: I do have a few, your Honor.

JUDGE GERGEL: Go right ahead.

MR. MOORE: Thank you, your Honor.

JUDGE GERGEL: I will tell you that Senator Massey

Page 1605

was not in the House.

MR. MOORE: And I'm probably going to ask a question or two about that, your Honor. So, you read my mind.

CROSS-EXAMINATION

BY MR. MOORE:

Q. Senator Massey, I just have a few questions for you. I represent the House.

You talked for a few minutes — I guess we started with this rumor that you heard about the House, right? Okay. There are a lot of rumors running around the legislature, right?

A. Sure. And it was a rumor. And I don't think there was any validity to it in the end, but it was one of those things that got my attention.

Q. Right.

A. And I wanted to make sure we weren't going to do it.

Q. And I understand that. Okay. And you did want to make sure you didn't do it, your caucus didn't do that, correct?

A. I wanted to make sure that Senator Rankin was not going to push something through the Judiciary Committee that did that.

Q. Right.

A. Because I knew my caucus wouldn't do it. I wanted to make sure he wasn't going to put something up that was going to cause us to have a fight among Republicans on the floor.

Page 1606

Q. And Mr. Hirschel asked you a couple questions. I'm going to ask you questions in response. You know your caucus pretty well, right?

A. Well, I hope I do. I mean, I should.

Q. Okay. And you know what you do and don't have to say on the floor; is that safe to say?

A. Yeah.

Q. Okay. And —

A. Yeah.

Q. And he asked you a question or two about splitting counties. Is it less of a big deal to split a big county than it is to split a small county, Senator Massey?

A. Sure. Absolutely it is.

Q. Explain that, please.

A. You know, we can go back to the example of the League of Women Voters proposal that splits Edgefield. Again, Edgefield has fewer than 30,000 people. I mean, I don't know what Charleston's got. It's got a whole lot more than 30,000, right? And, so, you can split portions of larger counties, and you're still going to have a lot of people in both congressional districts. Whereas — and it's going to be a lot of people, such that whoever the congressperson is, whether it's Nancy Mace or — talking about Charleston, whether it's Nancy Mace or

Jim Clyburn, both of them are going to have to pay attention to Charleston.

Page 1607

If you split Edgefield, if you split Barnwell, if you split Williamsburg, something like that, I mean, those counties have such small populations, that it's hard to get the congressman's attention anyway. If you split them up such that I got 15,000 people — because if that's where you draw the line, that's at the end of the district, that's where the line is, if you draw a district such that I got 15,000 people at the very end of my district, but I got a hundred thousand up here, 15,000 ain't going to get much attention at all.

So, I think splitting Edgefield is very different than splitting Greenville. It's different than splitting Richland or Charleston. So, I think there's a big difference between splitting a smaller county versus a larger county.

Q. And just a couple of final questions. You would agree with me that the plan that was enacted is a Senate Plan, correct?

A. Yes, sir.

Q. Okay. It started in the Senate, went over to the House, got enacted by the Senate, correct?

A. That why it's is such a good plan.

Q. On that note, Senator Massey, I'll yield the floor.

MR. TYSON: No more questions, your Honor.

JUDGE GERGEL: You may step down, Senator.

THE WITNESS: Thank you, your Honor.

JUDGE GERGEL: Thank you for being here.

THE WITNESS: Good to see you.

JUDGE GERGEL: Good to see you.

THE WITNESS: Hope y'all have a safe trip home.

JUDGE GERGEL: Thank you, sir.

Who's our next witness, Mr. Tyson?

MR. TYSON: It's going to be our expert, Shawn Trende. But I think it would better to start with him tomorrow, your Honor.

JUDGE GERGEL: Okay. I think that's a good idea.

Okay. Folks, let's start bright and early 9:00 o'clock tomorrow morning.

MR. MOORE: Your Honor, before you go — and I hate to ask for an advisory opinion, but we're going to do some House witnesses tomorrow by agreement with the Senate, because we have some people who have some deadlines and issues that we need to try to accommodate.

JUDGE GERGEL: Yes.

MR. MOORE: I've heard you loud and clear about Representative King, but I feel like I have to address those points unless you tell me it's irrelevant.

JUDGE GERGEL: No. You know, the concerns we've had with the repeating testimony about Representative King, it's a legitimate question to raise. There's just so much discussion about it, it's out of proportion to its importance. But it's an issue. It was, you know, arguably an irregular practice.

Y'all have an explanation for that, and I would expect you to address it.

MR. MOORE: All right. And that's just what I wanted to make sure of. And I will also tell the Court that, while we have some differences of agreement on deposition designations, I believe that the issue that I raised with the Court — I can't remember if it was this morning — I think it was yesterday afternoon — I think we're going to resolve that issue in a way that accommodates the plaintiffs' concerns and our concerns, such that we will probably be presenting a redacted exhibit by agreement and making some redactions to a deposition.

JUDGE GERGEL: That sounds like it's very kind to The Panel. Thank you.

MR. MOORE: And so given that, I take it what the Court would want is you would want the — we'll give you that transcript with the redactions, and we will highlight for The Panel where there is still disagreement, and we'll just give these transcripts — I think possibly what we'll do is just give the transcripts to The Panel and let The Panel make decisions about what is in versus what is out.

JUDGE GERGEL: The last thing we wanted you to do is spend so much time fighting about this. We just would prefer, when it's large amounts of a deposition are irrelevant to your case, it may raise sensitive issues of confidentiality, just

don't put them in — because we're going to put them in the record, so just leave them off. We were just

trying to — it's so much easier for us if there are six pages in a deposition of dispute, to give us those six pages. If it's more, you know, tell us where the dispute is, and we'll figure out.

MR. MOORE: And so hopefully we can have a little more discussion and maybe streamline the process.

JUDGE GERGEL: I'll bet if you bought him a drink tonight, you might make some progress.

MR. CHANEY: I will not drink any open glass that Mr. Moore hands me.

MR. MOORE: I'll make sure I give Mr. Chaney a bottle.

JUDGE GERGEL: Okay. We stand adjourned. Thank you.

* * * * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

<u>s/Lisa D. Smith,</u> Lisa D. Smith, RPR, CRR	<u>12/28/2022</u> Date
--	---------------------------

APPENDIX H

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

- - -

THE SOUTH	:	3: 21-cv-03302-MGL-
CAROLINA STATE	:	TJH-RMG
CONFERENCE OF	:	
THE NAACP, <i>et al.</i>	:	OCTOBER 3 – 14, 2022
Plaintiffs,	:	
v.	:	VOLUME VII
THOMAS C.	:	
ALEXANDER, <i>et al.</i> ,	:	(PAGES 1611 – 1912)
Defendants.	:	

- - -

TRANSCRIPT OF BENCH TRIAL PROCEEDINGS
BEFORE THREE-JUDGE PANEL:
HONORABLE MARY GEIGER LEWIS,
HONORABLE TOBY J. HEYTENS,
HONORABLE RICHARD M. GERGEL,
UNITED STATES DISTRICT COURT JUDGES

- - -

* * *

Page 1816

examination of Dr. Bagley, notwithstanding.

DIRECT EXAMINATION

BY MR. TRAYWICK:

Q. Good afternoon, Senator. Can you please state

your full name for the record.

A. George Earl Campsen, III.

Q. Would you give us the benefit of your educational background, please?

A. Graduate of Wando High School. Attended the Citadel for two years; Furman, for two years. Graduated with a degree in biology. Then a law and MBA degree from the University of South Carolina.

Q. And what city do you reside, Senator Campsen?

A. Isle of Palms.

Q. And how long have you lived in the Charleston area?

A. My entire life.

Q. And what is your current occupation?

A. I am a — I own several businesses and also I'm a lawyer.

Q. And how long have you served in the South Carolina General Assembly?

A. I served in the House from '97 through 2002, and in the Senate from 2004 till the current.

Q. Okay. And what Senate district do you represent currently?

A. Senate District 43.

Page 1817

Q. And what area of the state does that cover?

A. It is a long coastal district that's about half of South Carolina's coast. It runs from Bulls Bay in northern Charleston County to Port Royal Sound in Beaufort County. It includes Charleston, Beaufort and Colleton County, parts of them.

Q. And I think Senator Rankin jokes that it's from Maine to Key West, right?

A. The most beautiful district in the nation.

Q. That's right. Do you hold any leadership positions in the Senate?

A. I'm the chairman of the Fish, Game, and Forestry Committee.

Q. Okay. Are you a member of the Senate Judiciary Committee?

A. I am.

Q. Were you involved in the Senate redistricting process this cycle?

A. I was.

Q. Are you a member of the Senate Redistricting Subcommittee?

A. I was.

Q. With whom did you serve on that committee?

A. With Senator Rankin; Senator Young was there briefly; Senator Talley; Senator Harpootlian; Senator Bright-Matthews;

Page 1818

Senator Sabb.

Q. And Senator Young, at some point, left the committee; is that right?

A. Yes, because he took a position on the Finance Committee and, therefore, was no longer on judiciary.

Q. So, it was an even split on the subcommittee —

A. It was even.

Q. — from a partisan standpoint?

A. From a partisan standpoint, yes.

Q. Did you have occasion to work with a staff on the redistricting process?

A. Yes.

Q. With whom did you primarily work?

A. Andy Fiffick, Breeden John, Will Roberts, Charlie Terrine.

Q. Did you occasionally work with Paula Benson?

A. Yes, with Paula Benson.

Q. Okay. Senator, do you recall during your deposition being asked if you have worked on a legislation that helps Black people?

A. Could you restate that, please?

Q. Sure. Do you recall being asked in your deposition if you've worked on any legislation that's helped Black people?

A. Yes.

Q. Okay. Could you give some examples of that for the

Page 1819

Court, please?

A. Well, I've worked extensively over the years with Senator Malloy, who's an African-American Democrat from Darlington and one of my best friends in the Senate, on sentencing reform. And we passed a sentencing reform bill in 2010 that reduced recidivism, alternatives to incarceration for nonviolent offenders. Ended up closing three prisons, saving hundreds of millions of dollars in taxpayer dollars.

Q. How about any specific legislation that relates to the Gullah Geechee people?

A. Yes. I was instrumental in protecting Bay Point Island in Port Royal Sound, which is right just seaward of St. Helena Island, which is kind of the home base of the Gullah Geechee Nation. I secured \$2 million — almost \$2 million in the state budget just this year for the Penn Center. And the Penn Center is where the first — one of the first schools for freed slaves was established in 1862. And it is now the location of the Reconstruction Era National Park in the national park system. And they have a nonprofit that runs the Penn Center. I was at their 160th anniversary two Saturdays ago. And we obtained \$2 million. I worked with Michael Rivers, an African-American House member, on getting those funds for the Penn Center to preserve their history and — they still have a school there — and also to fund their school.

Page 1820

Q. Any other conservation issues or offshore drilling in —

A. Well, I led the charge to stop offshore drilling successfully in the east coast. And you can — there's a Wall Street Journal article written about me. Tim Puko's the author, if you want to look that up. And we successfully stopped offshore drilling, and I got legislation passed. I worked closely with Senator Harpootlian on that bill, as a matter of fact. He was a big supporter. Worked bipartisan on that, getting that through the Senate. And worked the Gullah Geechee Nation down on St. Helena Island. I was very interested in that because they have a heritage

and a culture of being watermen, of crabbers, fisherman, shrimpers, and very concerned about the impact that oil could have upon their ecosystem. They rely upon a very clean ecosystem for their subsistence.

Q. Senator Campsen, do you know who Queen Quet is?

A. I do. She's the queen of the Gullah Geechee Nation. The unofficial queen, but the queen.

Q. Have you worked with her or other members of the Gullah Geechee community?

A. Yeah. Well, I worked with her on offshore drilling, very closely.

Q. In fact, do you remember her calling you her buddy during the Charleston public night hearing?

A. She did.

Page 1821

Q. Okay. All right, Senator. I now want to —

A. Also working right now, when I was down at St. Helena at their 160th anniversary for the Penn Center, when York Glover, who's an African-American member of Beaufort County Council, grabbed me as I was walking out. And he has another conservation deal. I can't disclose it because it would probably ruin the opportunity of making it work. But it's very important to their culture, to their community. And now I've engaged with him on helping to preserve that.

Q. Okay. Senator, how about voting rights? Have you been involved in any voting rights legislation?

A. Well, I authored an election reform bill that passed the General Assembly in May of this year with a

unanimous vote. And it did significant reform to the structure of the election commission. It created an early voting period that we did not have in South Carolina — without excuse, anyway. And it also implemented ballot integrity measures. And I'm very proud of that because it's unprecedented in this political environment, particularly when it comes to election law, to have a bipartisan vote on a major election reform bill. No other state in the country has had that, what we did in South Carolina.

Q. Thank you for that background. I now want to go to the redistricting process. Senator, did the Senate Redistricting Subcommittee hold 10 public night hearings this cycle?

Page 1822

A. It did.

Q. Was the testimony offered at those 10 public night hearings the only manner in which the Senate received feedback about communities of interest, or guidelines, or the plans?

A. No. We received multiple — information from multiple sources: E-mail, telephone, talking to people in the community.

Q. So, lots of different ways to communicate with constituents?

A. Right.

Q. All right. Senator, we've heard some complaints in this trial that folks had no idea how the Senate would use their input and that the input was ignored. So, I'd like to show you what's been premarked Senate 231.

MR. TRAYWICK: And, your Honors, I'll give you the timestamp for this video. It's 10:28 through 10:49. And this is from the Charleston public night hearing.

Mr. Gore, can you play that video?

(Video played.)

BY MR. TRAYWICK:

Q. Do you feel like the Senate hid the ball on that?

A. Yes. You can't accommodate what everyone desires, by any means. But, yes, they —

Q. But that was made known, correct?

A. Correct.

Page 1823

Q. So, the Senate did not hide the ball on that, correct?

A. No. I thought you said "hit the ball," like out of the park —

Q. H-i-d.

A. Oh, hide the ball. No, I don't think it hid the ball, no, sir.

Q. Okay. Did you hear testimony from members of the community who wanted to "keep Charleston whole"?

A. I did.

Q. And what did you think about that?

A. I thought that was really a subterfuge for making the 1st District a Democratic District.

Q. Okay. Did you hear testimony from members of the community who wanted to keep Beaufort County whole?

A. Yes.

Q. Did you hear testimony from members of the community who wanted Beaufort County in Congressional District 1?

A. Yes.

Q. Did you hear —

A. Very strong sentiment in Beaufort for that.

Q. And as a corollary to not being in Congressional District 2, correct?

A. Correct.

Q. Did you hear testimony from members of the community who wanted Berkeley County whole?

Page 1824

A. Yes. But Berkeley County is part of the Tri-County Area. It's part of the economic engine of the Charleston metropolitan area.

Q. So, to that end, did you hear testimony from members of the community who wanted Charleston, Dorchester and Berkeley Counties together in a congressional district?

A. Yes. There is a long history of — this is even referred to as the Tri-County Area. It's integrated culturally, economically, and it has been for decades. So, those three counties wanted to remain in a congressional district together, is the input I received.

Q. All right. Senator, do you recall any members of the public accusing the subcommittee of engaging in partisan gerrymandering?

A. Yes.

Q. To which district did that primarily refer?

A. The 1st.

Q. And I believe you mentioned this earlier. You recall that folks kept saying they wanted to see Congressional District 1, quote, “competitive”?

A. Yes.

Q. What did you understand competitive to mean?

A. Well, everyone that said that, either 50/50 — but most of the actual things they proposed were turning it into a Democratic district.

Page 1825

Q. Okay. Senator, I next want to move in — counsel asked earlier about some outreach efforts you made to folks in Beaufort. Why did you reach out to constituents about the congressional plan?

A. Well, because I saw clear evidence that the Democratic Party was very active in providing talking points, getting people to come out and make comments, and the Republican Party was doing nothing, the state party on that front. So, I didn’t want to have nothing. I knew that there were constituents that were people who wanted to keep the 1st a Republican District. It’s been Republican for 30 years. There’s been one Democrat who held the first congressional seat in about 30 years. And so, I reached out to people who I knew who really would care about that and took the initiative to do that.

Q. Okay. Thank you.

MR. TRAYWICK: Mr. Gore, will you pull up S-116? This has been marked into evidence and un-objected to.

BY MR. TRAYWICK:

Q. Do you recognize this document, Senator Campsen?

A. Yes.

Q. And what is it?

A. It's an e-mail from Xiaodan Li, who is a Beaufort — one of my constituents — well, she's just barely out of my district in Beaufort County. But she's from Beaufort County.

Page 1826

Q. Okay. And what is she conveying to you there?

A. She's conveying to me — sharing with me the e-mail that the Democratic Party is sending out to encourage people to make specific comments, give specific input to the redistricting committee.

Q. Okay.

MR. TRAYWICK: And will you scroll down, Mr. Gore?

BY MR. TRAYWICK:

Q. Is that the e-mail you were referring to, Senator Campsen?

A. Yes.

Q. Okay. And what was the goal — what was your understanding of the goal in that e-mail that was forwarded to you?

A. Well, I don't know if we can make an analogy to a rugby scrum, but I mean, when it comes to this input in these public hearings, it's almost kind of like a rugby scrum, where one group is trying to get more people who are pushing one direction. And we didn't

have anyone pushing in the other direction. When I say me, as far as arguing for a plan that would keep the 1st District a Republican District. And so, I knew that there were Republicans out there who cared about that. They had expressed that to me, so I let them know: If you want to be heard, now's the time to be heard.

Q. And Senate Amendment 2, what did you understand that to

Page 1827

relate to?

A. That was the Senate Democrat Caucus Plan.

Q. Okay. And here, it's referred to as the whole county map; is that right?

A. Yes.

MR. TRAYWICK: Mr. Gore, will you also pull up S-106 please?

BY MR. TRAYWICK:

Q. Senator, do you recall sending this e-mail?

A. I'm not seeing it at the moment on my screen. Oh, yes. Okay. I do see it. Sorry. Yes.

Q. Okay. And how did you describe the two competing plans there?

A. Well, first of all, in this instance, I know that Beaufort constituents had shown up in the House hearing and made some comments. And I knew that they probably were not aware that the Senate's on a parallel tract, they needed to give input to the Senate as well. So, this is why I actually sent the e-mail, to say: Y'all feel like you made your points? Well, they need to be made — you made it to the House, you need

to make your points to the Senate as well. And that's really the main reason I sent this. And then I provided some potential points that they may want to make.

Q. Sure. What did you call Plan 1?

A. The Republican Plan.

Page 1828

Q. And what was Plan 2?

A. The Democrat Plan.

Q. Does Ms. Xiaodan Li identify as White?

A. She is Chinese. She is an immigrant from China, escaped Communist China, and actually an investment banker. A very confident person.

Q. Thank you.

MR. TRAYWICK: Mr. Gore, will you pull up S-3 please.

BY MR. TRAYWICK:

Q. Senator, do you recognize this document?

A. Yes. These are the redistricting guidelines that we adopted.

Q. Okay.

MR. TRAYWICK: Okay. Will you scroll down to Section 3(a), Mr. Gore?

JUDGE GERGEL: Mr. Traywick, we've seen this over and over.

MR. TRAYWICK: Okay. The only reason I wanted to bring it in, if I might, was the differing interpretations of the word "political."

JUDGE GERGEL: We've heard you loud and clear.

MR. TRAYWICK: Okay. All right.

BY MR. TRAYWICK:

Q. Politics are in the guidelines, correct?

A. Yes, sir.

Page 1829

Q. Okay. Thank you. That streamlined that whole line of questions.

Senator, did you attend all the Senate Redistricting Subcommittee hearings?

A. I believe I did. I may have missed one. We are all part-time lawmakers. We have real jobs in the real world. Sometimes we miss meetings.

Q. Sure.

A. But I think I did.

Q. And during some of those hearings, did you hear from members of the public who submitted various plans for the subcommittee's consideration?

A. Yes.

Q. Was the public given a voice in this process?

A. Yes.

Q. Okay. Senator, did the census data come out at a normal time this redistricting cycle?

A. No. It was many months later. I think it was October that it came out, as I recall. Late September or October, I think.

Q. And then there was also a lawsuit filed in October, correct?

A. Correct.

Q. Okay. So, the General Assembly was sort of under the gun?

Page 1830

A. We were under the gun, and we didn't have the data from the federal government that we needed to actually produce a plan.

Q. You've been in the General Assembly for over a decade, right?

A. Yes.

Q. Did any other piece of legislation receive as much process as redistricting?

A. No.

Q. Were you involved in the redistricting process at every step?

A. Yes.

Q. Did you have full and complete access to staff?

A. Yes.

Q. Did other members?

A. Yes.

Q. Of both the subcommittee and the Senate in general?

A. They did.

Q. Senator, did testimony received at a public hearing receive any greater weight than other forms of feedback you received from constituents?

A. No.

Q. So, if, for instance, you had a constituent from Isle of Palms go to the Charleston public night hearing and offer testimony, but you saw someone in Venice Point come give you

testimony orally, one isn't entitled to any greater weight than the other, correct?

A. No.

Q. It's all public input, right?

A. Correct.

Q. Is that how the legislative process works, you receive all sorts of input?

A. In every instance. We don't get this much input in other legislation, but it's like that in every instance.

Q. Senator, we've heard a lot about racially polarized voting. Do you recall in the process ever being presented with a case that required the Senate to use that on the front end in drawing maps?

A. No.

Q. And did you vote against Senator Harpootlian's amendment to inject that into the process?

A. Yes.

Q. Why?

A. Well, his — his motion with regards to the guidelines, is that what you're referring to?

Q. Yes, sir.

A. Yes. Because I really didn't understand the full extent of that motion. It seemed to be almost unlimited, because I had not had the research done as to actually the case law that he was referring to and the implications of that. And so, I

always err on the side of caution in that regard. And that's really the main reason I voted against that.

Q. Okay. All right. Senator, let's move on to —

A. I wouldn't know what I'm incorporating into the guidelines. I wouldn't know.

Q. Fair. All right. Let's move on to the staff plan.

With regard to the initial staff congressional plan, did you ever see the map before it was posted and released to the public on November 23rd, 2021?

A. No.

Q. To your knowledge, did any senator?

A. No.

Q. Republican or Democrat?

A. No.

Q. Generally speaking, were senators as engaged in congressional districting as they were for Senate plan redistricting?

A. No.

Q. Why is that?

A. Because their seat is not in play, but on the Senate Plan, it is. I suppose that's human nature.

Q. But to your knowledge, who drafted this plan shown on the screen marked as S-32a?

A. The staff did.

Q. Did the National Republican Redistricting Trust draft

Page 1833

this map?

A. No. The staff repudiated their recommendations, according to their testimony to me, their statements to me. They told me their plan wasn't worth looking

at because it wasn't defensible. And I never looked at it. I said, okay. I trust — I was relying on them for that type of judgment and legal advice.

Q. Okay. So, you never saw any NRRT maps?

A. No.

Q. Did you ever speak with anyone from the National —

A. No. Didn't even know the name of the organization. I don't —

Q. Okay.

A. No, I never spoke with anyone.

Q. Did you ever come to learn of any other senator reviewing any of the NRRT maps?

A. All I know is that staff looked at it and rejected it basically out of hand.

Q. Okay.

A. That's all I know. Maybe another senator did, but I don't think so. When the staff told me that, I said, fine, I don't need to look at it. I'm trusting your judgment, your legal advice.

Q. Do you recall some subcommittee members complaining about when they saw the staff plan for first time?

Page 1834

A. Yes.

Q. Do you recall that the subcommittee meeting was on November 29th, 2021?

A. I can't — there were so many meetings, I can't remember the date. But that sounds like it might be.

Q. If I represent that to you, will you accept it?

A. I will accept that.

Q. Okay. And if I represent to you that the plan was posted on November 23rd, will you accept that too?

A. My understanding, it was posted previously, yes. So, about a week.

Q. When did the enacted plan ultimately pass the Senate? Does January 20th sound right?

A. That sounds right.

Q. Okay. So, from November 23rd, when the staff plan was initially released, to January 20th, when the final plan passed the Senate, roughly 60 days passed, correct?

A. Yes.

Q. Did the public have ample opportunity to provide input during that period?

A. They did.

Q. But is the staff plan the plan that ultimately passed?

A. No.

Q. At some point, did you have to make tweaks to the plan or have staff make tweaks to the plan for you?

Page 1835

A. Yes.

Q. Let's go to S-68a. Do you recall receiving and reviewing a map submitted by the League of Women Voters, Senator Campsen?

A. Yes.

Q. Okay. If I represented to you that CD 1 had a Biden vote share of 51.75 percent, and a Trump vote

share of 48.25 percent, would you have any reason to disagree with that?

A. That sounds about right.

Q. Okay. Was that ever going to pass the Republican-controlled General Assembly?

A. No.

Q. Did these districts look like the benchmark plan?

A. No.

Q. And is Congressional District 7 changed from the benchmark plan in this plan?

A. Yes. It has Berkeley County in the 7th. And Berkeley has really no community of interest with Dillon County and Orange County. Berkeley is an integral part of the Charleston economic engine of the state, which largely revolves around the port.

Q. And is Beaufort and Jasper County down there in CD 2?

A. Yes, it is.

Q. Would you have had an issue with that?

Page 1836

A. Yes. And I represent a large part of Beaufort. And I knew that they used to be in the 2nd. And they felt like they didn't have much of a community of interest with Lexington County, but they have a significant community of interest with Charleston County, because they're coastal. And, in fact, the League of Women Voters' lawyer, who I respect a lot, Mr. Ruoff, testified that my Senate District, which is basically the spine of this congressional district, was probably the greatest example of a community of interest congealing in any district he's ever seen. That's the

testimony that he presented. Because, it's coastal. Coastal issues are very different than — you don't deal with beach re-nourishment and erosion issues and OCRM regulations and all these things that you deal with along the coast up in Lexington County. So, Beaufort very much wanted to stay in the 1st.

Q. Thank you, Senator. Do you recall seeing the House's first staff plan?

A. Yes.

Q. Okay. What was your reaction to that plan?

A. I was befuddled why the House would have proposed that, because it made the 1st a Democratic district.

Q. What action, if any, did you take after looking at the House initial staff plan?

A. I talked to Gary Simrill and I think I talked to Weston Newton — I'm not sure, but I think I did — from Beaufort.

Page 1837

Gary Simrill is the majority leader. And I asked him: Do y'all really plan to do that? Because, you know, we don't think that's going to pass the Senate. I'd be surprised if it actually passed your Republican-controlled House. But are y'all open to something different? And the answer was yes.

Q. Okay. So, at some point, did the House propose an alternative staff plan?

A. They did.

Q. And did that more closely mirror the Senate's initial staff plan?

A. Yes.

Q. Can you sort of walk us through the legislative process of how things went from the House to the Senate to where we got to your amendment? To the best of your recollection.

A. Well, the House passed — they amended that bill in the form you just stated and sent it to the Senate. And then we worked on, I think, perfecting that. And as far as the amendment that I offered — is that what you want me to talk about?

Q. Yes, sir.

A. Yes. So, I took that plan, and with staff work and input from other members, but worked on kind of perfecting that the plan. And I think we did a lot better job of following the redistricting guidelines than the House had, in that we followed geographic boundaries. Rivers, the Stono River,

Page 1838

Wadmalaw Sound. Kept the barrier islands together. And there's a lot of instances along the way where I could have made it a more Republican District, but it would have violated some of these other redistricting principles, like following geographic boundaries.

And so, we end up with something that's really just barely a Republican district. It moved the needle one digit — one point on the Cook Political Report. We increased, by just a few percentage points, the Republican vote in the 1st. And I could have made it a lot more Republican, but we would've started violating these other principles. And I wanted to draw a district that would be Republican, because it had been Republican, I am a Republican, and I don't support the party so much as I support the principles that it generally stands on. It's kind of getting away

from some of them, I'm afraid. But I wanted to do that while honoring redistricting principles as best as I could, and also be in compliance with applicable law. And I was relying upon attorneys representing us to let me know when we might be running afoul of that applicable law. And so, it produced a district that was much less Republican than it otherwise could have been.

Q. And, in fact, from House plan to Senate Amendment 1, did the Trump vote share decrease?

A. Yes, it did. Yes.

Page 1839

Q. Okay. Is amending legislation on the floor normal?

A. Yes, it is. Any major legislation not amending on the floor would be very abnormal.

Q. Sure. Did this plan go through subcommittee, full committee, and then make it to the floor?

A. Yes.

Q. Okay. Democrats were able to offer and discuss amendments?

A. Yes.

Q. And, in fact, they did, correct?

A. They did, yes.

Q. All right. Senator, I'm going to pull up S-29b, please.

MR. TRAYWICK: I beg the Court's indulgence.

JUDGE GERGEL: Take your time.

MR. TRAYWICK: This is the map, if that helps.

BY MR. TRAYWICK:

Q. Senator, do you recognize this map?

A. Yes.

Q. Is that your amendment?

A. Yes.

Q. Is that the Senate Amendment 1 we've been discussing?

A. Yes.

Q. Were you the primary author of this amendment or sponsor?

A. Yes.

Q. Okay. When did you author it?

Page 1840

A. Well, I actually offered it on the floor, as I recall — although it had been — I think some other members had seen it before it actually got to the floor. But as I recall, I offered it on the floor.

Q. Okay. Was the draft of this plan published before the January 13th subcommittee meeting?

A. Yes.

Q. Did Senator Harpootlian also publish a plan before that subcommittee?

A. Yes. That's why I'm saying others viewed it. But I didn't offer till the floor.

Q. Was this a minimal-changed plan, Senator Campsen?

A. Yes, it was. And I thought that was important, because this minimal change from the existing benchmark — and I thought that was important because the benchmark had significant pedigree to it, if you want to use that term. The Obama Administration had pre-cleared it. It had survived a

Section 2 challenge, it had survived a racial gerrymander challenge, and the U.S. Supreme Court affirmed it as recently as 2012. And since redistricting is done every 10 years — that's like yesterday in redistricting time, you can't get any closer than that.

And so, I felt like that plan was a pretty good starting point. And we just made very minimal — you had to make changes in the 1st and the 6th because the 1st had to shed

Page 1841

88,000 people, and the 6th had to pick up 85,000 people. And the rest of the state had grown consistent with the statewide rate of growth, and so they could largely remain the same. And that's really largely what the plan does.

Q. Senator, why did the Senate not barely touch CD 7?

A. Well, last time we did reapportionment, there was big issue about whether the 1st is going to go up north or it's going to go down south. And it used to go north, and there was a lot of consternation in the General Assembly about that, but we ended up having the 1st go south. And we didn't want to have that fight again, number one. And number two, the growth rate was about right on par with the growth rate statewide. And so, you have constituent consistency, continuity of representation issues, and we also had the chairman of the committee trump Horry County, and he was not very interested in changing the 7th very much.

Q. Let's zoom in on CD 1, if we might. Senator, did CD 1 keep all the sea islands together?

A. Yes.

Q. And did you hear public testimony to that effect?

A. Yes. And that that is a very unique community of interest. I represent many of those sea islands, at least the ones heading south from Charleston.

Q. Speaking of Charleston, did you ever consider making Charleston whole?

Page 1842

A. Yes. But making Charleston whole would have — number one, Charleston hadn't been whole since 1992, I think it is. Sometime in the 90s. I think it's '92. So, "keeping it whole" is a misnomer. It wasn't whole. It hasn't been whole since '92. And it's not unusual — in fact, it's typical for large metropolitan areas to not be wholly, or the counties that have large metropolitans not wholly be in one district. That's not true in Richland County, it's not true in Greenville, Spartanburg. But if you did make Charleston whole, then you would end up with Charleston being a Democratic-controlled district, majority Democratic district, based upon the political data we had.

Q. Just so we hit all areas of the state, does Florence County have two congressmen?

A. Yes.

Q. Do you remember articulating as a justification that you felt having two congressmen represent the Charleston area was better than one?

A. Yes.

Q. Can you elaborate on that, please?

A. Yes. I'll be happy to. It's just common sense. In a body that is where the majority vote controls — and

individual influence is important, meaning the U.S. House of Representatives in leadership positions are important — it's better to have two advocates than one. I've heard some people

Page 1843

say, well, I don't want — a Republican say, I don't want Representative Clyburn representing me because he votes this way or that way on taxes or whatever the issue they disagree with him on. Well, if he's not in Charleston, he's still going to be voting that way in Congress on the policy issue you don't like. So, having two congressmen represent you is really about the local community and the benefit to the local community. It's really bread-and-butter things. Like, when we get with a hurricane, are we going to get FEMA down here quickly or not? Are we going to get extra special treatment? Do we have influence with the incumbent administration?

And so, I'd rather have two congressmen in one any day. In fact, if you're going to have a Democrat and Republican mix in your delegation, I'd rather it be a Republican and a Democrat, like Charleston has. Because, I don't suspect Nancy Mace has near as much influence with the Biden Administration as Jim Clyburn does. I know that's not true. Jim Clyburn has more influence with the Biden Administration perhaps than anyone in the nation, because he probably wouldn't be president if it weren't for Jim Clyburn.

And we had an example of that yesterday. I read in the paper that the secretary of transportation was down here meeting with the director of the port's authority, Barbara Melvin, meeting and talking about

the road system, talking about electric vehicles and BMW and Volvo producing electric

Page 1844

vehicles and policy with regards to that. All that was right there in the news yesterday, how beneficial it is to have Jim Clyburn representing Charleston County. And I'll take that any day. And he has helped this county in innumerable ways over the years, and he still is. And yesterday is just one example.

Q. Senator, would you agree then that the enacted plan, the three largest population centers of the state, all have county splits?

A. Yes.

Q. Greenville, Charleston, and Richland —

A. Yes. It's hard not to split them, because you have the one-man-one-vote requirement. When it comes to congressional reapportionment, the deviation is one-half of a person — or one person, is what the deviation is. You've got to have it exactly right. So, it's really hard not to split these big population centers.

Q. At some point before your presentation in the floor debate on January 20th, do you recall receiving talking points from Breeden John?

A. Yes.

Q. Okay. Let's pull up S-62. Did you use some of these points on the floor?

A. It's going pretty fast for me to read.

Q. We're going down to your neck of the woods.

Page 1845

A. Okay. Yes. This was the basic introductory remarks that kind of just gave the general contours of

the district that the staff had prepared. I hadn't requested it, but they just took the initiative to do this, which is beneficial, of course, to the members, to just — the general contours data general overview, the 20,000-foot look is what this was about.

Q. And is that normal in the legislative process, for staff to give you talking points on legislation?

A. Yes. That's completely normal.

Q. That's not just confined to redistricting, correct?

A. Not at all.

Q. Are staff permitted to share information about one member's amendment with another member without the offering member's permission?

A. No.

Q. Is that normal procedure and well known in the Senate?

A. Yes.

Q. All right. Let's move on to the actual floor debate. Do you recall speaking about the enacted plan on January 20th, during the floor debate?

A. Yes.

Q. Do you recall what features of the plan you might have highlighted?

A. I think I led off saying this is a minimal-change plan, like I had already discussed briefly today, and talked about

how most of the state, most of the districts, had grown generally at the same rate of growth of the entire state. And so, major changes had to happen in

Charleston in the 1st and the 6th. And, in fact, as I recall, I described how the district, as far as constituent consistency, which is a measurement of how much change occurred in our plan, in the plan that passed, everything but the 1st and the 6th — they were in the 90s, 98 percent, 96 percent. And I can remember Senator Harpootlian's Plan being — the best it ever got was 70 percent. It was 50 — so, they were redrawing the whole state just to get — they were redrawing the whole state dramatically to get two Democratic districts in one swing.

Q. Okay.

MR. TRAYWICK: Mr. Gore, if you'll pull up S-242. The timestamps here are 2:22:10 through 2:23:11. And this is from the January 20th Senate floor debate.

(Video played.)

BY MR. TRAYWICK:

Q. Senator, why did you deny that this was a partisan gerrymander?

MR. CUSICK: Objection, your Honor, to the extent that this is going to be offered as a justification of his contemporaneously offered —

JUDGE GERGEL: Overruled. He can explain what he meant.

Page 1847

Please proceed.

MR. TRAYWICK: Would you like me to repeat the question?

THE WITNESS: Yes.

BY MR. TRAYWICK:

Q. Okay. Why did you deny that this plan was a partisan gerrymander?

A. Because, in my mind, a partisan gerrymander is when you subordinate everything else to drawing partisan lines — or almost everything else. And that is not what I did. There were many instances in drawing this map in which I could have gone and picked up a precinct here or a precinct there that would have dramatically increased. I can remember one precinct was 65-plus percent Republican, a big precinct off of Wadmalaw Sound that I could have picked up but didn't do it because I wasn't making the partisan numbers — I wasn't subordinating everything else to the partisan numbers. I was honoring other redistricting principles.

And so, when they said this is a partisan gerrymander, and I'm losing Republican votes because I'm sticking with the geographic boundaries, I had to refute that. And so, a partisan gerrymander in my mind is when you subordinate everything else to the partisan numbers, and I did not do that. There's nothing further from the truth than that. I would have loved to have kept the tip of the peninsula in

Page 1848

Charleston, below — you know, the battery area in Charleston. Would've helped the numbers, but if I had done that, that would have been a partisan gerrymander, and I didn't do it.

Q. So, does that mean politics were involved at all?

A. No, it doesn't mean politics weren't involved. Politics are always involved. And even the first Congress, Patrick Henry tried to gerrymander James Madison out of the first Virginia House of Representatives seat. I mean, it's happened from the beginning. But partisan numbers are taken into account.

You don't have Illinois drafting Republican districts when they could draft Democrat districts. You don't have California and you don't have Republican states doing that either, as long as you can honor redistricting principles. And my goal was to produce a Republican plan while honoring the principles as best you can — which you can't honor all the principles in any map all the time — as best you can and comply with the applicable law.

Q. Is partisan gerrymandering, in your view, a legal term of art?

A. Well, it is. But I think most people don't know that definition. So, when that statement is made before the general public, there is all kinds of different wild ideas of what they're envisioning. But it is a term of art. I mean, there is even some case law on it. But it's when you

Page 1849

subordinate other redistricting principles to the partisan numbers as you're drawing a district. And I did not do that. And specifically, I made the district less Republican in order to the honor that principle.

Q. Let's go through some of those. Did your Senate Amendment 1, by not making it more Republican, better adhere to geographical boundaries?

A. Yes, it did.

Q. How about communities of interest?

A. Yes.

Q. How about core preservation?

A. In some instances, yes; in some instances, perhaps, no, because we had to do a lot of change in Charleston County, because that's where the growth was. In the 1st, that's where the growth was.

Q. Did Berkeley County experience pretty significant growth too?

A. They did.

Q. Okay. And was that made whole in CD 1?

A. No. There's still some of Berkeley that is out, as I recall. I may be wrong on that, but I think that's right.

Q. Did it say anywhere in the guidelines that you had to subordinate the interests of all other counties to the interests of Charleston County?

A. No. But, again, I have a great interest in Charleston

Page 1850

County. I'm born and raised here. But it's very difficult to maintain — keep the big counties that have the big metropolitan areas whole. And, in fact, it's not happening really anywhere else in the state.

Q. Okay. And doing so here would have ensured it was a Democratic district?

A. It would have, yes.

Q. All right. Do you recall any other senators referencing political line drawing with respect to Senate Amendment 1?

A. Yes. I think it's very clear that Amendment 2 was drawn using a particular political outcome in mind, which is understandable. It's expected, actually.

Q. Okay. Let's look at —

A. That's Senator Harpootlian's amendment — is what I'm referring to.

Q. Sure.

MR. TRAYWICK: Let's pull up S-241. Timestamps here are 56:22 through 56:57.

BY MR. TRAYWICK:

Q. Is that Senator Rankin?

A. Yes.

Q. Okay. Was he referring to the West Ashley area?

A. I believe so.

Q. Okay.

A. And the 1st District actually — I didn't keep track of

Page 1851

the racial numbers as we were drawing maps, but after it was produced, the staff provided that. And the Black voting age population in the 1st actually went up a little bit, and it went down in the 6th. Yet, we were accused of packing and things like that on the floor and in the committee. But that actually did not happen.

Q. Did you look at any racial data during the map-drawing process?

A. No.

Q. Did the staff draw the map for you?

A. Yes.

Q. What data did you look at when tweaking CD 1 and CD 6?

A. Well, I looked at the Trump/Biden numbers and the Graham/Harris numbers. I was looking at political numbers.

Q. Did you have any racial targets in having Senate Amendment 1 drafted for you?

A. No.

Q. Did staff ever mention racial targets in drafting Senate Amendment 1 for you?

A. No. The staff knew, because I communicated to them, I don't want to know the racial numbers. Y'all tell me if we're running into any kind of legal problem when it comes to race, but other than that, I don't want to know while I'm drawing this map. But I do want to the know political numbers.

Q. You almost said it. There's no Section 2 claim here,

Page 1852

right?

A. Excuse me?

Q. There's no Section 2 claim here, right?

A. Right.

Q. Did you have any discussions with other senators about politics?

A. Yes.

Q. With whom did you speak about the politics of Senate Amendment 1?

A. Well, I probably talked to several. I can't recall them all. But they wanted to know what are the

political numbers. And many of them were disappointed that they weren't higher Republican. And why did you do it that low? Why'd you only change it 1.36 percent? That's because I honored other redistricting principles. That's why.

MR. TRAYWICK: Mr. Gore, can we pull up S-101 please?

BY MR. TRAYWICK:

Q. Senator Campsen, do you recognize this document?

A. Yes.

Q. Who is Sean Bennett?

A. He is a senator who represents Dorchester County and some of Berkeley County, but mostly Dorchester.

Q. In this e-mail you said: "We want House Plan 2, Senate Amendment 1." Who did you mean by "we"?

A. I meant the Republicans in the — certainly in the

Page 1853

Lowcountry, really is what I'm talking about.

Q. What's the date of this e-mail?

A. January 12th.

Q. Okay. And then how'd you describe the other proposal?

A. Has all of Dorchester County in the 7th with Georgetown and Horry and Dillon and Florence Counties, they have no community of interest whatsoever there.

Q. How about the sentence before that? What did you call the other plan?

A. The Democrat proposal, the Alternative Democrat Proposal.

Q. Senator, what's the partisan makeup of the Senate, currently?

A. Thirty Republicans, 16 Democrats.

Q. Are all the Republicans White?

A. No.

Q. Are all the Democrats Black?

A. No.

Q. Can you tell the Court and the plaintiffs' counsel over here maybe a little bit about the collegiality of the Senate in South Carolina?

A. Well, the Senate prides itself with being collegial and bipartisan and working across the aisle on issues. Our rules force us to work together often. But also there's a real ethic to do that. And those of us who've been there a long time, we all — Republican and Democrat, Black and White, we

Page 1854

all feel a sense of trying to maintain — well, some people don't have that sense as great as others, but the majority of us do, to maintain that collegiality.

And I've worked with Democrats on the Election Reform Bill. John Scott came over. He wanted to cosponsor it, because he's been trying to get early voting in forever. He's an African-American Democrat from Richland County. And, yeah, come on, cosponsor it with me. All my conservation work, I probably have more Democrats than Republicans actually working with me. I've protected 350,000 acres with the Conservation Bank Act that I passed in the law in

South Carolina, and a lot more than that through other means.

So, there's a lot of bipartisan — Gerald Malloy and I and Tom Davis, we meet every other week after session and we sit around in the office and talk about how to keep the Senate what the Senate is supposed to be, collegial, bipartisan. We'll fight over things if we disagree. That's what we do. But we'll go out and we'll sit down and talk about it and maintain friendships in the process. And that's the way the Senate is. While I was doing this, Ronnie Sabb, who served on the committee with me, he was voting against all these bills. I helped Senator Sabb help protect a big part of Williamsburg County on the Black River. We're looking at protecting 11 miles of the Black River right in his backyard. And I'm the one who really got him involved in that process, and he's

Page 1855

taking the lead. And so, we disagree on the floor, but we have great working relationships and personal affinity for one another.

Q. But on some issues, do votes clearly come down on partisan lines in the Senate?

A. They do. But that doesn't mean that we don't — in fact, I tell young senators all the time that, in my years of experience, there's a passage in Romans 12 that is the key to being an effective and successful senator, and the passage where Paul says: "As best as you are able, remain at peace with all men." Because the person that you're fighting on one bill, tooth and nail, they're going to be your ally on the next bill. And you don't ever let it get personal. And even if someone offends you, don't reciprocate in kind. And

that is what the Senate's supposed to be, and we largely obtain that. But when it comes to redistricting, you just have — it's hard to find agreement, common ground.

MR. TRAYWICK: Let's go to S-242. Timestamps, 3:55:19 to 3:55:56. This is from the January 20th floor debate.

BY MR. TRAYWICK:

Q. Senator Campsen, was congressional redistricting clearly political?

A. Yes. And I totally disagree with that analysis, too. And I think the record will demonstrate that that's incorrect.

Page 1856

Q. Was it clear early on in the process for congressional redistricting that it was going to be different than Senate redistricting for the Senate district plans?

A. Well, you wouldn't have as much input from members, because when it comes to the Senate redistricting, the members are actually giving input to the map drawers. And so, it was going to be different in that way. And also, it's clear it was going to be different because there would be a fight over this Republican 1st District into a Democratic district. It was pretty clear that was going to be a fight.

Q. Is that because national implications are at play?

A. It has natural implications —

MR. CUSICK: Objection, your Honor. Just the relevancy of this line of questioning.

JUDGE GERGEL: I think it goes to motive. Overruled.

THE WITNESS: Yes, it has national implications.

BY MR. TRAYWICK:

Q. Can you explain that?

A. Well, if we — if Republicans who have control of the legislature, the House and the Senate, and the governor's office passes a reapportionment plan that created another Democratic district when you really didn't need to — need to, meaning there is no law or guidelines that really dictated that you do that — and then if after this election you fail to retake the House Republicans by one vote, that would be on

Page 1857

us. And the framers gave us the authority to do this in the elections clause. And we shouldn't just disregard it. And I think the Democrats would have the same opinion. If they were the majority, I'd expect them to do the same thing. But I, for one, don't think you disregard that, that the framers gave to us. They did it in classic frame of fashion. They diffused the power and didn't concentrate it in the elections clause. States can pass a law. Ultimately, Congress can pass a law, too, that all the states have to comply with, like the Voting Rights Act is an example of that.

BY MR. TRAYWICK:

Q. All right. Not to beat a dead horse, but let's wrap this up. Was there a Republican Caucus Plan?

A. Yes. It was my plan.

Q. Did Senator Harpootlian identify his plan as the Democratic Caucus Plan?

A. Yes, he did.

Q. Did the Republican plan maintain a 6-1 makeup, partisan-wise, of the Congressional Delegation for South Carolina?

A. It did.

Q. What did Senator Harpootlian's Democratic Caucus Plan do to that makeup?

A. It made it a 5-2 and it radically redrew the whole state in order to get there.

Page 1858

Q. And one tossup even, right?

A. And a tossup, yeah.

Q. Okay. Was that ever going to pass the Republican-controlled Senate?

A. No.

Q. Did that have anything to do with race?

A. No.

Q. Were the votes divided among party lines?

A. They were.

Q. So, given the political forces at play here, was there any need for you to spike the football in the endzone on politics.

A. I never do that. That's how you maintain collegiality, by not doing that.

Q. And is that consistent with the nature of the Senate?

A. That's consistent with the nature of the Senate.

Q. But politics wasn't a secret, correct?

A. No.

Q. All right. Last few questions. Senator, was race a motivating factor in enacting S.865?

A. No.

Q. Was race the predominant factor in enacting S.865?

A. No.

Q. Were your decisions based on politics and traditional districting principles?

Page 1859

A. They were.

MR. TRAYWICK: Thank you, your Honor. No further questions.

JUDGE GERGEL: Does the House have any questions?

MR. MATHIAS: Just one brief line of questioning, your Honor.

JUDGE GERGEL: Just keep it not duplicative.

MR. MATHIAS: There will be no duplications.

JUDGE GERGEL: Thank you.

MR. MATHIAS: Yes, sir.

Denise, can you pull up HX-86?

DIRECT EXAMINATION

BY MR. MATHIAS:

Q. Senator, my name's Andrew Mathias. I'm one of the lawyers for the House.

A. Yes.

Q. Do you see House Exhibit 86 there in front of you?

A. Yes.

Q. All right. I'm going to represent to you that this is a text message that you sent to Representative Weston Newton.

MR. CUSICK: Sorry. One second, your Honor.

What was the exhibit number on that?

MR. MATHIAS: Eighty-six.

MR. CUSICK: House Exhibit?

MR. MATHIAS: Yes. I believe it's in evidence.

Page 1860

MR. CUSICK: This wasn't disclosed within your exhibit. Do you intend to introduce and ask Senator Campsen about the disclosures?

MR. MOORE: As I understood it, your Honor said if it's in, you can ask them about it.

JUDGE GERGEL: Is it in?

MR. MATHIAS: It is in.

JUDGE GERGEL: You can ask him. Overruled.

MR. MATHIAS: All right. Thank you.

BY MR. MATHIAS:

Q. Senator Campsen, as I was saying, this is a text message conversation — well, you are sending Representative Weston Newton several text messages between Monday, December 13, 2021, and Tuesday, December 14, 2021. If you'll review that and let me know if I'm correct.

A. Yes. It appears that's correct.

Q. And I'll direct your attention real quick to the text message on the second page that you sent on Tuesday, December 14th. You were telling Representative Newton that Beaufort and Berkeley Counties were

important for you to remain in the 1st Congressional District, right?

A. Well, I knew it was important for the counties. Not just me, but I knew it was important for the counties.

Q. Well, and part of that importance was because Beaufort and Berkeley Counties are solid Republican counties, correct?

Page 1861

A. Yes.

Q. And the communities of interest, too, that they have with Charleston?

A. Correct.

Q. And keeping counties whole is one of the traditional redistricting principles stated in the criteria adopted by the Senate committee, correct?

A. Yes.

Q. And I don't think you'll remember these numbers, but tell me if you think I'm about right. Berkeley County's total population in the 2020 census is 229,861. Does that sounds about right?

A. I don't know. I can't remember.

Q. But it sounds close, correct?

A. I don't know.

JUDGE GERGEL: He says he doesn't know.

MR. MATHIAS: Okay.

BY MR. MATHIAS:

Q. Well, I'll represent to you that that's the population. I'll also represent —

JUDGE GERGEL: Unless you take the oath, you're not getting to testify, Mr. Mathias. Just ask the witness something he knows.

MR. MATHIAS: Okay.

BY MR. MATHIAS:

Page 1862

Q. If Berkeley County, and Beaufort County, and Charleston County were all made whole in CD 1, that would exceed the population that was the ideal population for a congressional district, correct?

A. I believe that's correct. I did do that evaluation.

Q. And in this text message you were sending to Representative Newton, you're stating that it is a primary goal of yours to have Beaufort County and Berkeley County in Congressional District 1, correct?

A. Yes.

Q. And so, Charleston had to be split, correct?

A. Yes. And Charleston was currently split. It had been since the early '90s.

Q. And so, your primary concern was keeping Berkeley County whole and Beaufort County whole in the congressional district, correct?

A. No. No. My primary goal was to draw a Republican district while honoring redistricting principles as best as I could, because some of them are incongruent, you can't always honor all of them in every instance, and just to comply with applicable law. That was my goal.

Q. All right. And once Berkeley County and Beaufort County were made whole in the plan, you did not care where the line was drawn in Charleston County —

you cared more about the line being drawn in Charleston County in a way that benefitted

Page 1863

Republicans than you did looking at race, correct?

A. I did not look at race while I was drawing the map.

Q. All right. Thank you.

A. I left it up to the staff and legal counsel to let me know if we're getting into some trouble. And they raised them. They did along the way. At every process, they'd say, well, you probably don't want to do that.

Q. Thank you, Senator.

JUDGE GERGEL: Cross-examination.

CROSS-EXAMINATION

BY MR. CUSICK:

Q. Good afternoon, Senator Campsen.

A. Good afternoon.

Q. We first met a couple months when I took your deposition virtually. Do you recall that?

A. I do, yes.

Q. Mr. Traywick started his questions asking about whether you support legislation on behalf of Black communities. Do you recall that question?

A. Yes.

Q. And you don't think in terms like that, right?

A. Well, yeah. Like, when I got \$2 million for the Penn Center, I know that that's very important to the African-American community on St. Helena Island. So I do understand that. I do understand when I cosponsored — one of

the only two Republicans that cosponsored Senator Jackson's Juneteenth bill to make it a state holiday. I knew that was important to the African-American community in particular. So, I am cognizant of that.

Q. But that's not a goal. You don't think in terms of whether bills that you're looking at support Black or White communities, you just look at them if they're good policy, right?

A. No. I — I — I genuinely do want to support the Penn Center. And that's why I made an effort to go to their 160th anniversary a few weeks ago. I genuinely do want to support them. I have a desire to do that.

Q. Yeah. During this redistricting process, you wanted to be colorblind and not see race, right?

A. I didn't want to see race when it comes to drawing lines, because I only wanted to look at the political numbers, because I knew that was the safest way to draw districts.

Q. Mr. Traywick had a number of questions about the timeline for when S.865 passed. Do you recall those questions?

A. Yes.

Q. And he represented it was about 60 days, right, between when it was first passed and now?

A. Which bill are you referring to — or which amendment?

Q. Let me walk you through. Do you recall that the Senate first published a plan on November 23rd, 2021?

A. The staff plan, you're referring to?

Q. Correct.

A. I don't remember the date, but I remember the staff plan being published.

Q. And there was a single hearing a week later on November 29th on that plan, correct?

A. I think that's correct.

Q. And then the next hearing the Senate held was in 2022 on January 13th, correct?

A. I — I can't confirm that.

Q. No reason to dispute that?

A. No reason to dispute it, but —

Q. And that was the only —

A. — I have all these dates in my mind.

Q. That was the only hearing in which the Senate sought public input on Senate Amendment 1, correct?

A. I'm not — I'm not sure about that either.

Q. It was published publicly on January 11th, less than 48 hours before that hearing, right?

A. I don't know. I don't recall.

Q. Earlier you talked about plans being motivated in the public record about Democratic ends. Do you recall that testimony?

A. Yes. Like, you mean with regards to Senator Harpootlian's Plan, for example?

Q. In the public record, did you understand when people were commenting on congressional maps that there was some sort of Democratic script —

A. Well, I had someone share a copy of the script from the Democratic Party in an e-mail. I think we saw it earlier today. So, yeah, I knew that.

Q. And that was the Exhibit — it was Senate Exhibit 116.

MR. CUSICK: Can you pull that up?

BY MR. CUSICK:

Q. And the date on that is January 17th, right?

A. Yes.

Q. That was after the public hearing. You didn't see the script before it, right?

A. I don't recall when the public hearing was in relation to this.

Q. The State Conference of the NAACP, the South Carolina State Conference, is nonpartisan; true?

A. Yes.

Q. So is the League of Women Voters of South Carolina, right?

A. Well, they're technically nonpartisan, yes.

Q. What do you mean by "technically"?

A. Well, they tend to support more liberal policy positions.

Q. Are you aware of their mission statement and what they are affiliated as?

MR. TRAYWICK: Objection. Relevance.

JUDGE GERGEL: Overruled.

THE WITNESS: I didn't read their mission statement. I actually work very closely and cordially with them. But I know that they generally are — I've never read their mission statement.

BY MR. CUSICK:

Q. But they're nonpartisan, right?

A. They are nonpartisan, yes.

Q. I'll let the record speak for itself. But you're not aware of members of the public during their testimony saying, I'm here as a Democrat voter, when they were supporting Senate Amendment 1 or Senate Amendment 2, right?

A. Well, the amendment's even referred to as "the Democrat amendment," so when they're supporting it, I'm assuming that they're a Democrat supporting a Democrat amendment. I don't think — and my amendment was referred to as the Republican amendment, too — the Republican caucus amendment. So, that's just — it's easy to discern that, that when you have people supporting the Democratic amendment that Senator Harpootlian offers, those are probably Democrats.

Q. You called Senate Amendment 2 a Democrat plan, correct?

A. Yes.

Q. And the conversation that you referenced with Mr. Traywick, that wasn't a public conversation with the caucus

about what Senator Harpootlian envisioned his plan was, correct?

A. Yes.

Q. And so, the only thing in the public record is your e-mails calling his plan a Democratic map; true?

A. Yes. Senator Harpootlian is a Democratic Senator. He's been involved in litigation over the congressional plans last time around, numerous times. For anyone to think he's offering a Republican plan, you check in your discretion and judgment at the door. Senator Harpootlian had a Democratic plan. Yes, I believe that. That's pretty obvious.

Q. Not in the record, though, anywhere that he said it was a Democratic plan, right?

A. He's a Democratic Senator, offered a plan that the Democrats coalesced around. He's sued Republican-passed plans in the past. So, I think it's fair to draw the conclusion that Senator Harpootlian's Plan — a Democrat Senator for Richland County, who's been involved in election litigation — is producing a Democratic plan. That's a reasonable conclusion, and I drew that conclusion.

Q. So, you assume that people who supported Senate Amendment 1 were Democrats, true?

A. Senate Amendment 1?

Q. Two, his plan.

A. Well, not everyone. But I know that that was the — I

knew that the members of the Senate Democratic Caucus were coalescing around that plan. And so, for me to draw the conclusion that's a Democratic plan is eminently reasonable. I know what's going on in the inner workings of the Senate floor. I know what they're doing. I'm on the committee. I know who's supporting it and who isn't; who's advocating for it and who's not. That's a simple and reasonable conclusion to draw.

Q. And you recall Black voters supporting that plan because it kept Charleston whole, correct?

A. There were Black voters that supported it, and there were White voters that supported it, yes.

Q. And you assumed those Black voters who supported it were Democrat, based on your assumption; true?

A. If they're supporting Senator Harpootlian's plan, they probably are Democrats. Whatever your race is, that's probably the case.

Q. Even if they're supporting and sharing testimony in a nonpartisan role, you made that assumption; true?

A. It really is irrelevant whether they identify as a Democrat or not. What is relevant is they're supporting a plan that produces an additional Democratic congressional seat that is offered by a Democrat Senator and supported by the Democratic Caucus.

And so, for me to conclude that — they may be

independent, they may be a Republican but still support that plan for some reason. But the main point is they are supporting the Democrat plan. They may not identify as a Democrat, that's their prerogative.

Q. I only have to ask you these questions because they're in response to Mr. Traywick's. But you invoked the benchmark plan as support for it because it was pre-cleared by the U.S. Department of Justice in the *Backus* court. Do you recall that testimony?

A. Yes.

Q. You understand that the preclearance standard was different from the claims at issue in this case?

A. Yes, I do. Yeah.

Q. And a map could still be pre-cleared, but operate as a racial gerrymander?

A. It could. Yes.

Q. There's no requirement in the Senate guidelines that you have to begin with the benchmark plan?

A. But I think that benchmark survived a racial gerrymander cause of action as well.

Q. Do you know what district was challenged and survived in that case?

A. I don't recall. I probably did at one point, but I don't recall.

Q. So, you don't know what district was actually challenged

and plaintiffs had standing in that case?

A. No.

Q. You were involved in 2011 in redistricting, correct?

A. Just a member tangentially. Maybe a little bit more than others, because — on the Senate side, but on the congressional side, I was just tangentially — not much more than any rank-and-file member, actually, on the congressional plan.

Q. Your Senate district that was at issue had to be pre-cleared.

A. Excuse me?

Q. Your Senate District at that time —

A. Yes.

Q. — had to be pre-cleared?

A. Yes, yes.

Q. And so, you're aware of the discussions at that time about racially polarized voting?

A. Not — not really. I was — I wasn't on the redistricting subcommittee at that time. I was too junior to be on that subcommittee at that time.

Q. You've testified that you did not ask for a racially polarized voting analysis, right?

A. That's correct. I relied on legal counsel. And I instructed them: We need to do anything? We getting into any trouble as far as when it comes to compliance with applicable

Page 1872

laws, you let me know. And I never received that advice from them, that we needed to do that.

Q. I won't go over all the background with the enactment of the plan. But just to confirm, you were

not at all involved in the initial creation of a staff plan, right?

A. No. But — except that everyone — I mean, every member of the subcommittee spent some time in the map room, and no conclusions were drawn. They were just kind of getting input, and then they ended up drawing the plan. So, the answer is no, except that I and other members of the subcommittee, and even outside the subcommittee, did spend some time in the map room, giving, you know, what about this, what about that. And that was really the beauty of the staff plan. Then the staff kind of gets that input and draws a plan just to kick the ball off, just like kicking the football off at the beginning of the game, just to put the ball in play.

Q. For Senate Amendment 1, you only provided input in relation to districts involving Congressional Districts 1 and 6, right?

A. Because that's where all the change was. The change elsewhere — now, other senators provided description of what happened in every district. That's what we did at the beginning of the debate. And it wasn't a debate, it was just descriptive. But when it came to the 1st and the 6th, that's where the change was. And not because we only wanted to

Page 1873

change there, but because the Fourteenth Amendment required us to make those changes. Because, basically the 1st had to give up the same number of people that the 6th had to pick up, in rough numbers. And everyone else was largely in line with the population growth statewide, so they really didn't need to change the other districts. Not significantly.

Q. And the guidelines that you've been discussing today, you voted in favor of those because it would lay out the factors that would be considered during the redistricting process, right?

A. Yes.

Q. That was the purpose?

A. Yes.

Q. It was voted on by you to help prevent the Senate from violating law, correct?

A. I'm not sure all — I'm not sure every violation of any particular guideline is always a violation of law, but it is a guideline. In fact, you really can't comply with all the guidelines. That's why they're calls "guidelines" and not "requirements."

Q. But some are mandatory, right?

A. Yes, some are. Yes.

Q. And you agree that those should be public so there would be transparency throughout the process, right?

A. Yes.

Page 1874

Q. It would help members know what factors the Senate was considering and relying on when they were drawing maps, right?

A. Yes.

Q. In fact, it aided meaningful participation by members of the public, right?

A. Yes.

Q. It was the basis that you and other subcommittee members would use when you were assessing plans, right?

A. And — yes.

Q. And Senate staff also relied on those guidelines based on your conversations?

A. Yes. But that's not the only thing you relied on, but, yes, you're trying to comply with them.

Q. I won't go through all of the factors, because I've heard the Court on this. But they're not ranked in any order. You remember the additional considerations in Roman Numeral III?

A. I know there's a category of additional considerations, yes.

Q. And you would agree with me that racial demographics factor into communities of interest?

A. Yes.

Q. And it's not unreasonable for a place like Charleston County to be a single community of interest?

A. Well, it's a very diverse county. I look at community of interest probably smaller than that. And it's more granular

Page 1875

than that. But, I mean, a political subdivision does have aspects of a community of interest, but they also are very — I mean, North Charleston is very different than Kiawah. So, just as an example.

Q. But that's true in Beaufort County as well, correct?

A. It's true in every county, yeah. So, that's why I'm not, you know, sure that — there are communities of interest within counties that are different communities of interest, is all I'm saying.

Q. But not all county lines are treated equally, right?

A. I'm not sure in what context you're — what's the context of that question?

MR. CUSICK: Can we pull up PX-722?

BY MR. CUSICK:

Q. Do you see this document, Senator Campsen? It was sent on January 20th, 2022.

A. Yes.

Q. And do you see your e-mail there, your personal e-mail?

A. Yes.

Q. And these were sent to you by Mr. Fiffick, right?

A. Yes.

Q. And you relied on these for floor debate in the Senate and you presented the map, correct?

A. I'm not sure I can even say yes. I mean, the staff gave me so much, more than I could digest and then use. So, I'm

Page 1876

not sure I could even say that.

Q. We'll look at the actual document here right now. And if you look at number three, you say: "Shouldn't a plan split as few counties as possible?" And then you see under C: "County lines are more important in some places." Right?

A. Well, that's not my statement, that's the staff's statement.

Q. But this was a document and talking points that were sent to you to explain why the map was drawn the way it was; true?

A. Yes, but that's not my thought.

Q. But it was represented by staff members on why they drew lines in certain ways, right?

A. These are suggested points that a Senator may or may not use. We always reserve discretion to use or not use. This is the staff's thoughts. That doesn't mean it's my thought. In fact, usually I just speak more off the cuff than go through talking points.

Q. Do you recall your testimony that Charleston County being made whole would violate the core constituency guidelines?

A. Well, it would violate constituent consistency, is what I said — or I meant to say anyway, because you'd be moving — Charleston isn't whole, hasn't been whole since 1992, I think it is, the early '90s. And so, you would be violating that one guideline. And, again, every other big county is split as well in the state. It's hard to keep them whole.

Page 1877

Q. But you didn't elevate that criteria compared to other ones, like minimizing county splits, right?

A. No. In fact, we met — no, we didn't. No.

Q. Equal weight, right?

A. Sometimes you give different weight to the guidelines. They don't necessarily have to be equal, because sometimes one is more prominent or in a particular geographic location than another.

Q. So, core constituency mattered when making Charleston whole, but not when making Beaufort whole, right?

A. Beaufort — I'm not sure of what your question is. Keeping core constituency was important in Beaufort

County. And they're in the 1st District and they remain in the 1st District.

Q. But keeping core constituencies in Charleston whole?

A. Charleston wasn't in the 1st. A lot of it was in the 6th. And so, you're not keeping it whole. That's a misnomer. That's a false narrative. It hasn't been whole since 1992. Now, that was a good political statement to make, but it is not a factual statement, "keeping it whole."

Q. People testified saying keeping Charleston whole as a community of interest, right? Independent of the borders, right?

A. I heard that testimony, yeah. I heard some of that testimony.

Page 1878

Q. So, keeping it as a community of interest is irrelevant?

A. But I disagreed with doing that. In fact, I stick with what I said. I am tickled to death that Jim Clyburn represents Charleston County. We benefitted from it yesterday. And I'm tickled to death to have two congressmen instead of one. I want two advocates in a body that's a delivery body that most votes win. I'd rather have two than one. And I'd rather have a Democrat and a Republican, because no matter who's in power, you've got access to the executive branch, which is really important.

We just got a beach re-nourishment — Edisto Beach. Fifty years the federal government is going to pay for beach re-nourishment. We had to deepen the harbor. We've got the — what's now called — I forget

what they changed the name to, but a huge military joint base in Charleston that we've got to keep. It's great to have Jim Clyburn and Nancy Mace advocating for that. I can't understand anyone thinking it's not good to have that be the case. It's benefitted us over the years.

Q. That's your representation, right?

A. That's my belief. I stated it on the floor. And I think it makes perfect sense.

Q. But you didn't hear that from members of the public during that January 13th hearing, right?

A. I heard some members of the public got that. I did hear

Page 1879

some of them.

Q. Prioritizing assuring of the 6-1 Republican congressional split in South Carolina isn't in the guidelines, right?

A. No. We've got — politics is referenced in the guidelines.

Q. You didn't elevate any of the views of congressional members over other redistricting criteria, correct?

A. Elevate what?

Q. The preferences or views of Congress members over other traditional redistricting principles, right?

A. I really had —

Q. You gave them little weight, right?

A. I had very little communication from members of the Congress.

Q. But you would've given anything you heard little weight, right?

A. I wouldn't characterize it that way. I'd give it weight. How much depends on what they requested. I never sacrificed my independent judgment. I'm not just a conduit for whatever they want or even what everyone in the public states wants. I exercise independent judgment. That's what a representative — well, what a republic is about.

Q. Do you recall your deposition, right?

A. Yes.

Q. Did you have a chance to review that deposition for
Page 1880

accuracy?

A. I did, yes.

MR. CUSICK: Can I pull up the deposition, PDF 39, page 151, lines 11 through 21?

BY MR. CUSICK:

Q. Senator Campsen, I asked you: "Did you at all elevate, to the extent you were aware of it, any Congress members' preferences or views for how they wanted a congressional district drawn?" Did I read that correctly?

A. Yeah.

Q. You responded: "No, I didn't. When you say 'when you elevate,' can you state that again?" Did I read that correctly?

A. Yeah.

Q. I asked as a follow up: "Sure. Did — how did you weigh any instructions or views for how congressional

members were hoping congressional districts would be drawn?" Did I read that correctly?

A. Yeah.

Q. And then you responded: "I — well, I gave little weight to it or no weight at all." Did I read that correctly?

A. Yes. And I think that's what I just said. And, in fact, I really received no input from him, hardly. One phone call from Nancy Mace just concerned about the political numbers of what was being considered — I think it was the House

Page 1881

amendment — and that's it.

Q. Do you remember during that deposition — and I've heard you today say that partisanship did not predominate in the redistricting process, correct?

A. No. I didn't say — it didn't — everything wasn't subordinated to partisanship. And that's why I state it's not a racial gerrymander, because it didn't subordinate all other factors to the political outcome. I could have drawn a much stronger Republican district, but I would have violated — I'd be going down to Wadmalaw Sound and the Stono River and Wadmalaw Sound, and then jump in and grab some precinct just because it had a bunch of Republicans. I could have done that. It would have made a big difference, but I didn't do it because I'm not subordinating everything else trying to comply with other principles.

Q. I want to now talk about the drawing of the map. You instructed staff members not to give you BVAP numbers for any precincts that you reviewed, right?

A. Yes.

Q. You thought that if you looked at BVAP, somebody might accuse you of drawing lines based on race, right?

A. Yes. And I didn't want race to be predominant, for sure. I left it up to them and legal counsel to let me know if we were getting into any problem areas.

Q. You left it up to them because you understood that race

Page 1882

is central to the redistricting process, you have to look at it, right?

A. Yes. But I left it to them to look at it, not because — because I'm the policy maker making the judgment, they're the lawyers that do reapportionment and election law full time. I do it every 10 years. And so, I relied upon them for their legal expertise on that front. I knew it was an issue; it's very important. In fact, I knew it was a very important issue, that's why I asked them to advise me on that. But I wanted them to blow the whistle when there was something that was problematic.

Q. And you received legal assessments on whether maps might violate federal law?

A. Yes. Throughout the process, yes.

Q. Even as you were looking at precincts, you didn't look at race, you certainly were looking at BVAP numbers when you were comparing maps, right?

A. No.

Q. So, in the talking points that you referenced and looked at earlier with Mr. Traywick, you don't recall

seeing a slide that had the BVAPs for each congressional district plan?

A. That's because that was for the floor debate. They had to describe it on the floor. And I've been accused of taking race into account when I hadn't. So, I'm defending myself. The reason I didn't defend myself in the committee when

Page 1883

Harpootlian started saying that and Margie Bright Matthews started saying it is because I hadn't even looked at BVAP numbers. I couldn't respond. And so, I did that because they made those charges in the committee, and I addressed it on the floor. And that's when I knew what the numbers were, after it got out on the floor. And I addressed it then in order to rebut the statements they were making. So, I didn't look at it until then.

Q. Just so I'm clear, the first time you saw BVAP numbers for the congressional plan was on January 20th, when you were on the floor?

A. No. I got those before we went to the floor. But that's when I asked, I need to know when it comes to the floor, just to describe the districts, first of all. And second of all, they accused us of packing, and we didn't pack. We actually reduced the BVAP numbers in the 6th and increased it in the 1st. Slightly increased it. But I didn't know those numbers until it actually was ready for floor debate.

Q. Even if you don't have racial data in front of you, as an elected official, you know the racial makeup of certain communities and cities that you represent?

A. Yeah. Ones I represent, I do, yes.

Q. You've used the —

A. But I don't know specifically like, you know, what is the percentage. But I do know St. Helena Island is a large

Page 1884

African-American community — I know that — down in Beaufort. I generally know.

Q. And you know where the concentrations of Black voters are in those areas without looking at the data?

A. Yes. I can't help but know that. I can't help but know that, having been born and raised here.

Q. So, you know race data without it looking at numbers in areas that you are familiar with, right?

A. Well, I don't know the specifics. I can't — I can't state a percentage. It'd be a guess, any particular community.

Q. And based on your observations and experience as an elected official in the Senate, you're aware that most senators are aware of the racial makeup in their districts, right?

MR. TRAYWICK: Objection. Calls for speculation.

JUDGE GERGEL: If he knows.

THE WITNESS: I don't know the racial makeup in my Senate district.

BY MR. CUSICK:

Q. Do you know, or have a sense, whether Senators know the racial makeup of their districts?

A. I don't know. I don't talk to the senators about that. I know I couldn't state what the Black voting

age population in my district is. I know that. I don't know about other

Page 1885

members. I can't speak for them.

Q. And just before I ask — I'm just asking just generally the racial makeup, not the specific numbers of your districts.

A. Yeah. I mean, if you don't know that, you haven't spent any time in your district. You have some general feel, yes.

Q. All senators know that, right?

MR. TRAYWICK: Objection. Asked and answered, and still speculation.

JUDGE GERGEL: Only if he knows.

THE WITNESS: I can't speak for other senators about that.

MR. CUSICK: Can you pull up PDF page 88, lines 22 to 25?

BY MR. CUSICK:

Q. This is your deposition again, Senator Campsen. And here I ask: "Is it fair to say that most senators know the racial demographics of the districts that they represent?"

You answered: "Probably. Close — I mean a general sense." Did I read that correctly?

A. I think that's what I just said, we have a general sense. But I don't know the percentage. Maybe some do. Maybe some research that monthly and want to know, want to carry it around with them. But I think that's what I just said, you know in a general sense.

If you don't, you haven't spent any time in your district.

Page 1886

Q. You've talked about relying on attorneys to make assessments of the maps that you were considering, right?

A. Yes.

Q. That would be Mr. Terrine; true?

A. Yes.

Q. Also Mr. Gore?

A. Yes.

Q. And they were making assessments at every turn, whether the maps complied with the Senate's criteria and Voting Rights law, right?

MR. TRAYWICK: Your Honor, I'm going to object. We're getting into attorney/client privilege matters.

JUDGE GERGEL: He asked what he relied on. Overruled.

THE WITNESS: I relied upon them to not just look at the Voting Rights Act, but also the case law, everything surrounding reapportionment. All the case law, all the statutory law, I was relying upon them, as my attorneys, to advise me when we were considering anything problematic. That's what I was relying upon.

Q. And that was ongoing throughout every iteration of the map?

A. That was ongoing, yes.

Q. Mr. Fiffick was not part of the legal team giving you evaluations and assessments; true?

A. Well, he's a lawyer. And under our Senate rules, if I ever talk to him about something that's an attorney/client privilege — but I understand that the Court has ruled otherwise on that, so I really thought I had attorney/client privilege with him. We do in the Senate. In any Senate matter, if I worked on a bill or an amendment with him, it would be an attorney/client privilege. But that is not what the Court has stipulated, is my understanding.

Q. I'm not trying to get into the convos, I'm just trying to determine: He was not part of the legal team that were giving you evaluations and assessments on the plan, right?

A. Well, he would give some assessment, but I wouldn't give it the weight that I would Charlie Terrine, who's an expert in this area — I mean, Andy Fiffick is a fine lawyer, but he's a generalist, because he's the lead counsel in the Senate Judiciary Committee. You have to be a generalist. So, I would give him some weight. And if I really thought it was an issue, I might turn to Charlie Terrine or call John Gore, and we may hash that out.

Q. You said you would call John Gore?

A. Yes. I mean, I was on the phone with John Gore a few times, not many. But it was mainly Charlie Terrine talking to John Gore.

Q. And the attorneys and the staff are the ones who were looking at BVAP, not you?

A. Yes.

Q. You would agree with me, Senator Campsen, that race and party are correlated in South Carolina, right?

A. Yes — well, yes and no. I guess that's fluid. It is fluid, but yes.

Q. I'm not trying to ask it again, but you said: Yes and no?

A. Well, it's not in every instance, but generally African Americans tend to vote higher, you know, more — you can look at the polls — when you look at the numbers after the fact — I didn't look at them drawing the map — but you see that in the numbers.

Q. And you know who Joe Cunningham is, right?

A. Yes.

Q. You understood that he was the Black preferred candidate in Congressional District 1 in 2018, right?

A. As far as the vote returns?

Q. Yes.

A. That is correct, I believe.

Q. And he won that election in 2018 for Congressional District 1?

A. He did, yes.

Q. He was also the Black preferred candidate in the 2020 congressional election results, right?

A. I don't — I — I don't know. I didn't see — look at

Page 1889

those returns, but I wouldn't be surprised if that's what I found if I did.

Q. And he lost that race?

A. He lost that race, yes.

Q. And so, the map in CD 1 that you were looking at, you understood that it would hurt Black preferred candidates, right?

A. No. I — I was interested in making it a bit more Republican. And a bit more is a tiny bit more. It's 1.36 percentage points more.

Q. You talked on direct about racial gerrymandering claims; do you recall that?

A. Yes.

Q. And I think I heard you talk about population shifts, CD 1 and CD 6; do you recall that?

A. Yeah. The 1st had to give up close to the same amount of people that the 6th had to pick up.

Q. And I heard you say Congressional District 1 was becoming — or is a competitive district generally, right?

A. Yes. Although, frankly, I don't think 2016 is kind of an accurate read. I think what was happening at the top of the ticket influenced that race. That probably won't happen again.

Q. And you agree that if Congressional District 1 was becoming a district that was more competitive, Black voters

Page 1890

would have a greater opportunity to elect a candidate of their choice, right?

A. That's not what I was thinking. I was thinking we've been — we have been — we have, under the federal constitution, the duty and the opportunity to draw lines. And we're a Republican-controlled body, and the Supreme Court has ruled that drawing lines

on the basis of political reasons is a nonjusticiable political question. And I was going to draw a district that would favor a Republican. And I did, and we did that. And it's just barely — again, the political report moved it from an R6 to an R7, hardly moved the needle. But it moved it a little bit. And it could have moved it a lot more if I had been dead-set on just nothing but moving the needle.

Q. You would agree with me that if you don't look at race and just focus on partisan numbers, there's a risk that you might disproportionately impact Black voters in drawing lines, right?

A. No, I'm not going to agree with that.

MR. CUSICK: Can you pull up PDF page 40, and page 155, lines 12 through 17?

MR. TRAYWICK: Your Honors, I objected then, I'm going to object now.

JUDGE GERGEL: Well, you're at least consistent, Mr. Traywick.

MR. TRAYWICK: That's right. Exactly.

Page 1891

JUDGE GERGEL: That's a fine question. Overruled.

BY MR. CUSICK:

Q. I asked you under oath, Senator Campsen: "So if you were looking at it from a pure partisan lens, not looking at race, is there a concern that you might disproportionately impact Black voters then based on that?" Did I read that correctly?

A. Yes.

Q. You heard Mr. Traywick's objection. And then you answered: "Well, yes. And that's why I had staff." Did I read that correctly?

A. Well, I was relying on staff to blow the whistle if that was ever happening.

Q. The first portion of your answer on line 17, you said: "Well, yes." Did I read that correctly?

A. Yes.

Q. You understood that Mr. Roberts —

A. And when I said that, I'm just agreeing with Justice Kagan even has — I forget the name of the case; I think it was the *Shaw* case maybe, where she said: These patterns are very similar. Whether you're doing partisan numbers or looking at racial numbers, they often turn out similar. And that's —

Q. And you understood that Mr. Roberts had access to BVAP numbers, correct?

A. Yes. He's the cartographer, he has access to that.

Page 1892

Q. I'll close the line on this question. When you were in the map room and lines were being moved around, you were not looking at BVAP, correct?

A. Right.

Q. After iterations of plans were created, staff or counsel were looking at and having discussions about BVAP, correct?

A. I assume.

Q. You didn't join any of those discussions?

A. I wanted it for the — after we were — I was accused of drawing it on racial — on a racial basis, I

needed the numbers to defend the plan and defend myself against those allegations.

Q. And that accusation occurred during the January 13th, 2017, meeting?

A. I can't remember the dates. They just all blend together.

Q. But if that was the meeting, that's when you first started asking for BVAP data, whenever that first accusation was made in public, right?

A. Well, no. Not when it was made, but for dealing with it subsequently, the next time it would come up.

Q. And then you had access to it and shared it on the Senate floor on January 19th and January 20th, 2022; is that right?

A. Correct. And the reason I did that is because they had made an allegation.

Page 1893

Q. Mr. Traywick asked —

A. I took it very personally, actually. I took very personally that allegation, and it was unfounded.

Q. Mr. Traywick asked you and showed you a number of e-mails. Do you recall those discussions?

A. Today?

Q. Yes.

A. Well, he showed me a lot of e-mails. Which ones are you referring to?

Q. Fair. Poor question on my part. Do you remember looking at talking points that you created and sent out?

A. That I sent to like constituents? Yes, I do remember — I remember him showing some e-mails to that effect.

Q. And you testified about doing affirmative outreach to make people aware about Beaufort County being whole and remaining in CD 1, correct?

A. Yes.

Q. In your words, the Republican Party at the state level was doing nothing, and that's what prompted you to begin that outreach?

A. That's correct.

Q. You initiated calls, you created scripts, right?

A. I created probably just two scripts and maybe 10 calls or something. I mean, I didn't have time to — I called people who I knew would go do something. Like, Xiaohan Li, I knew

Page 1894

that she was very energetic and would take the ball and run with it, and she did. I didn't have time to have any kind of campaign. I just let them know the ball's in play, y'all may want to show up — show up for the game.

Q. Those e-mails started the day or to two before that January 13th hearing, right?

A. I don't know. I don't know. I mean, I guess. The e-mail date would — I'll defer to whatever the date is.

Q. You were aware that Senate Amendment —

A. But I want to say, the main reason — really my connection with Xiaohan Li was she and other folks from Beaufort testified at the House, and I know that they felt like they had a good showing. And I was

pretty confident that they didn't realize they needed to go make their case at the Senate as well. So, that's really the main thing I was telling them: You need to go make the case to the Senate. Because the Senate doesn't listen to the House testimony, and the House doesn't listen to the Senate testimony. So, you need to do it twice. Just, inside baseball procedure. I let them know that. And I knew that she'd take the ball and do something with it.

Q. You were aware that Senate Amendment 2 had Beaufort and Charleston Counties whole in Congressional District 1, right?

A. Yes.

Q. And in your outreach, you didn't disclose that fact to

Page 1895

people who were concerned about Beaufort County being whole and kept in Congressional District 1?

A. I was talking to Republicans in Beaufort, and I knew that they wanted — in the 1st District, they wanted their district to remain a Republican district.

Q. Do you represent Charleston County constituents?

A. Yes.

Q. You didn't reach out to anyone in Charleston County?

A. Yes, I did.

Q. You have e-mails that you sent to folks in Dorchester County, right?

A. Yes.

Q. Berkeley County?

A. Yes. Because, if you kept Berkeley and Beaufort whole, you couldn't draw a — if you kept it in the 1st, you couldn't draw a Democratic district. And I did talk to people in Charleston County.

Q. You're aware that your Charleston residents, some of them supported it being whole in Congressional District 1, right?

A. Yes. I'm aware that my constituents are very diverse opinions, polar opposite opinions among my constituents on this issue. I'm aware of that. And so, some support that, some didn't support it.

Q. And from a representational standpoint, you would have served those constituents and your Beaufort County

Page 1896

constituents for keeping them whole?

A. This is a — we are a Republican form of government, where members of the — you elect people to go represent you. And you can't — it's — it's — these are mutually exclusive propositions, to have Charleston not split and totally in the 1st or have it split. They're mutually exclusive. You can't do both. So, you've got to choose one or the other, and that's what elected officials are there for.

Q. You agree that the oral testimony in the January 13th hearing was predominantly from people who wanted Charleston whole and in CD 1?

A. Yes. And it was from Joe Cunningham's website, that he was jamming people up to do that. That's what I'm aware of. And it was partisan, because if you did what Joe Cunningham wanted, you would have a Democrat 1st District. That's what I'm aware of. He

had the website. The Democratic Party had the e-mail talking points sent out. It's crystal clear that that's what was going on.

Q. You testified earlier that the script you saw was on January 17th, after that hearing, right?

A. Which script?

Q. The Democratic talking points one that was forwarded to you on January 17th.

A. I got an e-mail from somebody, yeah.

Q. Wasn't before that hearing; true?

Page 1897

A. Joe Cunningham showed up at a hearing and made all kinds of statements, you know, about this in the Senate subcommittee hearing. I didn't have to wait for an e-mail from someone out — you know, from someone in the district. I didn't have to wait on that.

Q. Did you think the State Conference of the NAACP, on behalf of 13,000 Black members when they testified at that hearing, were doing that in a partisan role?

MR. TRAYWICK: Objection. Asked and answered. And this whole line of questioning is —

JUDGE GERGEL: Overruled. He can answer.

THE WITNESS: Well, they're not officially associated with the Democratic Party, that's for sure.

BY MR. CUSICK:

Q. What do you mean by "not official"?

A. I mean, they're not a — they're not an organization that is a subset or officially affiliated with the Democratic Party.

Q. You think, informally, they're associated with the Democratic Party?

A. Informally? I don't even know if there's any association, but they seem to me to support more Democratic candidates.

Q. Did they identify as Democrats when they were giving their testimony?

Page 1898

A. No. No.

Q. You know county chapters also testified during that January —

MR. TRAYWICK: Objection, your Honor. We've plowed this ground.

JUDGE GERGEL: Cross-examination. Overruled.

BY MR. CUSICK:

Q. You're aware that chapters of the State Conference also provided testimony during those hearings —

A. Well, obviously —

Q. — on behalf of the members?

JUDGE GERGEL: Mr. Cusick, are we going to be much longer? I mean, we're going to kill my staff here.

MR. CUSICK: Yes. Well, I certainly don't want to do that, your Honor.

JUDGE GERGEL: How much longer are we going to be? Because, we've been going almost two and a half hours.

MR. CUSICK: I see it's 5:30. It definitely will not be 10 minutes.

JUDGE GERGEL: All right. Keep going.

MR. CUSICK: Thank you.

THE WITNESS: I was aware that when the NAACP provided a map, it was flipping one, if not two congressional districts to Democrat. I did know that.

BY MR. CUSICK:

Page 1899

Q. My question was: Did any of the State Conference chapters that testified on January 13th, to your recollection, identify themselves as Democrats?

A. No. But their map showed that they wanted more — you know, even two more Democratic districts.

Q. You made that assumption?

A. The staff did that analysis of the numbers — the political numbers. I think even the political numbers might have been presented with the map, I don't know. But I did see the political numbers associated with that.

Q. My question was just whether you made the assumption they were Democrats.

A. It's not an assumption if I look at that data and they're presenting a map that produces two more Democratic districts.

Q. Did you assume that other Black voters at that hearing who supported either that plan or Senate Amendment 2 were also Democrats?

A. No.

Q. It was just the State Conference, you assumed?

A. No. They didn't present maps that were favorable to Democrats, but the Conference did. But the individual voters did not.

Q. You talked about all the public hearings that you attended before congressional maps were drawn. Do you recall that testimony?

Page 1900

A. I didn't — in person, I didn't, in person, attend that many, because I had a lot going on in my business world. Ronnie Sabb won the — Senator Sabb won the award for attending all of them in person, but I attended all of them by Zoom. There might have been one I missed, but I think I attended all of them by Zoom. Not in person, but by Zoom.

Q. Mr. Traywick represented there were about nine or ten of those hearings; do you recall that?

A. There were 10.

Q. And you attended at least more than half of them?

A. Oh, yes.

Q. And they were intended to seek input on communities of interest, right?

A. No, not limited to that, just input. You weren't limited to a community of interest, but you were limited to addressing the plan.

Q. But this was before any plans were drawn, right? This was over the summer?

A. Yes. I mean, you're getting input in order to help develop the guidelines, and we didn't adopt the guidelines till after those hearings.

Q. And those hearings were important to you because they would help as you were considering and drawing maps, right?

A. Yes.

Q. You didn't take any notes from those hearings, all 10 of

Page 1901

them, right?

A. Well, I would take notes that I may want to ask this person at the hearing — I may want to remember his name and ask him something at the hearing.

Q. But just a scrap piece of paper here or there, right?

A. No. I had a notebook, but it was all about — I mean, just a legal pad, is what I'm saying. It's not a scratch sheet of paper, but a legal pad when I would ask them.

Q. You had a notebook from all the hearings?

A. No. I had a legal pad that I would — may write someone's name if I wanted to ask them a question.

Q. You didn't review any of the summaries or the transcripts from those hearings when you were drawing Senate Amendment 1, right?

JUDGE GERGEL: Mr. Cusick, I think he's indicated he didn't draw the districts.

BY MR. CUSICK:

Q. Senator Campsen, as you were assessing changes that were being made in Senate Amendment 1, which you were the sponsor of, did you review any public hearing transcripts from over the summer?

A. No.

Q. And you didn't look at any documents that synthesized the public hearing comments; true?

A. No. I was at the public hearing.

Q. During the deposition, we talked about whether a district might perform for a Black preferred candidate. Do you recall that?

A. Generally. I'll take your word for it.

Q. And if you saw a map or analysis where a district outside of CD 1 performed for a Black preferred candidate, you would reject that plan, right?

MR. TRAYWICK: Objection. Calls for speculation.

JUDGE GERGEL: Overruled. It's cross-examination.

THE WITNESS: Could you restate that?

BY MR. CUSICK:

Q. If you saw an analysis, or a plan, for a district outside of CD 6 also performed for a Black preferred candidate, you would have rejected that plan, right?

A. No. Rejected a plan because it performed for a Black preferred candidate?

Q. Outside of Congressional District 6.

A. No. That'd be a race-based decision, unless I'm misunderstanding your question. Maybe I am.

Q. Mr. Traywick asked you questions about Exhibit S-62.

MR. CUSICK: If you could pull you that up for a moment?

BY MR. CUSICK:

Q. This was an e-mail that you received from Breeden John. Do you recall that?

A. Yes.

Q. Do you recall receiving a similar e-mail a few days before this one about these same topics?

A. No.

MR. CUSICK: Could you pull up PX-651.

BY MR. CUSICK:

Q. Do you at all recall reviewing these talking points before the e-mail you received on January 20th?

A. No. I have multiple jobs in the real world. It's not full time. I don't believe I reviewed that, as I recall. I recall getting it as I'm hurrying out on the floor actually, which would be the later one.

MR. CUSICK: If you could pull up PX-335.

BY MR. CUSICK:

Q. This is an e-mail from Mr. Fiffick to Senator Rankin entitled: House Questions Distilled and Clarified. Do you see that?

A. Yes.

MR. CUSICK: And then if you could go to the second page.

MR. TRAYWICK: Your Honor, he's not even on this e-mail —

MR. CUSICK: I'll establish foundation.

MR. TRAYWICK: — or the last one.

JUDGE GERGEL: Hold up. Establish foundation.

Page 1904

BY MR. CUSICK:

Q. Senator Campsen, you recall reviewing this document, correct?

A. Yes.

Q. Even though you were not on the e-mail, right?

A. Yeah. I saw it at some point in time, but I can't remember when.

Q. And you reviewed this during the redistricting cycle, right?

A. Yes, I looked at that document at some point.

Q. And at the top it says: "House Questions Clarified and Distilled With Senate Answers." Did I read that correctly?

A. Yes.

Q. And in the second — or the third line, underlined and bolded, it states that: "The Campsen Amendment is a 1, and the Harpootlian is H2A." Do you see that?

A. Yes.

Q. And then midway down, do you see that committee criteria, how was it ranked and how was it applied equally across the boards?

A. Yes.

Q. And this was an explanation by the Senate staff, describing Senate Amendment 1 and how the criteria was applied, right?

A. I think it's — I'm not sure it's about Senate Amendment

Page 1905

1. I think it is. I mean, I'll take your word for it if — but...

Q. And the last two lines at the end, I won't have you read it all, but it says: "We're all given consideration in no particular order of preference and applied

equally across all seven districts.” Did I read that correctly?

A. Yes.

Q. I now want to talk just briefly — and I won’t go into the videos of the floor debates. But I want to just talk about January 19th and the Judiciary Committee hearing from the Senate; do you recall that?

A. Full Judiciary?

Q. Yeah.

A. Okay.

Q. During that hearing, you did not disclose that CD 1 sought to improve or shore up a Republican advantage, right?

A. I can’t remember. I believe that I may not have. I would expect every member to think that Republicans would offer an amendment that did that, just like Senator Harpootlian offered a Democratic amendment that did it.

Q. Would it surprise you partisanship was not mentioned at all during that hearing?

A. There’s not a single person in that room that would need to be informed that partisanship is involved in drawing congressional lines.

Page 1906

Q. That was a public hearing, right? Not everybody was an elected official?

A. We’re talking to each other. It’s a full committee. We don’t — we’re members speaking to members.

Q. On behalf of the communities you represent, right?

A. Well, we're speaking senator to senator. There's not any public testimony at the full committee. It's senators debating an issue.

Q. But the hearings —

A. Those are the rules.

Q. But the hearings are live-streamed so people can look and listen to those hearings and be informed about the process, right?

A. Yes.

Q. You had no input in Senate Amendment 1 for any congressional district lines outside of CDs 1 and 6, right?

A. Yes, because that's where the change needed to be, and everyone else was happy with the rest of the plan.

Q. And you understood Senate staff worked on those other districts?

A. Districts, yeah. With members too, with members' input, yes.

Q. I won't go through the clips right now. But on January 20th, before, we've talked about that was the floor debate where you presented Senate Amendment 1 fully. Do you recall

Page 1907

that?

A. Yes. I do recall that, uh-huh.

Q. I won't go over all the same questions. But, again, you didn't disclose anything about partisanship or shoring up a Republican advantage in presenting the bill that you were the lead sponsor on?

A. Well, I think I did state one of the metrics that it increased the Trump/Biden vote by 1.3, 1.36 — something like that — percentage points. I think I stated that, which is a minor increase, but it is an increase.

Q. You don't dispute that a 140,000 residents were moved from District 1 to District 6 in the map, right?

A. Well, the 6th District had to pick up 85,000, and the 1st had to shed 88,000 in rough numbers. So, that's where the change needed to happen, because they have to be equal.

Q. And you also don't dispute that roughly 52,000 residents were moved from CD 6 to CD 1, right?

A. Yes.

Q. That's roughly 190,000 voters between CD 1 and CD 6 that were moved?

A. Yes. I think that's correct. Although, our constituent consistency is very, very high, given how much of a shift you had to make. And compared to the Democrat's plan, we knocked it out the park. They rewrote the whole state to get their political agenda done, that's what they were after. That's

Page 1908

what they proposed: Rewrite the whole state.

Q. And despite the fact that 190,000 people were moved out of CD 1 and CD 6, it's just a coincidence that the BVAP in CD 1 only moved 0.16 percent up?

A. That is a coincidence, yes, because we followed geographic boundaries, is what we did. We even — we used the Harbor, the Cooper River, the Stono River. We used the Sea Islands as a community of interest.

And that's what, you know, was a major element in that plan. And so, to honor those other principles, we ended up moving more people than you actually absolutely had to move. You had to move 88,000 people out of the 1st.

Q. Thank you, Senator Campsen. That's it.

JUDGE GERGEL: Thank you. Anything on redirect?

MR. TRAYWICK: Extremely brief.

JUDGE GERGEL: Very brief.

MR. TRAYWICK: Yes, your Honor.

JUDGE GERGEL: We're going to kill my staff and Senator Campsen if we keep going.

MR. TRAYWICK: That was a long 10 minutes.

Your Honor, I want to start off, if Mr. Gore could blow up PX-116, page 114, lines 19 to 21 on the screen. This is the January 20th floor debate.

REDIRECT EXAMINATION

BY MR. TRAYWICK:

Page 1909

Q. Could you read that first sentence into the record, Senator Campsen? And this is a statement from Senator Harpootlian on the floor, starting on line 19.

A. So, I'm speaking for Senator Harpootlian?

Q. It's a rare occasion, I know, but you relish it.

A. Senator Harpootlian and I actually have a very cordial and good relationship.

Q. That's fine, sir. Sorry, we've got to get out of here. So, if you wouldn't just mind reading that.

A. "So, if you look at the guidelines, my plan, our plan, the Democrat Caucus plan, Senator Sabb and Matthews' plan, it complies with the guidelines."

Q. So, when Mr. Cusick said nobody called it a Democratic Caucus plan in the record, that wasn't an accurate representation, correct?

A. Yes, that's correct.

MR. TRAYWICK: If you could pull up S-116, please.

BY MR. TRAYWICK:

Q. "Things to consider," that first bullet, does it not say: Don't identify yourself as speaking on behalf of any Democratic organization?

A. Yes.

Q. You testified you received this e-mail on January 17th, correct?

A. I can't remember the date, but I'll trust you.

Page 1910

Q. Do you recall hearing or sensing throughout the process that Democrats had coordinated among and between each other to present testimony to your subcommittee?

A. No question about that.

MR. CUSICK: I would just object, your Honors, to get some foundation to that question. I know that there's an e-mail in, but, otherwise, I'd appreciate some foundation to understand.

JUDGE GERGEL: I think he's laid it. Overruled.

MR. TRAYWICK: Do I need to repeat the question?

THE WITNESS: No. It was a well-oiled machine. It was very clear.

MR. TRAYWICK: Okay. Thank you. All right. And as for the allegation that nobody ever testified to wanting two congressmen, Mr. Gore, will you pull up S-240, starting at 1:14:05? This is Mr. Matt Sweeney.

JUDGE GERGEL: We've heard him before.

MR. TRAYWICK: We've heard him before, so we can —

JUDGE GERGEL: We acknowledge. You don't need to —

MR. TRAYWICK: — acknowledge that's not true either, correct? Okay.

BY MR. TRAYWICK:

Q. So, Senator Campsen, you would defer to staff's testimony on what they consider when drawing a map, correct?

A. Yes.

Page 1911

Q. Okay. Do you recall in a subcommittee meeting, John Ruoff testifying that the high correlation of race and party isn't necessarily true for Richland or Charleston Counties?

A. Yes, I do remember that.

Q. It's a good thing to hire a lawyer to give you legal advice, right?

A. As a lawyer, I'd say yes.

Q. I thought so too.

A. But, seriously, this is a very specialized and difficult body of law, so it's very important to have good legal staff who practice in this area regularly.

Q. Do you recall seeing Plaintiffs' Exhibit 651? It was an e-mail that Mr. Cusick initially showed you. That e-mail said, Breeden John to Breeden John, correct?

A. I think that's right.

Q. Did you ever see that? It also said "draft," didn't it, in the subject line?

A. I don't think I — I saw that first iteration anyway.

Q. And one other last thing I'd like to the clean up in the record — well, second to last thing.

Do you remember watching the video of the full Judiciary Committee earlier, where Senator Rankin said voters were moved because they were Democrats, correct?

A. Yes.

Q. Okay. And didn't you provide Senator Margie Bright

Page 1912

Matthews Trump numbers during that very same meeting?

A. Yes.

Q. Didn't you also provide Trump numbers on the floor of the Senate?

A. Yes.

MR. TRAYWICK: No further questions. Thank you, your Honors.

JUDGE GERGEL: Thank you.

Thank you, Senator.

We adjourn for the day. 9:00 o'clock tomorrow morning.

THE WITNESS: Thank you, sir.

(Adjourned for the day.)

* * * * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

<u>s/Lisa D. Smith,</u>	<u>12/28/2022</u>
Lisa D. Smith, RPR, CRR	Date

APPENDIX I

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

- - -

THE SOUTH	:	3: 21-cv-03302-MGL-
CAROLINA STATE	:	TJH-RMG
CONFERENCE OF	:	
THE NAACP, <i>et al.</i>	:	OCTOBER 3 – 14, 2022
Plaintiffs,	:	
v.	:	VOLUME VIII
THOMAS C.	:	
ALEXANDER, <i>et al.</i> ,	:	(PAGES 1913 – 2038)
Defendants.	:	

- - -

TRANSCRIPT OF BENCH TRIAL PROCEEDINGS
BEFORE THREE-JUDGE PANEL:
HONORABLE MARY GEIGER LEWIS,
HONORABLE TOBY J. HEYTENS,
HONORABLE RICHARD M. GERGEL,
UNITED STATES DISTRICT COURT JUDGES

- - -

* * *

Page 1987

A. Yes. On average, yes.

Q. On average. And let's scroll down to paragraph F.

And this is called precinct splits of simulated districts. And paragraph 61, which is under Section F, do you mind reading that last sentence for us?

A. Yes. "This is, in part, due to the fact that many municipalities split VTDs, implying that there is often a direct tradeoff between municipality and precinct splits."

Q. So, you acknowledge that there are tradeoffs between municipality splits and VTD splits, correct?

A. That's right. In South Carolina, municipalities split local precincts.

Q. And, yet, you control for municipality splits but you didn't control for the tradeoff with VTD splits, correct?

A. That's correct.

Q. And you also used in that sentence both the term, VTD, and precincts; do you see that?

A. Yes.

Q. And are you using those interchangeably?

A. That's correct.

Q. Dr. Imai, you also didn't consider politics in your simulations, correct?

A. What do you mean by "politics"?

Q. Partisan performance of districts.

A. I did not use any election data.

Page 1988

Q. And so, you didn't consider how districts would perform for Republicans or Democrats, correct?

A. I did not analyze election data.

Q. And you also didn't conduct a racially polarized voting analysis, correct?

A. I was not asked to do that. I just wasn't asked to do that.

Q. And you didn't control for racially polarized voting in any way in your analysis, correct?

A. No.

Q. And so, you don't have an opinion as to whether what you observed is race rather than politics in the enacted plan, correct?

A. I have no opinion on what role the politics played in the enacted plan — drawing the enacted plan.

Q. And the analysis in your report also doesn't contain any constraint for the benchmark plan, correct?

A. That's correct.

Q. But if the map drawer started with the benchmark plan, wouldn't the benchmark plan be a relevant constraint in the analysis?

A. So, my analysis doesn't try to emulate what the map drawer did.

Q. But what if the map drawer had started with the benchmark plan, wouldn't that affect the range of plans available to the

* * *

Page 1998

MR. GORE: Let's go to page of Dr. Imai's report, which is Figure 1.

BY MR. GORE:

Q. So, this is your Districts 1 and 6 simulation here. Do you see that?

A. Yes.

Q. And so, Figure 1 on the left, you have shaded for BVAP numbers; is that right?

A. That's right.

Q. And you're using total BVAP rather than a percentage; is that correct?

A. That's correct.

Q. And so, VTDs with the same total number of Black voters might have a different BVAP percentage, correct?

A. That's right.

Q. And moving VTDs of different BVAP percentages has a different effect on the total district's BVAP percentage, correct?

A. I'm not sure what you mean by that.

Q. So, let's say I've got a VTD that's 30 percent BVAP, and a VTD that's 70 percent BVAP.

A. Uh-huh.

Q. When I move each of those between districts, they'll have a different effect on the BVAP percentage of the district?

A. Oh, I see. Yes.

* * *

Page 2007

Districts 2 and 6, correct?

A. By location analysis, what do you mean by that?

Q. So, we're talking about your first localized simulation. And this is District 1 and District 6, right?

A. Right.

Q. Did you conduct a similar analysis for Districts 2 and 6?

A. Oh, 2 and 6 localized. No.

Q. Or for Districts 5 and 6?

A. No.

Q. Okay. Thank you.

A. Separate. No.

Q. Thank you.

MR. GORE: Mr. Traywick, if you can help me out, I'd like to go down to the next page.

BY MR. GORE:

Q. And this is your Charleston County simulation, correct?

A. That's correct.

Q. And as I understand that simulation, the only thing that can change is the border between District 1 and District 6 in Charleston County; is that correct?

A. That's right. Charleston County.

Q. Now, we're looking here at this histogram you created, which is Figure 3. Do you see that?

A. Yes.

Q. And you didn't analyze whether politics explains this

chart, correct? Again, partisan performance or Nancy Mace's reelection chances, right?

A. Right. I didn't use any partisan information.

Q. And you didn't analyze whether adherence to natural boundaries, such as rivers, explains the BVAP in District 1 in the enacted plan, did you?

A. No. But to the extent that administrative boundaries align with those boundaries, it gets incorporated.

Q. Do you know whether the administrative boundaries align with those boundaries in Charleston County?

A. Some of them, I think they do. But I don't recall the specifics.

Q. And you didn't do any analysis of whether preservation of cores explains this BVAP level in District 1, correct?

A. Not directly.

Q. And if we scroll down here to Figure 3 — oh, we're on Figure 3 — this displays total BVAP number, correct?

A. That's right.

Q. And it's not a percentage correct?

A. Right. It's a number.

Q. And so, I think you said the average difference between the simulation plans and the enacted plan is about 9500 Black voters being in District 1; is that number right?

A. Right, because this is focusing on Charleston County alone.

Page 2009

Q. And so, given the ideal district size of 730,000 people, that's about 1.3 percent, correct?

A. That's — you probably did the calculation correct.

Q. And, Dr. Imai, did you present any data about the difference in the BVAP of the Charleston County portion in District 6 and the Charleston County portion in District 1 under your simulations?

A. No, because, again, it's a mirror image of this.

Q. Right. But now I'm asking you about the percentage.

A. Oh, right. Okay.

Q. So, in plans that split Charleston County, we're hearing a lot of evidence about the BVAP in the portion that's in six and the portion that's in one. Did you do any analysis of that for your simulation plans?

A. Yes. I didn't do the percentage, but, like you did, you can divide that by the total number of district populations.

Q. So, a little bit of math will help us answer that question; is that what you're telling me?

A. That's right. Yes.

Q. Thank you very much. Now, we've been talking about your Charleston County analysis. And you did talk about the difference in BVAP in the enacted plan in the Charleston County portion in District 6 and the Charleston County portion in District 1, correct?

A. Uh-huh, yes.

Q. Okay. And you report those numbers in your report; is that right?

A. Right.

Q. But you don't report, say, the Biden vote share; is that correct?

A. No, I did not use partisan information.

Q. And you didn't look at whether those numbers could be explained by partisan politics or Nancy Mace's reelection chances, correct?

A. No, because it was not in the guidelines.

Q. And you didn't look at whether they were correlated to partisan performance or Nancy Mace's reelection chances, correct?

A. No, I did not look at that.

Q. Dr. Imai, are you aware that Districts 1 and 6 split other counties in South Carolina in addition to Charleston?

A. Under the enacted plan?

Q. Under the enacted plan.

A. I think it does.

Q. And you didn't do any analysis of those counties, correct?

A. No.

Q. So you didn't analyze — do this analysis for Dorchester County, correct?

A. No.

* * *

APPENDIX J

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

- - -

THE SOUTH	:	3: 21-cv-03302-MGL-
CAROLINA STATE	:	TJH-RMG
CONFERENCE OF	:	
THE NAACP, <i>et al.</i>	:	NOVEMBER 29, 2022
Plaintiffs,	:	
v.	:	VOLUME IX
THOMAS C.	:	
ALEXANDER, <i>et al.</i> ,	:	(PAGES 2039 – 2122)
Defendants.	:	

- - -

TRANSCRIPT OF BENCH TRIAL PROCEEDINGS
BEFORE THREE-JUDGE PANEL:
HONORABLE MARY GEIGER LEWIS,
HONORABLE TOBY J. HEYTENS,
HONORABLE RICHARD M. GERGEL,
UNITED STATES DISTRICT COURT JUDGES

- - -

* * *

Page 2079

JUDGE GERGEL: I saw the slide.

MR. GORE: — the areas of Berkeley and Beaufort
that got moved from 6 to 1 had a higher BVAP
percentage than District —

JUDGE GERGEL: Well, I'm just talking about — see, it strikes me that when — that by the time Mr. Roberts was presented his task to draw a map — if I understood the sequence from Senator Campsen's testimony, was that they had made a policy decision to include Beaufort and Berkeley whole. In particular, around the Moncks Corner area, there is a significant African-American population in Berkeley County. And when you put those — leaving Charleston out for a second — what you have is a BVAP around 20, 21 percent, okay? Now, that is the task Mr. Roberts had to confront. He had to finish out that plan to create a district that, according to your data, was around 17 percent. It had a certain partisan tilt; if it was 20 percent or higher, it had a different partisan tilt, right? I mean, I think that's what your chart stands for.

So, what does he do in Charleston County to bring his — to situate his number from 20 to 17, which is where he ends up? And what he does is — there were 48,000 African Americans in CD 1 in 2011. How many ended up in CD 1?

MR. GORE: I'd be happy to answer those questions, your Honor.

Page 2080

JUDGE GERGEL: 18,000.

MR. GORE: Right.

JUDGE GERGEL: He took two-thirds out. Nine of the 10 largest boxes with a thousand or more African Americans got moved out of CD 1, 80 percent. Charleston County was already split racially — 53, 52, 48 — really to meet the non-retrogression requirements of Section 5. That no longer exists. But

instead of saying, well, we're going to keep the same or backing off, they go to 80 percent — 80 percent — in one area and 20 percent in the other. And I studied the precincts that were left. They were all small. One of the plaintiffs' experts talked about look at the size of the precincts. I did that. The 20 percent are scattered: St. Paul's, Awendaw, James Island, in the middle of White neighborhoods. He basically got every Black vote he could reach.

And so, that's the scenario, as I understand it. And I asked Mr. Roberts — I'd figured it out already. And I asked him. I said, those are dramatic changes in Charleston. Yes. We talked about the Black movement. I said that's a great disparity between 1 and 6. He said yes. He admitted it. So, I think what we're struggling with — at least, I can speak for myself here — is the dramatic — as Roberts described, himself, dramatic changes, abandoning least change, abandoning Clyburn plan. And why does he do that? You know,

Page 2081

there was talk about, oh, we were moving White Democrats. I think you made that argument. If you run the numbers that you provided us, White Democrats — Whites did not, by a majority, vote for a Biden, according to the numbers you gave. It was the African Americans' 97 percent voting for Biden that created those majorities. And you were actually moving more Republicans into Clyburn's district. You were moving more Trump voters — I don't want to call them Republicans, they could have crossed over. More Trump voters moved. So, it was only the African-American vote that mattered. I mean, that's

the only thing that moved the needle. And we got to the end, we went from 20 percent to 10 percent in CD 1. And that dropped the BVAP from 20, where you didn't want to be, to 17, where you want to be. And that looks like you were using race — you were using partisanship as a proxy for race. Race is the tool used. That's the problem.

And I've got to say — and I was giving the plaintiffs a hard time about this — I didn't try any of these other districts. There's none of that gamesmanship in these other districts. And I don't doubt that Senator Campsen could design a plan that didn't have these problems, but they didn't do it here. That's the problem here. When he wanted to put Berkeley and Beaufort whole, that is perfectly legitimate under the constitutional standard. Whatever his purpose was, it was perfectly lawful. And I believe when he said it was a

Page 2082

partisan purpose. It's obvious looking at it. And all this denial that he didn't really talk about partisanship, they probably didn't want to brag about it, but it's obviously true.

But what was the tool, Mr. Gore? What was the tool to accomplish that purpose? And I think that's what *Cooper* teaches us, is you can't use race in that way to establish a partisan purpose. I wanted to lay that out to you because I wanted to give you a chance to reply.

MR. GORE: And I would like to address it. Let me try to unpack it, because there's a lot going on —

JUDGE GERGEL: There is a lot going on.

MR. GORE: — in what your Honor said.

So, first — and I'll just complete the point here on plaintiffs' slide 44. Racial predominance and racial discrimination —

JUDGE GERGEL: How about I agree with you on this point.

MR. GORE: Oh, okay. Thank you.

The analysis isn't exclusively about a — it's an intent question.

JUDGE GERGEL: It is an intent question.

MR. GORE: Was race actually used and was it used in a way that predominated?

JUDGE GERGEL: And did it predominate?

Page 2083

MR. GORE: And the consistent testimony of every percipient or eyewitness was that race was not used, that it was partisan data that —

JUDGE GERGEL: But they always — I said this at the beginning of the trial. I've never seen a case where people admitted their racial intent. You've got to get it from circumstantial evidence. And the closest I have seen in a long time in one of these cases is Mr. Roberts's own testimony.

MR. GORE: So, I respectfully disagree, because —

JUDGE GERGEL: I know you do. I figured you would.

MR. GORE: — in *Cooper*, there was direct testimony that race was used and predominated —

JUDGE GERGEL: Well, you didn't disagree with me about what Mr. Roberts told me.

MR. GORE: Right. I don't agree with that. But I will say that, in *Cooper*, there were statements, and the legislature defended the *Cooper* plan on the basis that it complied with the Voting Rights Act. They admitted that race predominated in the *Cooper* plan. So, there have been recent cases in which there has been an admission of the use of race to predominate

JUDGE GERGEL: It's rare.

MR. GORE: It may be rare, but it —

JUDGE GERGEL: And I, on the bench, have tried a lot

Page 2084

of Title 7 and other cases, and no one every admits racial intent. And so, you've got to look to the circumstantial evidence. And the case law gives a lot of guidance about the kinds of things we look for. And one of them is deviating from your plan in a fundamental way, which is what Mr. Roberts told me he did, that Charleston was the outlier different than every other county, and that they had this problem. I mentioned the 17 percent in my questioning to him, and he acknowledged: If you had boxes more than 17 percent, that created a problem to getting you to your desired number.

MR. GORE: But it only created a problem if that was the reason the decision was made to include those boxes in and around the district.

JUDGE GERGEL: You might tell me that nine out of 10 of the large boxes get moved, and that's just a coincidence. You know, people who are involved in politics know where the African-American vote is. I

know Mr. Roberts very well. He's helped me in a case I tried in this court. I've sat with him at the computer. I know him. He knows these — he probably knows — maybe other than Mr. Rainwater, he knows more at the precinct level than any living person in South Carolina.

MR. GORE: Well, he testified that he didn't necessarily know the BVAP —

JUDGE GERGEL: He answered my questions without missing a beat about numbers.

Page 2085

MR. GORE: So, let me go back to our slide deck.

And can we pull slide 32?

We'll just walk through. And I think Districts 1 and 6 is where the real action is potentially in this case. I'll just point out for the record — and we've had this in our slides in our findings of fact — they're bringing these allegations about Districts 2 and 5, but all the alternative versions of 2 and 5 perform worse than the enacted plan. So, let's talk about District 1 —

JUDGE GERGEL: Let's talk about District 1. I think that's where you need to focus.

MR. GORE: I agree. So, let's talk about it here. Slide 32, these are the numbers that really matter, because, of course, what really matters is the net effect of all the changes that were made between 1 and 6, not just Charleston, Berkeley and Beaufort. Berkeley and Beaufort, what Senator Campsen said, it wasn't his primary objective to include Berkeley and Beaufort in District 1. I know that they've made that assertion, but that's not what his testimony was.

JUDGE GERGEL: I understood — I understood that — there's a text message y'all put in that he announces in December: We're putting Berkeley —

MR. GORE: Sure.

JUDGE GERGEL: — and Beaufort whole. And, again, I don't want to criticize that. I think that's a policy choice

Page 2086

the legislature can make.

MR. GORE: I was just pointing out, when he came to trial, what he said was doing that wasn't his primary goal for its own sake. That was a mechanism to achieve the political goal, which was making District 1 more Republican leaning.

So, if we look at slide 32, here's what really happened when you add up everything that happened in 1 and 6. These are the most important numbers in the whole case. Republican vote share goes up by 1.36 percent, and the BVAP goes up slightly by .16 percent. So, the political effect of these changes is much greater than the racial effect. The fact that there's a small racial effect is consistent with the notion that this was a least-changed plan and that it was a least-changed plan all across the state. Mr. Cepeda showed the statistics that the BVAPs more or less stayed the same. Well, that's because it was a least-changed plan, only 6.5 percent of the total population.

JUDGE GERGEL: Mr. Gore, once you add Berkeley in — and in particular, Berkeley in, you can't keep your racial number at 17 percent unless you bleach Charleston. That's the problem here. Nobody

required them to put those counties whole. But, in particular, Berkeley, which had 54,000 African Americans, 23.7 percent of the population. That threw off — and in Dorchester, y'all went and split a bunch of precincts racially. Didn't have a huge number, but it did have some

Page 2087

effect. But when you were left out in Charleston, Mr. Roberts, who is a good man — I don't want to criticize him — he is left with a mathematical impossibility. How do you get where they want to get with this BVAP they want when the rest of the district is 20.41 percent African American? And if they keep the same mix, they end up at 20 percent, they have to go to 10 percent — from 20 percent to 10 percent to get to their 17 percent. That's the problem here.

MR. GORE: Let me unpack that a little bit, because there were other changes that were made. I think your Honor recognized there were changes that were made in Dorchester, there were changes that were made in Jasper. And, of course, the BVAP —

JUDGE GERGEL: And, by the way, I'm not talking about Jasper. These are relatively —

MR. GORE: Okay. But Those are —

JUDGE GERGEL: Jasper's got 5,000 people, right? Jasper is a very small number. This is the juice here: They basically send 30,000 African Americans out of CD 1, 30 of the 48,000, nine out of the 10 largest boxes, out. You know, I've kidded with my colleagues, there's an old statement that when you see a turtle on top of a fence post, you know someone put it there. And, you know, this is not an accident.

422a

MR. GORE: I think it is the byproduct of a couple of things: Pursuing the political goal, also following the

* * *

APPENDIX K

Adopted September 17, 2021

2021 REDISTRICTING GUIDELINES
SOUTH CAROLINA SENATE JUDICIARY
COMMITTEE REDISTRICTING
SUBCOMMITTEE

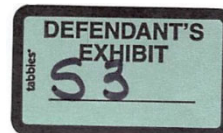
The South Carolina Senate Judiciary Redistricting Subcommittee adopts the 2021 Redistricting Guidelines to aid the Redistricting Subcommittee and interested parties in developing and evaluating redistricting plan proposals. These Guidelines are drawn in part from the guidelines adopted for prior redistricting, the 2002 opinion of the three-judge court in *Colleton County Council v. McConnell*, the 2012 opinion of the three-judge court in *Backus v. South Carolina*, other court decisions, and input received in public hearings across the State.

I. REQUIREMENTS OF FEDERAL LAW

A. Population equality

1. Legislative districts

The Fourteenth Amendment to the U.S. Constitution requires an honest and good faith effort to construct legislative districts as nearly of equal population as is practicable. The good faith effort required by the Fourteenth Amendment does not preclude the pursuit of legitimate redistricting



policies such as making districts compact, respecting political subdivision boundaries, preserving the cores of prior districts, and avoiding contests between incumbent legislators. Any redistricting plan with population deviation ranges of greater than ten percent (10%) between the most-populous and least-populous districts is presumptively unlawful unless the good faith effort required by the Constitution is proven. So that the State may avoid assuming this additional burden under federal law, population deviations of individual districts shall be within plus (+) or minus (-) five percent (5%) of the ideal population and within an overall range of less than ten percent (10%). This guideline does not affect the requirement of an honest and good faith effort to construct districts as nearly of equal population as is practicable.

2. Congressional districts

Under the apportionment clause of Article I, Section 2 of the U.S. Constitution, any population deviation among congressional districts, no matter how small, must be justified through a showing that the specific deviation is required by legitimate redistricting policies such as making districts compact, respecting political subdivision boundaries, preserving the cores of prior districts, and avoiding contests between incumbent representatives. So that the State may avoid assuming this additional burden under federal law, a congressional redistricting plan should not have population deviations greater than one (1) person.

B. Voting rights. A redistricting plan for the General Assembly or Congress must not have either the purpose or the effect of diluting minority voting strength and must otherwise comply with Section 2 of the Voting Rights Act, as expressed through *Thornburg v. Gingles* and its progeny, and the Fourteenth and Fifteenth Amendments to the U.S. Constitution.

C. Avoidance of racial gerrymandering. All plans must comply with the Fourteenth Amendment to the U.S. Constitution, as interpreted by the United States Supreme Court in *Shaw v. Reno* and subsequent cases. Under those cases, while consideration of race is permissible, race must not be the predominant factor in that race-neutral considerations are subordinated to racial considerations, unless that subordination is narrowly tailored to serve a compelling state interest.

II. CONTIGUITY. All legislative and congressional districts should be composed of contiguous geography. Contiguity by water is acceptable to link territory within a district provided that there is a reasonable opportunity to access all parts of the district and the linkage is designed to meet the other criteria stated herein. Point-to-point contiguity is acceptable so long as adjacent districts do not use the same vertex as points of transversal.

III. ADDITIONAL CONSIDERATIONS. Other criteria that should be given consideration, where practical and appropriate, in no particular order of preference, are:

A. Communities of Interest. Communities of interest should be considered. Areas defined by geographic, demographic, historic or other characteristics that cause people to identify with one another, including economic, social, cultural, language, political, and recreational activity interests common to the area's population may constitute communities of interest. Communities of interest may be overlapping and may consist of one or more formally, or informally, defined geographic areas with unifying common interests.

B. Constituent Consistency. Preserving the cores of existing districts, keeping incumbents' residences in districts with their core constituents, and avoiding contests between incumbent legislators should be considered.

C. Minimizing Divisions of County Boundaries.

D. Minimizing Divisions of Cities and Towns.

E. Minimizing Divisions of Voting Precinct Boundaries. Voting precinct boundaries are represented by the Census Bureau's Voting Tabulation District (VTD) lines. Both existing lines and pending precinct boundary realignments should be considered. If precincts are split, every effort should be made to divide precincts along recognizable and demonstrable boundaries.

F. District Compactness. In determining the relative compactness of a district, consideration should be given to geography, demography, communities of interest, and the extent to which parts of the district are joined by roads, media outlets, or other means for constituents to communicate

effectively with each other and with their representative.

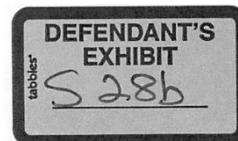
IV. DATA. The total state population and the population of the defined subunits thereof, as reported by the 2020 Federal Decennial Census, shall be the exclusive permissible population database used for the development, evaluation, and analysis of proposed redistricting plans. Other succinct and importable sources of demographic and political information may be considered in drafting and analyzing proposed redistricting plans.

APPENDIX L

**Benchmark Congressional District
with 2020 Data
District Statistics Table**

District	Population	Deviation	%Deviation
1	818,893	87,689	11.99%
2	721,829	-9,375	-1.28%
3	706,785	-24,419	-3.34%
4	760,233	29,029	3.97%
5	736,286	5,082	0.70%
6	646,463	-84,741	-11.59%
7	727,936	-3,268	-0.45%

District	Hispanic	%Hispanic
1	66,733	8.15%
2	50,120	6.94%
3	42,205	5.97%
4	77,314	10.17%
5	40,874	5.55%
6	39,477	6.11%
7	36,115	4.96%



429a

District	NH_Wht	%NH_White
1	556,715	67.98%
2	452,493	62.69%
3	506,897	71.72%
4	495,681	65.20%
5	464,621	63.10%
6	237,317	36.71%
7	464,828	63.86%

District	NH_Black	%NH_Black
1	145,634	17.78%
2	177,418	24.58%
3	127,015	17.97%
4	142,496	18.74%
5	191,538	26.01%
6	344,592	53.30%
7	195,194	26.81%

District	VAP	%VAP
1	641,390	78.32%
2	556,839	77.14%
3	557,631	78.90%
4	587,921	77.33%
5	567,369	77.06%
6	517,064	79.98%
7	586,246	80.54%

430a

District	HVAP	%HVAP
1	43,755	6.82%
2	32,704	5.87%
3	27,128	4.86%
4	50,772	8.64%
5	26,171	4.61%
6	26,997	5.22%
7	23,597	4.03%

District	WVAP	%WVAP
1	455,332	70.99%
2	365,440	65.63%
3	413,026	74.07%
4	400,160	68.06%
5	371,789	65.53%
6	204,639	39.58%
7	393,589	67.14%

District	BVAP	%BVAP
1	106,223	16.56%
2	128,408	23.06%
3	94,433	16.93%
4	104,356	17.75%
5	142,163	25.06%
6	265,982	51.44%
7	145,487	24.82%

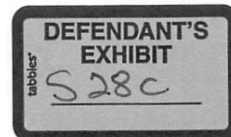
APPENDIX M

**Benchmark Congressional Districts
with 2020 Data
Partisan Analysis**

District	Biden	%Biden
1	196,335	46.97%
2	158,169	44.22%
3	101,631	30.93%
4	140,260	39.59%
5	150,076	41.55%
6	194,538	67.90%
7	145,245	40.79%

District	Trump	%Trump
1	221,669	53.03%
2	199,541	55.78%
3	226,915	69.07%
4	214,025	60.41%
5	211,107	58.45%
6	91,989	32.10%
7	210,856	59.21%

District	Total Votes
1	418,004
2	357,710
3	328,546
4	354,285
5	361,183
6	286,527
7	356,101



APPENDIX N

User:

Plan Name: **Benchmark Congressional
with 2020 Data**

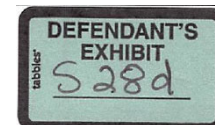
Plan Type:

Political Subdivision Splits Between Districts	
Thursday, January 13, 2022	8:43 AM

Split Counts

Number of subdivisions split into more than one district:	Number of splits involving no population:
County 12	County 0
Voting District 65	Voting District 13
Number of times a subdivision is split into multiple districts:	
County 12	
Voting District 65	

County	Voting District	Dis- trict Population
<i>Split Counties:</i>		
Beaufort SC	1	174,409
Beaufort SC	6	12,708
Berkeley SC	1	200,765
Berkeley SC	6	29,096



County	Voting District	Dis- trict	Population
Charleston SC		1	301,216
Charleston SC		6	107,019
Colleton SC		1	1,253
Colleton SC		6	37,351
Dorchester SC		1	141,250
Dorchester SC		6	20,290
Florence SC		6	13,876
Florence SC		7	123,183
Greenville SC		3	71,416
Greenville SC		4	454,118
Newberry SC		3	6,410
Newberry SC		5	31,309
Orangeburg SC		2	18,421
Orangeburg SC		6	65,802
Richland SC		2	220,020
Richland SC		6	196,127
Spartanburg SC		4	306,115
Spartanburg SC		5	21,882
Sumter SC		5	86,353
Sumter SC		6	19,203
<i>Split VTDs:</i>			
Beaufort SC	Burton 1D	1	706
Beaufort SC	Burton 1D	6	2,526
Beaufort SC	Chechessee 1	1	1,772
Beaufort SC	Chechessee 1	6	0
Berkeley SC	Cordesville	1	0
Berkeley SC	Cordesville	6	1,777
Berkeley SC	Daniel Island 2	1	2,413
Berkeley SC	Daniel Island 2	6	100
Berkeley SC	Daniel Island 3	1	2,658

County	Voting District	Dis- trict	Population
Berkeley SC	Daniel Island 3	6	0
Berkeley SC	Foster Creek 1	1	1,863
Berkeley SC	Foster Creek 1	6	0
Berkeley SC	Foster Creek 3	1	2,732
Berkeley SC	Foster Creek 3	6	0
Berkeley SC	Hanahan 4	1	2,486
Berkeley SC	Hanahan 4	6	0
Berkeley SC	Hanahan 5	1	2,435
Berkeley SC	Hanahan 5	6	394
Berkeley SC	Sedgefield 2	1	0
Berkeley SC	Sedgefield 2	6	5,590
Berkeley SC	The Village	1	3,173
Berkeley SC	The Village	6	376
Berkeley SC	Yellow House	1	2,535
Berkeley SC	Yellow House	6	1,237
Charleston SC	Charleston 8	1	127
Charleston SC	Charleston 8	6	1,570
Charleston SC	Charleston 9	1	198
Charleston SC	Charleston 9	6	1,191
Charleston SC	Deer Park 3	1	2,726
Charleston SC	Deer Park 3	6	2,045
Charleston SC	North	1	556
	Charleston 28		
Charleston SC	North	6	2,482
	Charleston 28		
Charleston SC	Wadmalaw	1	800
	Island 2		
Charleston SC	Wadmalaw	6	642
	Island 2		
Colleton SC	Green Pond	1	0

County	Voting District	Dis- trict	Population
Colleton SC	Green Pond	6	1,105
Florence SC	Hannah	6	353
Florence SC	Hannah	7	654
Florence SC	Prospect	6	10
Florence SC	Prospect	7	654
Greenville SC	CAROLINA	3	0
Greenville SC	CAROLINA	4	2,657
Greenville SC	DONALDSON	3	0
Greenville SC	DONALDSON	4	2,250
Greenville SC	MOORE CREEK	3	4,838
Greenville SC	MOORE CREEK	4	732
Greenville SC	RAINTREE	3	4,553
Greenville SC	RAINTREE	4	671
Greenville SC	SIMPSON- VILLE 5	3	1,557
Greenville SC	SIMPSON- VILLE 5	4	2,226
Greenville SC	SIMPSON- VILLE 6	3	0
Greenville SC	SIMPSON- VILLE 6	4	3,936
Greenville SC	SYCAMORE	3	2,433
Greenville SC	SYCAMORE	4	1,924
Newberry SC	Beth - Eden	3	403
Newberry SC	Beth - Eden	5	930
Newberry SC	Hartford	3	1,831
Newberry SC	Hartford	5	0
Newberry SC	Helena	3	52

County	Voting District	Dis- trict	Population
Newberry SC	Helena	5	1,069
Newberry SC	Johnstone	3	5
Newberry SC	Johnstone	5	929
Newberry SC	Newberry Ward 3	3	0
Newberry SC	Newberry Ward 3	5	1,519
Orangeburg SC	Cordova 2	2	2,401
Orangeburg SC	Cordova 2	6	221
Orangeburg SC	North 2	2	1,766
Orangeburg SC	North 2	6	3
Orangeburg SC	Pine Hill	2	947
Orangeburg SC	Pine Hill	6	703
Richland SC	Brandon 1	2	443
Richland SC	Brandon 1	6	3,147
Richland SC	Brandon 2	2	451
Richland SC	Brandon 2	6	3,299
Richland SC	Briarwood	2	45
Richland SC	Briarwood	6	4,344
Richland SC	Hampton	2	1,765
Richland SC	Hampton	6	1,066
Richland SC	Harbison 2	2	1,308
Richland SC	Harbison 2	6	557
Richland SC	Keenan	2	1,432
Richland SC	Keenan	6	1,121
Richland SC	Monticello	2	1,334
Richland SC	Monticello	6	1,144
Richland SC	North Springs 3	2	2,439
Richland SC	North Springs 3	6	424
Richland SC	Pontiac 1	2	4,474

437a

County	Voting District	Dis- trict	Population
Richland SC	Pontiac 1	6	118
Richland SC	Spring Valley	2	3,721
Richland SC	Spring Valley	6	149
Richland SC	Trinity	2	219
Richland SC	Trinity	6	2,311
Richland SC	Ward 1	2	188
Richland SC	Ward 1	6	5,995
Richland SC	Ward 10	2	614
Richland SC	Ward 10	6	1,377
Richland SC	Ward 13	2	920
Richland SC	Ward 13	6	1,868
Richland SC	Ward 15	2	1,117
Richland SC	Ward 15	6	154
Richland SC	Ward 18	2	179
Richland SC	Ward 18	6	1,847
Richland SC	Ward 23	2	872
Richland SC	Ward 23	6	436
Richland SC	Ward 33	2	1,009
Richland SC	Ward 33	6	379
Richland SC	Ward 34	2	928
Richland SC	Ward 34	6	548
Richland SC	Ward 6	2	1,159
Richland SC	Ward 6	6	675
Richland SC	Woodfield	2	4,889
Richland SC	Woodfield	6	169
Spartanburg SC	Cherokee Springs Fire Station	4	339

County	Voting District	Dis- trict	Population
Spartanburg SC	Cherokee Springs Fire Station	5	2,502
Spartanburg SC	Lake Bowen Baptist	4	5,674
Spartanburg SC	Lake Bowen Baptist	5	929
Spartanburg SC	Swofford Career Center	4	5,385
Spartanburg SC	Swofford Career Center	5	3
Sumter SC	BIRNIE	5	693
Sumter SC	BIRNIE	6	544
Sumter SC	FOLSOM PARK	5	2,708
Sumter SC	FOLSOM PARK	6	272
Sumter SC	HAMPTON PARK	5	760
Sumter SC	HAMPTON PARK	6	301
Sumter SC	MAYEWOOD	5	165
Sumter SC	MAYEWOOD	6	1,558
Sumter SC	SOUTH LIBERTY	5	197
Sumter SC	SOUTH LIBERTY	6	613
Sumter SC	TURKEY CREEK	5	607
Sumter SC	TURKEY CREEK	6	1,079

APPENDIX O

User:

Plan Name: **House Plan 2 Senate Amendment 1**

Plan Type:

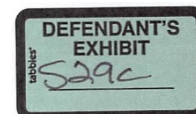
Core Constituencies

Thursday, January 11, 2022

9:07 AM

From Plan: **Benchmark Plan****Plan: House Plan 2 731,203 Total Population****Senate Amendment 1,****District 1 --**

	Population	[Hispanic Origin]
Dist. 1	678,404 (92.78%)	56,504 (94.82%)
Dist. 6	52,799 (7.22%)	3,087 (5.18%)
Total and % Population		59,591 (8.15%)
	NH_Wht	NH_DOJ_Bl
Dist. 1	471,479 (94.52%)	110,005 (84.46%)
Dist. 6	27,328 (5.48%)	20,240 (15.54%)
Total and % Population	498,807 (68.22%)	130,245 (17.81%)
	[18+_Pop]	[H18+_Pop]
Dist. 1	527,859 (92.52%)	36,738 (94.40%)
Dist. 6	42,679 (7.48%)	2,180 (5.60%)
Total and % Population	570,538 (78.03%)	38,918 (5.32%)



	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 1	382,731 (94.29%)	79,606 (83.44%)
Dist. 6	23,158 (5.71%)	15,794 (16.56%)
Total and % Population	405,889 (55.51%)	95,400 (13.05%)

Plan: House Plan 2 731,203 Total Population
Senate Amendment 1,
District 2 --

	Population	[Hispanic Origin]
Dist. 2	707,432 (96.75%)	49,591 (96.42%)
Dist. 6	23,771 (3.25%)	1,843 (3.58%)
Total and % Population		51,434 (7.03%)

	NH_Wht	NH_DOJ_Blkl
Dist. 2	441,354 (98.79%)	175,417 (92.09%)
Dist. 6	5,414 (1.21%)	15,071 (7.91%)
Total and % Population	446,768 (61.10%)	190,488 (26.05%)

	[18+_Pop]	[H18+_Pop]
Dist. 2	544,921 (96.78%)	32,326 (96.33%)
Dist. 6	18,107 (3.22%)	1,230 (3.67%)
Total and % Population	563,028 (77.00%)	33,556 (4.59%)

	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 2	355,993 (98.69%)	126,856 (92.00%)
Dist. 6	4,721 (1.31%)	11,035 (8.00%)
Total and % Population	360,714 (49.33%)	137,891 (18.86%)

Plan: House Plan 2 731,204 Total Population
Senate Amendment 1,
District 3 --

	Population	[Hispanic Origin]
Dist. 3	692,784 (94.75%)	39,232 (92.28%)
Dist. 4	7,111 (0.97%)	543 (1.28%)
Dist. 5	31,309 (4.28%)	2,737 (6.44%)
Total and % Population		42,512 (5.81%)
	NH_Wht	NH_DOJ_Blkl
Dist. 3	501,154 (95.56%)	122,224 (91.98%)
Dist. 4	5,143 (0.98%)	1,062 (0.80%)
Dist. 5	18,160 (3.46%)	9,589 (7.22%)
Total and % Population	524,457 (71.73%)	132,875 (18.17%)
	[18+_Pop]	[H18+_Pop]
Dist. 3	547,550 (94.85%)	25,306 (92.28%)
Dist. 4	5,155 (0.89%)	369 (1.35%)
Dist. 5	24,592 (4.26%)	1,747 (6.37%)
Total and % Population	577,297 (78.95%)	27,422 (3.75%)
	[NH18+_Wht]	[NH18+_DOJ_Blkl]
Dist. 3	408,491 (95.56%)	91,039 (92.10%)
Dist. 4	3,858 (0.90%)	699 (0.71%)
Dist. 5	15,135 (3.54%)	7,110 (7.19%)
Total and % Population	427,484 (58.46%)	98,848 (13.52%)

Plan: House Plan 2 731,204 Total Population
Senate Amendment 1,
District 4 --

	Population	[Hispanic Origin]
Dist. 3	14,001 (1.91%)	2,973 (3.83%)
Dist. 4	717,203 (98.09%)	74,680 (96.17%)
Total and % Population		77,653 (10.62%)
	NH_Wht	NH_DOJ_Bl
Dist. 3	5,743 (1.23%)	4,791 (3.37%)
Dist. 4	462,877 (98.77%)	137,299 (96.63%)
Total and % Population	468,620 (64.09%)	142,090 (19.43%)
	[18+_Pop]	[H18+_Pop]
Dist. 3	10,081 (1.78%)	1,822 (3.58%)
Dist. 4	555,331 (98.22%)	49,066 (96.42%)
Total and % Population	565,412 (77.33%)	50,888 (6.96%)
	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 3	4,535 (1.20%)	3,394 (3.26%)
Dist. 4	374,564 (98.80%)	100,751 (96.74%)
Total and % Population	379,099 (51.85%)	104,145 (14.24%)

Plan: House Plan 2 731,204 Total Population
Senate Amendment 1,
District 5 --

	Population	[Hispanic Origin]
Dist. 4	35,919 (4.91%)	2,091 (5.25%)
Dist. 5	694,939 (95.04%)	37,728 (94.73%)
Dist. 6	346 (0.05%)	6 (0.02%)
Total and % Population		39,825 (5.45%)

	NH_Wht	NH_DOJ_Bl
Dist. 4	27,661 (5.90%)	4,135 (2.27%)
Dist. 5	441,247 (94.10%)	177,873 (97.55%)
Dist. 6	12 (0.00%)	324 (0.18%)
Total and % Population	468,920 (64.13%)	182,332 (24.94%)
	[18+_Pop]	[H18+_Pop]
Dist. 4	27,435 (4.88%)	1,337 (5.25%)
Dist. 5	535,015 (95.08%)	24,144 (94.75%)
Dist. 6	235 (0.04%)	1 (0.00%)
Total and % Population	562,685 (76.95%)	25,482 (3.48%)
	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 4	21,738 (5.81%)	2,906 (2.15%)
Dist. 5	352,401 (94.19%)	132,080 (97.69%)
Dist. 6	12 (0.00%)	220 (0.16%)
Total and % Population	374,151 (51.17%)	135,206 (18.49%)

Plan: House Plan 2 731,204 Total Population
Senate Amendment 1,
District 6 --

	Population	[Hispanic Origin]
Dist. 1	140,489 (19.21%)	10,229 (22.42%)
Dist. 2	14,397 (1.97%)	529 (1.16%)
Dist. 5	10,038 (1.37%)	409 (0.90%)
Dist. 6	565,994 (77.41%)	34,451 (75.52%)
Dist. 7	286 (0.04%)	1 (0.00%)
Total and % Population		45,619 (6.24%)

444a

	NH_Wht	NH_DOJ_Bl
Dist. 1	85,236 (28.03%)	35,629 (10.19%)
Dist. 2	11,139 (3.66%)	2,001 (0.57%)
Dist. 5	5,214 (1.71%)	4,076 (1.17%)
Dist. 6	202,319 (66.54%)	307,825 (88.04%)
Dist. 7	153 (0.05%)	122 (0.03%)
Total and % Population	304,061 (41.58%)	349,653 (47.82%)
	[18+_Pop]	[H18+_Pop]
Dist. 1	113,531 (19.35%)	7,017 (22.49%)
Dist. 2	11,918 (2.03%)	378 (1.21%)
Dist. 5	7,762 (1.32%)	280 (0.90%)
Dist. 6	453,319 (77.26%)	23,520 (75.39%)
Dist. 7	230 (0.04%)	1 (0.00%)
Total and % Population	586,760 (80.25%)	31,196 (4.27%)
	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 1	72,601 (27.77%)	26,617 (9.88%)
Dist. 2	9,447 (3.61%)	1,552 (0.58%)
Dist. 5	4,253 (1.63%)	2,973 (1.10%)
Dist. 6	174,996 (66.94%)	238,087 (88.40%)
Dist. 7	124 (0.05%)	97 (0.04%)
Total and % Population	261,421 (35.75%)	269,326 (36.83%)

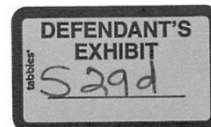
Plan: House Plan 2 731,203 Total Population
Senate Amendment 1,
District 7 --

	Population	[Hispanic Origin]
Dist. 6	3,553 (0.49%)	90 (0.25%)
Dist. 7	727,650 (99.51%)	36,114 (99.75%)
Total and % Population		36,204 (4.95%)
	NH_Wht	NH_DOJ_Blk
Dist. 6	2,244 (0.48%)	1,132 (0.58%)
Dist. 7	464,675 (99.52%)	195,072 (99.42%)
Total and % Population	466,919 (63.86%)	196,204 (26.83%)
	[18+_Pop]	[H18+_Pop]
Dist. 6	2,724 (0.46%)	66 (0.28%)
Dist. 7	586,016 (99.54%)	23,596 (99.72%)
Total and % Population	588,740 (80.52%)	23,662 (3.24%)
	[NH18+_Wht]	[NH18+_DOJ_Blk]
Dist. 6	1,752 (0.44%)	846 (0.58%)
Dist. 7	393,465 (99.56%)	145,390 (99.42%)
Total and % Population	395,217 (54.05%)	146,236 (20.00%)

APPENDIX P

House Plan 2 Senate Amendment 1

District	Biden	%Biden	Trump	%Trump	Total
1	170662	45.61%	203533	54.39%	374,195
2	160640	44.63%	199295	55.37%	359,935
3	105850	30.97%	235966	69.03%	341,816
4	137465	40.57%	201396	59.43%	338,861
5	146303	40.78%	212458	59.22%	358,761
6	219577	66.30%	111599	33.70%	331,176
7	145757	40.76%	211855	59.24%	357,612



APPENDIX Q

User:

Plan Name: **House Plan 2 Senate Amendment 1**

Plan Type:

Political Subdivison Splits Between Districts

Tuesday, January 11, 2022

9:08 AM

Split Counts

Number of subdivisions split into more than one district: Number of splits involving no population:

County	10	County	0
Voting District	13	Voting District	0

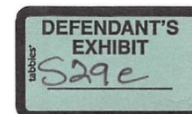
Number of times a subdivision is split into multiple districts:

County	10
Voting District	13

County	Voting District	District Population
---------------	------------------------	----------------------------

Split Counties:

Charleston SC	1	179,743
Charleston SC	6	228,492
Colleton SC	1	2,358
Colleton SC	6	36,246
Dorchester SC	1	127,543



County	Voting District	District	Population
Dorchester SC		6	33,997
Florence SC		6	10,609
Florence SC		7	126,450
Greenville SC		3	64,526
Greenville SC		4	461,008
Jasper SC		1	4,581
Jasper SC		6	24,210
Orangeburg SC		2	24,394
Orangeburg SC		6	59,829
Richland SC		2	223,421
Richland SC		6	192,726
Spartanburg SC		4	270,196
Spartanburg SC		5	57,801
Sumter SC		5	76,661
Sumter SC		6	28,895
<i>Split VTDs:</i>			
Dorchester SC	Beech Hill 2	1	2,191
Dorchester SC	Beech Hill 2	6	18
Dorchester SC	Cypress	1	4,659
Dorchester SC	Cypress	6	103
Dorchester SC	Delemars	1	416
Dorchester SC	Delemars	6	675
Dorchester SC	Givhans	1	1,280
Dorchester SC	Givhans	6	139
Dorchester SC	Givhans 2	1	1,565
Dorchester SC	Givhans 2	6	114
Dorchester SC	Lincoln	1	418
Dorchester SC	Lincoln	6	3,362
Dorchester SC	Windsor	1	53
Dorchester SC	Windsor	6	1,352

County	Voting District	District	Population
Florence SC	Scranton	6	286
Florence SC	Scranton	7	1,031
Greenville SC	SYCAMORE	3	4,015
Greenville SC	SYCAMORE	4	342
Richland SC	Hampton	2	1,457
Richland SC	Hampton	6	1,374
Richland SC	North Springs 3	2	2,439
Richland SC	North Springs 3	6	424
Spartanburg SC	Converse Fire Station	4	1,448
Spartanburg SC	Converse Fire Station	5	515
Sumter SC	BIRNIE	5	561
Sumter SC	BIRNIE	6	676

APPENDIX R

User:

Plan Name: **House Plan 2 Senate Amendment 1**

Plan Type:

Population Summary	
Thursday, January 11, 2022	9:09 AM
Summary Statistics:	
Population Range:	731,203 to 731,204
Ratio Range:	0.00
Absolute Range:	-1 to
Absolute Overall Range:	1
Relative Range:	0.00% to 0.00%
Relative Overall Range:	0.00%
Absolute Mean Deviation:	0.43
Relative Mean Deviation:	0.00%
Standard Deviation:	0.49

District	Population	Deviation	% Devn.
1	731,203	-1	0.00%
2	731,203	-1	0.00%
3	731,204	0	0.00%
4	731,204	0	0.00%
5	731,204	0	0.00%
6	731,204	0	0.00%
7	731,203	-1	0.00%

Total: 5,118,425**Ideal District: 731,204**

451a

District	[18+_Pop]	[% 18+_Pop]
1	570,538	78.03%
2	563,028	77%
3	577,297	78.95%
4	565,412	77.33%
5	562,685	76.95%
6	586,760	80.25%
7	588,740	80.52%

District	[H18+_Pop]	[% H18+_Pop]
1	38,918	6.82%
2	33,556	5.96%
3	27,422	4.75%
4	50,888	9%
5	25,482	4.53%
6	31,196	5.32%
7	22,662	4.02%

District	[NH18+_Wht]	[% NH18+_Wht]
1	405,889	71.14%
2	360,714	64.07%
3	427,484	74.05%
4	379,099	67.05%
5	374,151	66.49%
6	261,421	44.55%
7	395,217	67.13%

452a

District	[NH18+_ DOJ_Blkl	[% NH18+ _DOJ_Blkl
1	95,400	16.72%
2	137,891	24.49%
3	98,848	17.12%
4	104,145	18.42%
5	135,206	24.03%
6	269,326	45.9%
7	146,236	24.84%

APPENDIX S

User:

Plan Name: **House Plan 2 Senate Amendment 2a**

Plan Type:

Core Constituencies
<div style="display: flex; justify-content: space-between;"> Thursday, January 14, 2022 3:07 PM </div>

Thursday, January 14, 2022

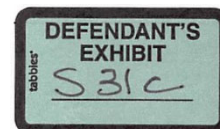
3:07 PM

From Plan: **Benchmark Plan****Plan: House Plan 2 731,204 Total Population****Senate Amendment 2a,****District 1 --**

	Population	[Hispanic Origin]
Dist. 1	536,611 (73.39%)	44,697 (66.46%)
Dist. 6	194,593 (26.61%)	22,562 (33.54%)
Total and % Population		67,259 (9.20%)

	NH_Wht	NH_DOJ_Bl
Dist. 1	382,460 (81.75%)	80,443 (50.55%)
Dist. 6	85,380 (18.25%)	78,687 (49.45%)
Total and % Population	467,840 (63.98%)	159,130 (21.76%)

	[18+_Pop]	[H18+_Pop]
Dist. 1	430,840 (73.61%)	29,984 (66.64%)
Dist. 6	154,455 (26.39%)	15,011 (33.36%)
Total and % Population	585,295 (80.05%)	44,995 (6.15%)



454a

	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 1	318,587 (81.20%)	60,832 (50.53%)
Dist. 6	73,747 (18.80%)	59,548 (49.47%)
Total and % Population	392,334 (53.66%)	120,380 (16.46%)

Plan: House Plan 2 731,203 Total Population
Senate Amendment 2a,
District 2 --

	Population	[Hispanic Origin]
Dist. 2	480,483 (65.71%)	33,952 (69.25%)
Dist. 3	192,167 (26.28%)	11,903 (24.28%)
Dist. 5	58,553 (8.01%)	3,175 (6.48%)
Total and % Population		49,030 (6.71%)

	NH_Wht	NH_DOJ_Blkl
Dist. 2	331,067 (68.44%)	88,325 (53.93%)
Dist. 3	117,221 (24.23%)	57,023 (34.82%)
Dist. 5	35,439 (7.33%)	18,428 (11.25%)
Total and % Population	483,727 (66.15%)	163,776 (22.40%)

	[18+_Pop]	[H18+_Pop]
Dist. 2	371,476 (65.15%)	21,709 (69.36%)
Dist. 3	152,698 (26.78%)	7,579 (24.21%)
Dist. 5	46,014 (8.07%)	2,011 (6.43%)
Total and % Population	570,188 (77.98%)	31,299 (4.28%)

	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 2	267,007 (67.93%)	63,233 (52.35%)
Dist. 3	96,838 (24.64%)	43,850 (36.30%)
Dist. 5	29,196 (7.43%)	13,713 (11.35%)
Total and % Population	393,041 (53.75%)	120,796 (16.52%)

Plan: House Plan 2 731,204 Total Population
Senate Amendment 2a,
District 3 --

	Population	[Hispanic Origin]
Dist. 3	514,618 (70.38%)	30,302 (59.71%)
Dist. 4	216,586 (29.62%)	20,444 (40.29%)
Total and % Population		50,746 (6.94%)
	NH_Wht	NH_DOJ_Bl
Dist. 3	389,676 (74.49%)	69,992 (58.72%)
Dist. 4	133,454 (25.51%)	49,204 (41.28%)
Total and % Population	523,130 (71.54%)	119,196 (16.30%)
	[18+_Pop]	[H18+_Pop]
Dist. 3	404,933 (70.70%)	19,549 (58.73%)
Dist. 4	167,833 (29.30%)	13,737 (41.27%)
Total and % Population	572,766 (78.33%)	33,286 (4.55%)
	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 3	316,188 (74.57%)	50,583 (58.04%)
Dist. 4	107,819 (25.43%)	36,567 (41.96%)
Total and % Population	424,007 (57.99%)	87,150 (11.92%)

Plan: House Plan 2 731,203 Total Population
Senate Amendment 2a,
District 4 --

	Population	[Hispanic Origin]
Dist. 4	543,647 (74.35%)	56,870 (85.39%)
Dist. 5	187,556 (25.65%)	9,730 (14.61%)
Total and % Population		66,600 (9.11%)

	NH_Wht	NH_DOJ_Bl
Dist. 4	362,227 (72.14%)	93,292 (76.28%)
Dist. 5	139,867 (27.86%)	29,005 (23.72%)
Total and % Population	502,094 (68.67%)	122,297 (16.73%)
	[18+_Pop]	[H18+_Pop]
Dist. 4	420,088 (74.41%)	37,035 (85.89%)
Dist. 5	144,439 (25.59%)	6,084 (14.11%)
Total and % Population	564,527 (77.21%)	43,119 (5.90%)
	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 4	292,341 (72.48%)	67,789 (76.33%)
Dist. 5	110,984 (27.52%)	21,027 (23.67%)
Total and % Population	403,325 (55.16%)	88,816 (12.15%)

Plan: House Plan 2 731,203 Total Population
Senate Amendment 2a,
District 5 --

	Population	[Hispanic Origin]
Dist. 5	403,824 (55.23%)	24,419 (71.14%)
Dist. 6	13,876 (1.90%)	320 (0.93%)
Dist. 7	313,503 (42.87%)	9,586 (27.93%)
Total and % Population		34,325 (4.69%)
	NH_Wht	NH_DOJ_Bl
Dist. 5	246,466 (60.15%)	108,785 (43.48%)
Dist. 6	5,381 (1.31%)	7,841 (3.13%)
Dist. 7	157,913 (38.54%)	133,555 (53.38%)
Total and % Population	409,760 (56.04%)	250,181 (34.21%)

457a

	[18+_Pop]	[H18+_Pop]
Dist. 5	310,143 (54.93%)	15,712 (70.84%)
Dist. 6	10,429 (1.85%)	221 (1.00%)
Dist. 7	244,024 (43.22%)	6,247 (28.17%)
Total and % Population	564,596 (77.21%)	22,180 (3.03%)
	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 5	196,916 (59.64%)	81,049 (43.44%)
Dist. 6	4,333 (1.31%)	5,635 (3.02%)
Dist. 7	128,948 (39.05%)	99,884 (53.54%)
Total and % Population	330,197 (45.16%)	186,568 (25.52%)

Plan: House Plan 2 731,204 Total Population
Senate Amendment 2a,
District 6 --

	Population	[Hispanic Origin]
Dist. 2	241,346 (33.01%)	16,168 (45.60%)
Dist. 5	86,353 (11.81%)	3,550 (10.01%)
Dist. 6	397,332 (54.34%)	15,551 (43.86%)
Dist. 7	6,173 (0.84%)	187 (0.53%)
Total and % Population		35,456 (4.85%)
	NH_Wht	NH_DOJ_Blkl
Dist. 2	121,426 (41.35%)	89,093 (24.24%)
Dist. 5	42,849 (14.59%)	35,320 (9.61%)
Dist. 6	126,530 (43.09%)	240,100 (65.32%)
Dist. 7	2,817 (0.96%)	3,053 (0.83%)
Total and % Population	293,622 (40.16%)	367,566 (50.27%)

	[18+_Pop]	[H18+_Pop]
Dist. 2	185,363 (32.16%)	10,995 (44.76%)
Dist. 5	66,773 (11.58%)	2,364 (9.62%)
Dist. 6	319,620 (55.44%)	11,091 (45.15%)
Dist. 7	4,708 (0.82%)	116 (0.47%)
Total and % Population	576,464 (78.84%)	24,566 (3.36%)
	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 2	98,433 (40.07%)	65,175 (23.26%)
Dist. 5	34,693 (14.12%)	26,374 (9.41%)
Dist. 6	110,273 (44.89%)	186,335 (66.51%)
Dist. 7	2,250 (0.92%)	2,261 (0.81%)
Total and % Population	245,649 (33.60%)	280,145 (38.31%)

Plan: House Plan 2 731,204 Total Population
Senate Amendment 2a,
District 7 --

	Population	[Hispanic Origin]
Dist. 1	282,282 (38.61%)	22,036 (44.59%)
Dist. 6	40,662 (5.56%)	1,044 (2.11%)
Dist. 7	408,260 (55.83%)	26,342 (53.30%)
Total and % Population		49,422 (6.76%)
	NH_Wht	NH_DOJ_Blkl
Dist. 1	174,255 (34.96%)	65,191 (45.99%)
Dist. 6	20,026 (4.02%)	17,964 (12.67%)
Dist. 7	304,098 (61.02%)	58,586 (41.33%)
Total and % Population	498,379 (68.16%)	141,741 (19.38%)

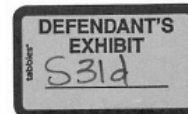
459a

	[18+_Pop]	[H18+_Pop]
Dist. 1	210,550 (36.26%)	13,771 (43.47%)
Dist. 6	32,560 (5.61%)	674 (2.13%)
Dist. 7	337,514 (58.13%)	17,234 (54.40%)
Total and % Population	580,624 (79.41%)	31,679 (4.33%)
	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 1	136,745 (32.92%)	45,391 (43.98%)
Dist. 6	16,286 (3.92%)	14,464 (14.02%)
Dist. 7	262,391 (63.16%)	43,342 (42.00%)
Total and % Population	415,422 (56.81%)	103,197 (14.11%)

APPENDIX T

House Plan 2 Senate Amendment 2

District	Biden	%Biden	Trump	%Trump	Total
1	192613	51.83%	178981	48.17%	371,594
2	129328	36.39%	226070	63.61%	355,398
3	119532	34.79%	224036	65.21%	343,568
4	116335	34.17%	224120	65.83%	340,455
5	166061	46.91%	187920	53.09%	353,981
6	224295	65.61%	117566	34.39%	341,861
7	138090	38.84%	217409	61.16%	355,499



APPENDIX U

User:

Plan Name: **NAACP Congressional 1**

Plan Type:

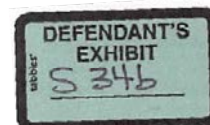
Core Constituencies

Wednesday, November 10, 2021

11:41 AM

From Plan: **Enacted Congress B-V-C****Plan: NAACP 731,203 Total Population****Congressional 1,****District 1 --**

	Population	[Hispanic Origin]
Dist. 1	381,872 (52.23%)	33,188 (57.12%)
Dist. 2	20,889 (2.82%)	520 (0.89%)
Dist. 6	266,631 (36.46%)	22,817 (39.27%)
Dist. 7	62,111 (8.49%)	1,578 (2.72%)
Total and % Population		58,103 (7.95%)
	NH_Wht	NH_DOJ_Black
Dist. 1	226,613 (60.47%)	93,076 (36.11%)
Dist. 2	10,352 (2.76%)	9,050 (3.51%)
Dist. 6	111,255 (29.69%)	123,010 (47.73%)
Dist. 7	26,504 (7.07%)	32,590 (12.65%)
Total and % Population	374,724 (51.25%)	257,726 (35.25%)



462a

	[18+_Pop]	[H18+_Pop]
Dist. 1	287,539 (51.08%)	21,104 (55.97%)
Dist. 2	15,964 (2.84%)	339 (0.90%)
Dist. 6	211,273 (37.53%)	15,292 (40.55%)
Dist. 7	48, 143 (8.55%)	973 (2.58%)
Total and % Population	562,919 (76.99%)	37,708 (5.16%)
	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 1	179,895 (59.16%)	65,670 (34.29%)
Dist. 2	8,421 (2.77%)	6,710 (3.50%)
Dist. 6	94,176 (30.97%)	94,619 (49.40%)
Dist. 7	21,606 (7.10%)	24,528 (12.81%)
Total and % Population	304,098 (41.59%)	191,527 (26.19%)

Plan: NAACP 731,203 Total Population
Congressional 1,
District 2 --

	Population	[Hispanic Origin]
Dist. 2	524,213 (71.69%)	36,114 (72.11%)
Dist. 3	156,159 (21.36%)	10,309 (20.58%)
Dist. 5	31,309 (4.28%)	2,737 (5.46%)
Dist. 6	19,522 (2.67%)	925 (1.85%)
Total and % Population		50,085 (6.85%)
	NH_Wht	NH_DOJ_Blkl
Dist. 2	362,648 (74.02%)	95,989 (62.26%)
Dist. 3	94,652 (19.32%)	46,294 (30.03%)
Dist. 5	18,160 (3.71%)	9,589 (6.22%)
Dist. 6	14,471 (2.95%)	2,311 (1.50%)
Total and % Population	489,931 (67.00%)	154,183 (21.09%)

463a

	[18+_Pop]	[H18+_Pop]
Dist. 2	405,596 (70.77%)	23,183 (71.71%)
Dist. 3	124,456 (21.72%)	6,558 (20.29%)
Dist. 5	24,592 (4.29%)	1,747 (5.40%)
Dist. 6	18,488 (3.23%)	841 (2.60%)
Total and % Population	573,132 (78.38%)	32,329 (4.42%)
	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 2	292,428 (73.14%)	68,819 (60.40%)
Dist. 3	78,389 (19.61%)	35,913 (31.52%)
Dist. 5	15,135 (3.79%)	7,110 (6.24%)
Dist. 6	13,878 (3.47%)	2,089 (1.83%)
Total and % Population	399,830 (54.68%)	113,931 (15.58%)

Plan: NAACP 731,204 Total Population
Congressional 1,
District 3 --

	Population	[Hispanic Origin]
Dist. 3	550,626 (75.30%)	31,896 (69.30%)
Dist. 4	153,334 (20.97%)	13,689 (29.74%)
Dist. 5	27,244 (3.73%)	438 (0.95%)
Total and % Population		46,023 (6.29%)
	NH_Wht	NH_DOJ_Bl
Dist. 3	412,245 (78.35%)	80,721 (66.19%)
Dist. 4	96,639 (18.37%)	32,393 (26.56%)
Dist. 5	17,279 (3.28%)	8,839 (7.25%)
Total and % Population	526,163 (71.96%)	121,953 (16.68%)

464a

	[18+_Pop]	[H18+_Pop]
Dist. 3	433,175 (75.81%)	20,570 (68.54%)
Dist. 4	116,813 (20.44%)	9,176 (30.58%)
Dist. 5	21,422 (3.75%)	264 (0.88%)
Total and % Population	571,410 (78.15%)	30,010 (4.10%)
	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 3	334,637 (78.74%)	58,520 (65.79%)
Dist. 4	76,318 (17.96%)	23,832 (26.79%)
Dist. 5	14,061 (3.31%)	6,603 (7.42%)
Total and % Population	425,016 (58.13%)	88,955 (12.17%)

Plan: NAACP 731,204 Total Population
Congressional 1,
District 4 --

	Population	[Hispanic Origin]
Dist. 3	0 (0.00%)	0 (0.00%)
Dist. 4	606,899 (83.00%)	63,625 (91.22%)
Dist. 5	124,305 (17.00%)	6,121 (8.78%)
Total and % Population		69,746 (9.54%)
	NH_Wht	NH_DOJ_Bl
Dist. 3	0 (0.00%)	0 (0.00%)
Dist. 4	399,042 (80.93%)	110,103 (85.52%)
Dist. 5	94,006 (19.07%)	18,640 (14.48%)
Total and % Population	493,048 (67.43%)	128,743 (17.61%)
	[18+_Pop]	[H18+_Pop]
Dist. 3	0 (0.00%)	0 (0.00%)
Dist. 4	471,108 (83.12%)	41,596 (91.56%)
Dist. 5	95,687 (16.88%)	3,833 (8.44%)
Total and % Population	566,795 (77.52%)	45,429 (6.21%)

465a

	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 3	0 (0.00%)	0 (0.00%)
Dist. 4	323,842 (81.36%)	80,524 (85.51%)
Dist. 5	74,213 (18.64%)	13,648 (14.49%)
Total and % Population	398,055 (54.44%)	94,172 (12.88%)

Plan: NAACP 731,203 Total Population
Congressional 1,
District 5 --

	Population	[Hispanic Origin]
Dist. 5	417,851 (57.15%)	27,106 (67.39%)
Dist. 7	313,352 (42.85%)	13,115 (32.61%)
Total and % Population		40,221 (5.50%)

	NH_Wht	NH_DOJ_Blkl
Dist. 5	273,160 (58.52%)	91,195 (49.66%)
Dist. 7	193,591 (41.48%)	92,431 (50.34%)
Total and % Population	466,751 (63.83%)	183,626 (25.11%)

	[18+_Pop]	[H18+_Pop]
Dist. 5	318,916 (56.20%)	17,315 (67.12%)
Dist. 7	248,523 (43.80%)	8,484 (32.88%)
Total and % Population	567,439 (77.60%)	25,799 (3.53%)

	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 5	217,251 (57.43%)	66,443 (49.17%)
Dist. 7	161,005 (42.57%)	68,697 (50.83%)
Total and % Population	378,256 (51.73%)	135,140 (18.48%)

Plan: NAACP 731,205 Total Population
Congressional 1,
District 6 --

	Population	[Hispanic Origin]
Dist. 2	177,027 (24.21%)	13,486 (40.34%)
Dist. 5	135,577 (18.54%)	4,472 (13.38%)
Dist. 6	332,897 (45.53%)	13,604 (40.69%)
Dist. 7	85,704 (11.72%)	1,869 (5.59%)
Total and % Population		33,431 (4.57%)
	NH_Wht	NH_DOJ_Bl
Dist. 2	79,493 (28.75%)	72,379 (18.60%)
Dist. 5	62,016 (22.43%)	63,275 (16.26%)
Dist. 6	96,826 (35.01%)	210,026 (53.96%)
Dist. 7	38,206 (13.82%)	43,511 (11.18%)
Total and % Population	276,541 (37.82%)	389,191 (53.23%)
	[18+_Pop]	[H18+_Pop]
Dist. 2	135,279 (23.59%)	9,182 (40.34%)
Dist. 5	106,752 (18.62%)	3,012 (13.23%)
Dist. 6	264,795 (46.18%)	9,432 (41.44%)
Dist. 7	66,600 (11.61%)	1,133 (4.98%)
Total and % Population	573,426 (78.42%)	22,759 (3.11%)
	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 2	64,591 (28.00%)	52,879 (17.87%)
Dist. 5	51,129 (22.17%)	48,359 (16.34%)
Dist. 6	83,562 (36.23%)	162,227 (54.81 %)
Dist. 7	31,387 (13.61%)	32,527 (10.99%)
Total and % Population	230,669 (31.55%)	295,992 (40.48%)

Plan: NAACP 731,203 Total Population
Congressional 1,
District 7 --

	Population	[Hispanic Origin]
Dist. 1	437,021 (59.77%)	33,545 (60.74%)
Dist. 6	27,413 (3.75%)	2,131 (3.86%)
Dist. 7	266,769 (36.48%)	19,553 (35.40%)
Total and % Population		55,229 (7.55%)
	NH_Wht	NH_DOJ_Blkl
Dist. 1	330,102 (59.87%)	52,558 (59.41 %)
Dist. 6	14,765 (2.68%)	9,245 (10.45%)
Dist. 7	206,527 (37.46%)	26,662 (30.14%)
Total and % Population	551,394 (75.41%)	88,465 (12.10%)
	[18+ Pop]	[H18+ Pop]
Dist. 1	353,851 (59.04%)	22,651 (61.07%)
Dist. 6	22,508 (3.76%)	1,432 (3.86%)
Dist. 7	222,980 (37.20%)	13,007 (35.07%)
Total and % Population	599,339 (81.97%)	37,090 (5.07%)
	[NH18+_Wht]	[NH18+_DOJ_Blkl]
Dist. 1	275,437 (58.85%)	40,553 (60.23%)
Dist. 6	13,023 (2.78%)	7,047 (10.47%)
Dist. 7	179,591 (38.37%)	19,735 (29.31%)
Total and % Population	468,051 (64.01%)	67,335 (9.21%)

APPENDIX V

User:

Plan Name: **NAACP_Congressional_2**Plan Type: **NAACP_Congressional_2****Core Constituencies**

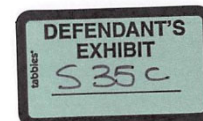
Friday, October 29, 2021

8:45 AM

From Plan: **Enacted Congress B-V-C**

Plan: NAACP_ 731,205 Total Population
Congressional_2,
District 1 --

	Population	[Hispanic Origin]
Dist. 1	529,863 (72.46%)	37,290 (64.72%)
Dist. 2	81 (0.01%)	0 (0.00%)
Dist. 6	162,748 (22.26%)	15,725 (27.29%)
Dist.	38,513 (5.27%)	4,600 (7.98%)
Unassigned		
Total and % Population		57,615 (7.88%)
	NH_Wht	NH_DOJ_Bl
Dist. 1	358,573 (79.23%)	101,062 (56.55%)
Dist. 2	1 (0.00%)	77 (0.04%)
Dist. 6	70,125 (15.49%)	69,902 (39.11%)
Dist.	23,873 (5.27%)	7,670 (4.29%)
Unassigned		
Total and % Population	452,572 (61.89%)	178,711 (24.44%)



469a

	[18+_Pop]	[H18+_Pop]
Dist. 1	415,801 (72.32%)	24,782 (64.32%)
Dist. 2	52 (0.01%)	(0.00%)
Dist. 6	129,470 (22.52%)	10,552 (27.39%)
Dist.	29,603 (5.15%)	3,195 (8.29%)
Unassigned		
Total and % Population	574,926 (78.63%)	38,529 (5.27%)
	[NH18+_Wht]	[NH18+_DOJ_Blkl]
Dist. 1	292,145 (78.66%)	74,776 (55.91%)
Dist. 2	(0.00%)	52 (0.04%)
Dist. 6	60,345 (16.25%)	53,145 (39.74%)
Dist.	18,916 (5.09%)	5,771 (4.31%)
Unassigned		
Total and % Population	371,406 (50.79%)	133,744 (18.29%)

Plan: NAACP_ 731,201 Total Population
Congressional_2,
District 2 --

	Population	[Hispanic Origin]
Dist. 1	245,652 (33.60%)	25,730 (42.84%)
Dist. 2	376,707 (51.52%)	25,993 (43.28%)
Dist. 3	732 (0.10%)	50 (0.08%)
Dist. 6	106,338 (14.54%)	8,231 (13.71%)
Dist.	1,772 (0.24%)	53 (0.09%)
Unassigned		
Total and % Population		60,057 (8.21%)

470a

	NH_Wht	NH_DOJ_Blk
Dist. 1	166,189 (34.98%)	39,620 (25.95%)
Dist. 2	256,690 (53.57%)	72,599 (47.54%)
Dist. 3	336 (0.07%)	306 (0.20%)
Dist. 6	54,366 (11.35%)	40,074 (26.24%)
Dist.	1,575 (0.33%)	97 (0.06%)
Unassigned		
Total and % Population	479,156 (65.53%)	152,696 (20.88%)
	[18+_Pop]	[H18+_Pop]
Dist. 1	191,929 (33.66%)	16,462 (42.58%)
Dist. 2	291,540 (51.12%)	16,764 (43.36%)
Dist. 3	547 (0.10%)	35 (0.09%)
Dist. 6	84,636 (14.84%)	5,364 (13.87%)
Dist.	1,608 (0.28%)	35 (0.09%)
Unassigned		
Total and % Population	570,260 (77.99%)	38,660 (5.29%)
	[NH18+_Wht]	[NH18+_DOJ_Blkl]
Dist. 1	137,695 (35.11%)	27,802 (24.97%)
Dist. 2	207,523 (52.92%)	51,832 (46.55%)
Dist. 3	284 (0.07%)	196 (0.18%)
Dist. 6	45,212 (11.53%)	31,439 (28.24%)
Dist.	1,464 (0.37%)	77 (0.07%)
Unassigned		
Total and % Population	392,178 (53.63%)	111,346 (15.23%)

471a

**Plan: NAACP_ 731,203 Total Population
Congressional_2,
District 3 --**

	Population	[Hispanic Origin]
Dist. 2	72,574 (9.93%)	5,449 (12.76%)
Dist. 3	631,345 (86.34%)	34,577 (80.99%)
Dist. 4	2,450 (0.34%)	121 (0.28%)
Dist. 5	20,068 (2.74%)	1,731 (4.05%)
Dist. 6	758 (0.10%)	19 (0.04%)
Dist.	4,008 (0.55%)	798 (1.87%)
Unassigned		
Total and % Population		42,695 (5.84%)
	NH_Wht	NH_DOJ_Bl
Dist. 2	47,174 (9.05%)	16,483 (12.13%)
Dist. 3	458,202 (87.91%)	111,507 (82.05%)
Dist. 4	1,993 (0.38%)	186 (0.14%)
Dist. 5	11,304 (2.17%)	6,482 (4.77%)
Dist. 6	686 (0.13%)	19 (0.01%)
Dist.	1,875 (0.36%)	1,230 (0.91%)
Unassigned		
Total and % Population	521,234 (71.28%)	135,907 (18.59%)
	[18+_Pop]	[H18+_Pop]
Dist. 2	56,556 (9.77%)	3,465 (12.65%)
Dist. 3	500,854 (86.51%)	22,238 (81.15%)
Dist. 4	1,978 (0.34%)	84 (0.31%)
Dist. 5	15,803 (2.73%)	1,126 (4.11%)
Dist. 6	641 (0.11%)	7 (0.03%)
Dist.	3,095 (0.53%)	482 (1.76%)
Unassigned		
Total and % Population	578,927 (79.17%)	27,402 (3.75%)

472a

	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 2	38,291 (8.98%)	12,192 (12.03%)
Dist. 3	374,801 (87.89%)	83,259 (82.17%)
Dist. 4	1,656 (0.39%)	127 (0.13%)
Dist. 5	9,544 (2.24%)	4,736 (4.67%)
Dist. 6	591 (0.14%)	15 (0.01%)
Dist.	1,552 (0.36%)	994 (0.98%)
Unassigned		
Total and % Population	426,435 (58.32%)	101,323 (13.86%)

Plan: NAACP_ 731,205 Total Population
Congressional_2,
District 4 --

	Population	[Hispanic Origin]
Dist. 3	65,046 (8.90%)	6,456 (8.39%)
Dist. 4	639,844 (87.51%)	67,689 (87.94%)
Dist. 5	3,772 (0.52%)	231 (0.30%)
Dist.	22,543 (3.08%)	2,598 (3.38%)
Unassigned		
Total and % Population		76,974 (10.53%)

	NH_Wht	NH_DOJ_Bl
Dist. 3	41,897 (8.85%)	13,440 (9.72%)
Dist. 4	416,528 (87.99%)	117,808 (85.19%)
Dist. 5	2,507 (0.53%)	701 (0.51%)
Dist.	12,440 (2.63%)	6,335 (4.58%)
Unassigned		
Total and % Population	473,372 (64.74%)	138,284 (18.91%)

473a

	[18+_Pop]	[H18+_Pop]
Dist. 3	49,107 (8.73%)	4,176 (8.29%)
Dist. 4	493,840 (87.82%)	44,311 (87.98%)
Dist. 5	2,828 (0.50%)	164 (0.33%)
Dist.	16,579 (2.95%)	1,714 (3.40%)
Unassigned		
Total and % Population	562,354 (76.91%)	50,365 (6.89%)
	[NH18+_Wht]	[NH18+_DOJ_Blkl]
Dist. 3	32,919 (8.65%)	9,772 (9.71%)
Dist. 4	335,981 (88.29%)	86,050 (85.51%)
Dist. 5	1,965 (0.52%)	437 (0.43%)
Dist.	9,662 (2.54%)	4,372 (4.34%)
Unassigned		
Total and % Population	380,527 (52.04%)	100,631 (13.76%)

Plan: NAACP_ 731,204 Total Population
Congressional_2,
District 5 --

	Population	[Hispanic Origin]
Dist. 2	43,176 (5.90%)	1,610 (3.71%)
Dist. 3	597 (0.08%)	20 (0.05%)
Dist. 4	91,347 (12.49%)	7,081 (16.30%)
Dist. 5	583,867 (79.85%)	34,203 (78.73%)
Dist. 6	1,429 (0.20%)	61 (0.14%)
Dist.	10,788 (1.48%)	466 (1.07%)
Unassigned		
Total and % Population		43,441 (5.94%)

474a

	NH_Wht	NH_DOJ_Bl
Dist. 2	35,101 (7.07%)	3,905 (2.60%)
Dist. 3	445 (0.09%)	93 (0.06%)
Dist. 4	59,846 (12.05%)	19,234 (12.82%)
Dist. 5	390,956 (78.74%)	125,954 (83.93%)
Dist. 6	1,171 (0.24%)	138 (0.09%)
Dist.	8,992 (1.81%)	746 (0.50%)
Unassigned		
Total and % Population	496,511 (67.90%)	150,070 (20.52%)
	[18+_Pop]	[H18+_Pop]
Dist. 2	32,366 (5.76%)	982 (3.53%)
Dist. 3	431 (0.08%)	20 (0.07%)
Dist. 4	72,031 (12.82%)	4,762 (17.11%)
Dist. 5	447,457 (79.66%)	21,768 (78.22%)
Dist. 6	1,173 (0.21%)	44 (0.16%)
Dist.	8,274 (1.47%)	254 (0.91%)
Unassigned		
Total and % Population	561,732 (76.82%)	27,830 (3.81%)
	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 2	27,020 (6.83%)	2,666 (2.42%)
Dist. 3	320 (0.08%)	63 (0.06%)
Dist. 4	48,897 (12.37%)	14,506 (13.18%)
Dist. 5	311,005 (78.67%)	92,167 (83.77%)
Dist. 6	998 (0.25%)	103 (0.09%)
Dist.	7,094 (1.79%)	522 (0.47%)
Unassigned		
Total and % Population	395,334 (54.07%)	110,027 (15.05%)

Plan: NAACP_ 731,204 Total Population
Congressional_2,
District 6 --

	Population	[Hispanic Origin]
Dist. 2	208,003 (28.45%)	14,373 (40.11%)
Dist. 3	607 (0.08%)	50 (0.14%)
Dist. 5	118,447 (16.20%)	4,083 (11.39%)
Dist. 6	338,879 (46.35%)	12,844 (35.84%)
Dist. 7	420 (0.06%)	4 (0.01%)
Dist.	64,848 (8.87%)	4,481 (12.50%)
Unassigned		
Total and % Population		35,835 (4.90%)
	NH_Wht	NH_DOJ_Bl
Dist. 2	97,916 (33.93%)	82,840 (22.25%)
Dist. 3	284 (0.10%)	220 (0.06%)
Dist. 5	54,544 (18.90%)	54,536 (14.65%)
Dist. 6	107,369 (37.21%)	206,185 (55.38%)
Dist. 7	90 (0.03%)	321 (0.09%)
Dist.	28,345 (9.82%)	28,189 (7.57%)
Unassigned		
Total and % Population	288,548 (39.46%)	372,291 (50.91%)
	[18+_Pop]	[H18+_Pop]
Dist. 2	159,298 (27.59%)	9,771 (39.61%)
Dist. 3	477 (0.08%)	37 (0.15%)
Dist. 5	93,448 (16.18%)	2,741 (11.11%)
Dist. 6	271,399 (47.00%)	9,025 (36.59%)
Dist. 7	341 (0.06%)	4 (0.02%)
Dist.	52,478 (9.09%)	3,089 (12.52%)
Unassigned		
Total and % Population	577,441 (78.97%)	24,667 (3.37%)

476a

	[NH18+_Wht]	[NH18+_DOJ_Blkl]
Dist. 2	79,456 (32.75%)	60,665 (21.37%)
Dist. 3	236 (0.10%)	161 (0.06%)
Dist. 5	44,964 (18.53%)	41,874 (14.75%)
Dist. 6	92,989 (38.33%)	159,579 (56.20%)
Dist. 7	84 (0.03%)	248 (0.09%)
Dist.	24,899 (10.26%)	21,405 (7.54%)
Unassigned		
Total and % Population	242,628 (33.18%)	283,932 (38.83%)

Plan: NAACP_ 731,203 Total Population
Congressional_2,
District 7 --

	Population	[Hispanic Origin]
Dist. 2	77 (0.01%)	2 (0.01%)
Dist. 5	57 (0.01%)	3 (0.01%)
Dist. 6	3,322 (0.45%)	91 (0.25%)
Dist. 7	726,076 (99.30%)	36,083 (99.62%)
Dist.	1,671 (0.23%)	42 (0.12%)
Unassigned		
Total and % Population		36,221 (4.95%)

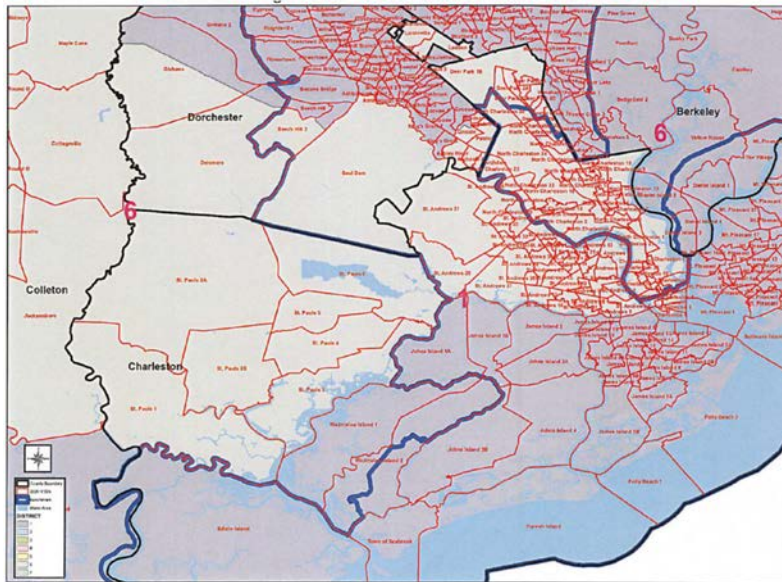
	NH_Whl	NH_DOJ_Blkl
Dist. 2	37 (0.01%)	34 (0.02%)
Dist. 5	17 (0.00%)	33 (0.02%)
Dist. 6	2,269 (0.49%)	855 (0.44%)
Dist. 7	463,364 (99.19%)	194,893 (99.47%)
Dist.	1,472 (0.32%)	113 (0.06%)
Unassigned		
Total and % Population	467,159 (63.89%)	195,928 (26.80%)

477a

	[18+_Pop]	[H18+_Pop]
Dist. 2	53 (0.01%)	1 (0.00%)
Dist. 5	50 (0.01%)	2 (0.01%)
Dist. 6	2,595 (0.44%)	60 (0.25%)
Dist. 7	584,814 (99.32%)	23,576 (99.60%)
Dist.	1,308 (0.22%)	32 (0.14%)
Unassigned		
Total and % Population	588,820 (80.53%)	23,671 (3.24%)
	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 2	32 (0.01%)	17 (0.01%)
Dist. 5	14 (0.00%)	32 (0.02%)
Dist. 6	1,834 (0.46%)	634 (0.43%)
Dist. 7	392,430 (99.23%)	145,272 (99.47%)
Dist.	1,157 (0.29%)	94 (0.06%)
Unassigned		
Total and % Population	395,467 (54.08%)	146,049 (19.97%)

APPENDIX W

**South Carolina Congressional Districts with
Benchmark Plan - Charleston**



DEFENDANT'S
EXHIBIT
S50

APPENDIX X

User: **Amendment 3 - Harpootlian - Oppermann**Plan Name: **LWV**

Plan Type:

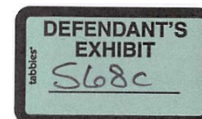
Core Constituencies

Wednesday, January 19, 2022

8:07 PM

From Plan: **Benchmark Plan****Plan: Amendment 3 731,202 Total Population****Harpootlian - Oppermann****LWV, District 1 --**

	Population	[Hispanic Origin]
Dist. 1	555,997 (76.04%)	38,939 (69.66%)
Dist. 6	175,205 (23.96%)	16,959 (30.34%)
Total and % Population		55,898 (7.64%)
	NH_Wht	NH_DOJ_Bl
Dist. 1	379,599 (82.80%)	101,557 (58.59%)
Dist. 6	78,832 (17.20%)	71,767 (41.41%)
Total and % Population	458,431 (62.70%)	173,324 (23.70%)
	[18+_Pop]	[H18+_Pop]
Dist. 1	433,161 (75.65%)	25,462 (68.94%)
Dist. 6	139,441 (24.35%)	11,469 (31.06%)
Total and % Population	572,602 (78.31%)	36,931 (5.05%)



480a

	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 1	307,115 (82.01%)	74,491 (57.64%)
Dist. 6	67,378 (17.99%)	54,752 (42.36%)
Total and % Population	374,493 (51.22%)	129,243 (17.68%)

Plan: Amendment 3 731,207 Total Population
Harpootlian - Oppermann
LWV, District 2 --

	Population	[Hispanic Origin]
Dist. 1	174,409 (23.85%)	22,260 (34.78%)
Dist. 2	468,660 (64.09%)	33,481 (52.32%)
Dist. 3	20,039 (2.74%)	1,166 (1.82%)
Dist. 6	68,099 (9.31%)	7,090 (11.08%)
Total and % Population		63,997 (8.75%)

	NH_Wht	NH_DOJ_Bl
Dist. 1	121,204 (25.13%)	23,524 (15.80%)
Dist. 2	320,729 (66.50%)	88,487 (59.43%)
Dist. 3	12,059 (2.50%)	6,089 (4.09%)
Dist. 6	28,343 (5.88%)	30,790 (20.68%)
Total and % Population	482,335 (65.96%)	148,890 (20.36%)

	[18+_Pop]	[H18+_Pop]
Dist. 1	142,046 (24.68%)	14,855 (35.52%)
Dist. 2	362,952 (63.06%)	21,407 (51.18%)
Dist. 3	16,308 (2.83%)	903 (2.16%)
Dist. 6	54,219 (9.42%)	4,660 (11.14%)
Total and % Population	575,525 (78.71%)	41,825 (5.72%)

481a

	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 1	104,545 (26.27%)	17,257 (15.74%)
Dist. 2	259,297 (65.15%)	63,487 (57.91%)
Dist. 3	9,883 (2.48%)	4,993 (4.55%)
Dist. 6	24,270 (6.10%)	23,897 (21.80%)
Total and % Population	397,995 (54.43%)	109,634 (14.99%)

Plan: Amendment 3 731,204 Total Population
Harpootlian - Oppermann
LWV, District 3 --

	Population	[Hispanic Origin]
Dist. 3	669,373 (91.54%)	37,936 (88.28%)
Dist. 4	30,522 (4.17%)	2,299 (5.35%)
Dist. 5	31,309 (4.28%)	2,737 (6.37%)
Total and % Population		42,972 (5.88%)

	NH Wht	NH DOJ Blk
Dist. 3	485,716 (92.23%)	116,697 (89.70%)
Dist. 4	22,743 (4.32%)	3,807 (2.93%)
Dist. 5	18,160 (3.45%)	9,589 (7.37%)
Total and % Population	526,619 (72.02%)	130,093 (17.79%)

	[18+_Pop]	[H18+_Pop]
Dist. 3	529,081 (91.61%)	24,315 (88.03%)
Dist. 4	23,890 (4.14%)	1,559 (5.64%)
Dist. 5	24,592 (4.26%)	1,747 (6.32%)
Total and % Population	577,563 (78.99%)	27,621 (3.78%)

482a

	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 3	396,361 (92.20%)	86,454 (89.77%)
Dist. 4	18,387 (4.28%)	2,743 (2.85%)
Dist. 5	15,135 (3.52%)	7,110 (7.38%)
Total and % Population	429,883 (58.79%)	96,307 (13.17%)

Plan: Amendment 3 731,203 Total Population
Harpootlian - Oppermann
LWV, District 4 --

	Population	[Hispanic Origin]
Dist. 3	17,373 (2.38%)	3,103 (4.02%)
Dist. 4	712,898 (97.50%)	74,007 (95.94%)
Dist. 5	932 (0.13%)	31 (0.04%)
Total and % Population		77,141 (10.55%)

	NH_Wht	NH_DOJ_Blkl
Dist. 3	9,122 (1.94%)	4,229 (3.01%)
Dist. 4	460,155 (97.89%)	136,438 (96.96%)
Dist. 5	797 (0.17%)	53 (0.04%)
Total and % Population	470,074 (64.29%)	140,720 (19.25%)

	[18+_Pop]	[H18+_Pop]
Dist. 3	12,242 (2.17%)	1,910 (3.78%)
Dist. 4	550,757 (97.70%)	48,567 (96.18%)
Dist. 5	704 (0.12%)	18 (0.04%)
Total and % Population	563,703 (77.09%)	50,495 (6.91%)

	[NH18+_Wht]	[NH18+_DOJ_Blkl
Dist. 3	6,782 (1.79%)	2,986 (2.90%)
Dist. 4	371,354 (98.05%)	99,961 (97.06%)
Dist. 5	607 (0.16%)	40 (0.04%)
Total and % Population	378,743 (51.80%)	102,987 (14.08%)

Plan: Amendment 3 731,205 Total Population
Harpootlian - Oppermann
LWV, District 5 --

	Population	[Hispanic Origin]
Dist. 4	16,813 (2.30%)	1,008 (2.60%)
Dist. 5	596,744 (81.61%)	34,133 (88.03%)
Dist. 7	117,648 (16.09%)	3,635 (9.37%)
Total and % Population		38,776 (5.30%)
	NH_Wht	NH_DOJ_Bl
Dist. 4	12,783 (2.70%)	2,251 (1.24%)
Dist. 5	394,312 (83.43%)	135,148 (74.47%)
Dist. 7	65,541 (13.87%)	44,077 (24.29%)
Total and % Population	472,636 (64.64%)	181,476 (24.82%)
	[18+_Pop]	[H18+_Pop]
Dist. 4	13,274 (2.36%)	646 (2.61%)
Dist. 5	457,993 (81.30%)	21,726 (87.87%)
Dist. 7	92,104 (16.35%)	2,353 (9.52%)
Total and % Population	563,371 (77.05%)	24,725 (3.38%)
	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 4	10,419 (2.76%)	1,652 (1.23%)
Dist. 5	313,921 (83.09%)	99,555 (74.16%)
Dist. 7	53,489 (14.16%)	33,037 (24.61%)
Total and % Population	377,829 (51.67%)	134,244 (18.36%)

Plan: Amendment 3 731,202 Total Population
Harpootlian - Oppermann
LWV, District 6 --

	Population	[Hispanic Origin]
Dist. 2	253,169 (34.62%)	16,639 (47.13%)
Dist. 5	107,301 (14.67%)	3,973 (11.25%)
Dist. 6	370,732 (50.70%)	14,691 (41.61%)
Total and % Population		35,303 (4.83%)
	NH_Wht	NH_DOJ_Bl
Dist. 2	131,764 (43.94%)	88,931 (24.68%)
Dist. 5	51,352 (17.13%)	46,748 (12.97%)
Dist. 6	116,743 (38.93%)	224,714 (62.35%)
Total and % Population	299,859 (41.01%)	360,393 (49.29%)
	[18+_Pop]	[H18+_Pop]
Dist. 2	193,887 (33.65%)	11,297 (46.37%)
Dist. 5	84,080 (14.59%)	2,680 (11.00%)
Dist. 6	298,225 (51.76%)	10,384 (42.63%)
Total and % Population	576,192 (78.80%)	24,361 (3.33%)
	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 2	106,143 (42.39%)	64,921 (23.65%)
Dist. 5	42,126 (16.82%)	35,458 (12.91%)
Dist. 6	102,127 (40.79%)	174,186 (63.44%)
Total and % Population	250,396 (34.24%)	274,565 (37.55%)

Plan: Amendment 3 731,202 Total Population
Harpootlian - Oppermann
LWV, District 7 --

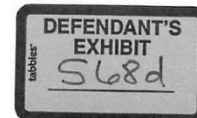
	Population	[Hispanic Origin]
Dist. 1	88,487 (12.10%)	5,534 (14.28%)
Dist. 6	32,427 (4.43%)	737 (1.90%)
Dist. 7	610,288 (83.46%)	32,480 (83.82%)
Total and % Population		38,751 (5.30%)
	NH_Wht	NH_DOJ_Bl
Dist. 1	55,912 (11.93%)	20,553 (10.88%)
Dist. 6	13,399 (2.86%)	17,321 (9.16%)
Dist. 7	399,287 (85.21%)	151,117 (79.96%)
Total and % Population	468,598 (64.09%)	188,991 (25.85%)
	[18+_Pop]	[H18+_Pop]
Dist. 1	66,183 (11.30%)	3,438 (13.66%)
Dist. 6	25,179 (4.30%)	484 (1.92%)
Dist. 7	494,142 (84.40%)	21,244 (84.42%)
Total and % Population	585,504 (80.07%)	25,166 (3.44%)
	[NH18+_Wht]	[NH18+_DOJ_Bl]
Dist. 1	43,672 (11.07%)	14,475 (10.33%)
Dist. 6	10,864 (2.75%)	13,147 (9.39%)
Dist. 7	340,100 (86.18%)	112,450 (80.28%)
Total and % Population	394,636 (53.97%)	140,072 (19.16%)

486a

APPENDIX Y

Oppermann LWV

District	Biden	%Biden	Trump	%Trump	Total
1	185882	51.75%	173289	48.25%	359,171
2	144197	39.92%	216983	60.08%	361,180
3	105736	30.95%	235849	69.05%	341,585
4	136339	40.21%	202710	59.79%	339,049
5	142967	40.02%	214252	59.98%	357,219
6	224329	64.91%	121276	35.09%	345,605
7	146804	40.94%	211743	59.06%	358,547



487a

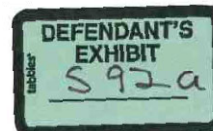
APPENDIX Z

From: [Will Roberts](#)
To: ccampsen@gmail.com
Subject: New sheet
Date: Friday, January 7, 2022 2:14:20 PM
Attachments: [Plan Comparison Sheet.xlsx](#)

Sen. Campsen,

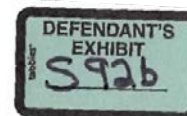
Attached is the updated sheet with the first House plan.

Will



APPENDIX AA

Plan	Charleston Population	Charleston %
Benchmark	301,216	36.78%
Senate Staff Plan	179,544	24.55%
House Plan 2	186,364	25.49%
House Plan 2 Senate Changes 2	179,743	24.58%
Charleston Strong	284,016	38.84%
House Plan 1	342,105	46.79%
Plan	Berkeley Population	Berkeley %
Benchmark	200,765	24.52%
Senate Staff Plan	215,641	29.49%
House Plan 2	215,641	29.49%
House Plan 2 Senate Changes 2	229,861	31.44%
Charleston Strong	107,692	14.73%
House Plan 1	210,184	28.74%



489a

Plan	Dorchester Population	Dorchester %
Benchmark	141,250	17.25%
Senate Staff Plan	137,993	18.87%
House Plan 2	135,142	18.48%
House Plan 2 Senate Changes 2	127,543	17.44%
Charleston Strong	145,439	19.89%
House Plan 1	145,618	19.91%

Plan	Beaufort Population	Beaufort %
Benchmark	174,409	21.30%
Senate Staff Plan	183,135	25.05%
House Plan 2	187,117	25.59%
House Plan 2 Senate Changes 2	187,117	25.59%
Charleston Strong	187,117	25.59%
House Plan 1	0	0.00%

Plan	District Pop	Trump
Benchmark	818,893	53.02
Senate Staff Plan	731,204	54.39
House Plan 2	731,203	54.51
House Plan 2 Senate Changes 2	731,203	54.39
Charleston Strong	731,203	52.8
House Plan 1	731,204	50.83

APPENDIX BB

User:

Plan Name: **Milk**

Plan Type:

Population Summary

Friday, November 19, 2021

3:02 PM

Summary Statistics:

Population Range 731,203 to 731,204

Ratio Range: 0.00

Absolute Range: -1 to

Absolute Overall Range: 1

Relative Range: 0.00% to 0.00%

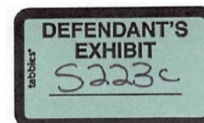
Relative Overall Range: 0.00%

Absolute Mean Deviation: 0.43

Relative Mean Deviation: 0.00%

Standard Deviation: 0.49

District	Population	Deviation	%Devn
1	731,204	0	0.00%
2	731,203	-1	0.00%
3	731,204	0	0.00%
4	731,204	0	0.00%
5	732,203	-1	0.00%
6	731,204	0	0.00%
7	731,203	-1	0.00%

Total: 5,118,425**Ideal District: 731,204**

491a

District	[18+_Pop]	[% 18+_Pop]
1	572,158	78.25%
2	563,621	77.08%
3	577,297	78.95%
4	565,412	77.33%
5	562,713	76.96%
6	584,456	79.93%
7	588,803	80.53%

District	[H18+_Pop]	[%H18+_Pop]
1	38,121	6.66%
2	33,080	5.87%
3	27,422	4.75%
4	50,888	9%
5	25,512	4.53%
6	32,438	5.55%
7	23,663	4.02%

District	[NH18+_Wht]	[%NH18+_Wht]
1	415,282	72.58%
2	365,704	64.88%
3	427,484	74.05%
4	379,099	67.05%
5	374,078	66.48%
6	246,892	42.24%
7	395,436	67.16%

492a

District	[NH18+_ DOJ_Blkl]	[% NH18+ _DOJ_Blkl]
1	88,595	15.48%
2	134,326	23.83%
3	98,848	17.12%
4	104,145	18.42%
5	135,290	24.04%
6	279,773	47.87%
7	146,075	24.81%

APPENDIX CC

User:

Plan Name: **Milk**

Plan Type:

Efficiency Gap

Friday, November 19, 2021

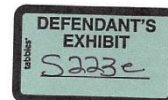
3:01 PM

Efficiency Gap 25.20%**Votes Cast**

District	G20P_DV	G20P_RV	Total
1	174,475	207,526	382,001
2	161,449	200,781	362,230
3	105,850	235,966	341,816
4	137,465	201,396	338,861
5	146,467	212,462	358,929
6	214,860	106,060	320,920
7	145,688	211,911	357,599
Total	1,086,254	1,376,102	2,462,356

Votes Wasted

District	G20P_DV	G20P_RV	Winner
1	174,475	16,525	G20P_RV
2	161,449	19,665	G20P_RV
3	105,850	65,057	G20P_RV
4	137,465	31,965	G20P_RV
5	146,467	32,997	G20P_RV
6	54,399	106,060	G20P_DV
7	145,688	33,111	G20P_RV
Total	925,793	305,380	



494a

Summary	G20P_DV	G20P_RV	Total
Seats	1	6	7
Pct of Seats	14.29%	85.71%	
Pct of Votes	44.11%	55.89%	

APPENDIX DD

Senate Defendants' Exhibit 243

2020 Election Data Used To Draw Enacted Plan

2020 General Election Data By County

2020 General Election Data GIS Format

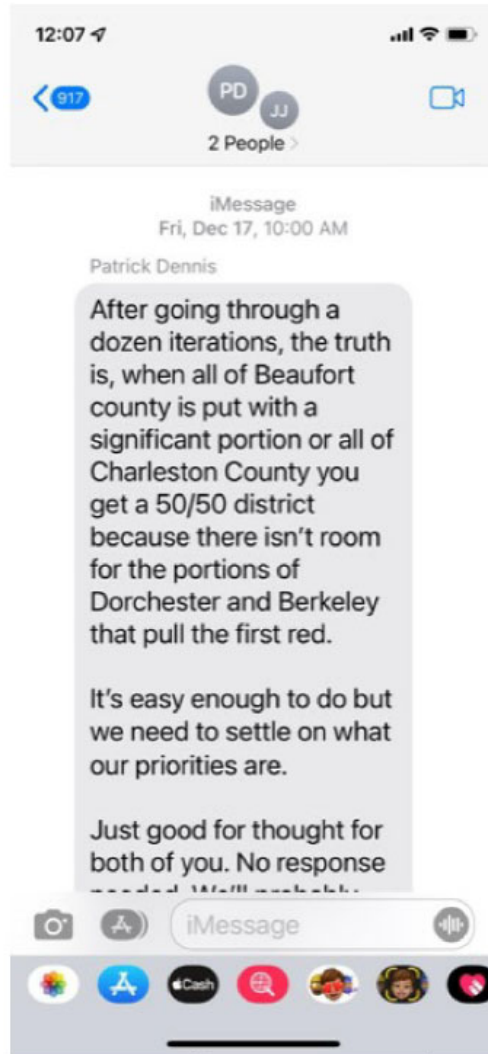
Provided To Court's Technical Advisor

Oct. 13, 2022

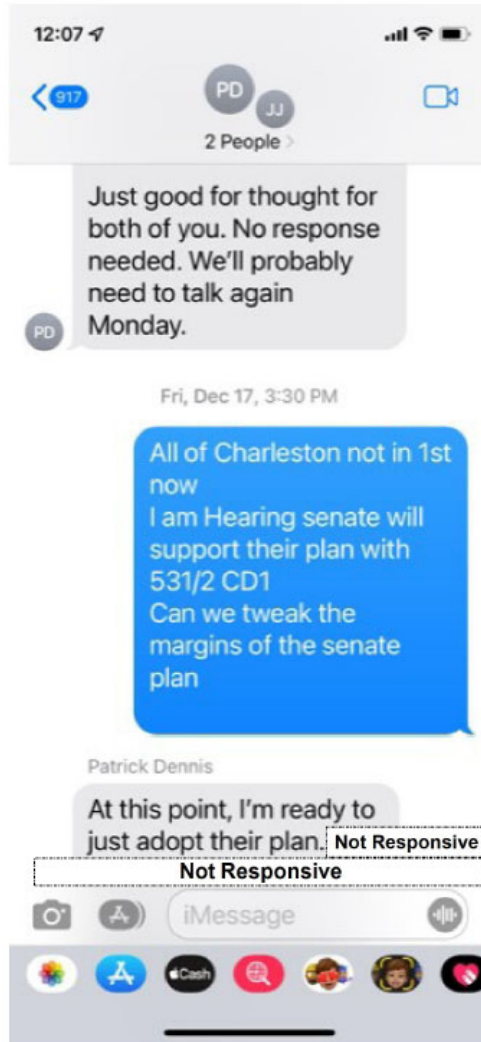
Available at:

<https://redistricting.scsenate.gov/census.html>

APPENDIX EE



497a



APPENDIX FF

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

THE SOUTH
CAROLINA STATE
CONFERENCE OF
THE NAACP, and
TAIWAN SCOTT, on
behalf of himself and all
other similarly situated
persons,

Plaintiffs,

v.

THOMAS C.
ALEXANDER, in his
official capacity as
President of the Senate;
LUKE A. RANKIN, in
his official capacity as
Chairman of the Senate
Judiciary Committee;
JAMES H. LUCAS, in
his official capacity as
Speaker of the House of
Representatives; CHRIS
MURPHY, in his official
capacity as Chairman of
the House of
Representatives

**Case No. 3-21-cv-
03302-JMC-TJH-RMG**

**Expert Report
Evaluating South
Carolina's Con-
gressional Map of
Dr. Jordan Ragusa
April 11, 2022**

Plaintiffs'
Exhibit

19

Judiciary Committee;
 WALLACE H.
 JORDAN, in his official
 capacity as Chairman of
 the House of
 Representatives
 Elections Law
 Subcommittee;
 HOWARD KNAPP, in
 his official capacity as
 interim Executive
 Director of the South
 Carolina State Election
 Commission; JOHN
 WELLS, Chair,
 JOANNE DAY,
 CLIFFORD J. EDLER,
 LINDA MCCALL, and
 SCOTT MOSELEY, in
 their official capacities
 as members of the South
 Carolina Election
 Commission,
 Defendants.

Introduction

I am an Associate Professor in the Department of Political Science at the College of Charleston in Charleston, South Carolina. I began my career as an Assistant Professor in the fall of 2011 and was awarded tenure in 2017. I teach undergraduate classes on American politics, Congress, American political development, national elections, research methodology, and statistical computing. I also teach

a graduate course on statistics in the Master of Public Administration program. At the College, I serve in two administrative roles: as the Associate Chair of my department and as the Research Director for a political economy and market process center in the School of Business.

I received my Ph.D. in political science from the University of Florida in 2011. Additionally, in 2006 and 2007 I took courses on statistical methods for social research at the University of Michigan. My graduate coursework spanned two fields: American politics and quantitative research methodology. I have published a dozen peer-reviewed articles on legislative politics, political parties, national elections, political economy, and South Carolina politics. I have also published two co-authored books: “First in the South: Why South Carolina’s Presidential Primary Matters” (2020, *University of South Carolina Press*) and “Congress in Reverse: Repeals from Reconstruction to the Present” (2020, *University of Chicago Press*).

I am frequently asked to provide expert commentary on American politics. I have been quoted in *The New Yorker*, *USA Today*, *The Post & Courier*, and *The State* and have appeared on *South Carolina ETV*, *South Carolina Public Radio*, *National Public Radio*, *Bloomberg TV*, *Matter of Fact with Soledad O’Brien* and several local news channels. I have published roughly thirty op-eds/editorials in newspapers such as *The Washington Post*, *The Post & Courier*, and *The State*. My public scholarship also includes consulting work for several organizations including the City of Charleston Police Department, Charleston County

Human Resources, Lowcountry Local First, and the Alliance for Full Acceptance.

A copy of my curriculum vitae is attached as Exhibit A. I have written a report and provided testimony by deposition on South Carolina’s State House map in this case, South Carolina State Conference of the NAACP v. Alexander, No. 3:21-cv-03302 (D.S.C.).

I have been hired by the plaintiffs’ counsel to examine whether race was a significant factor in the drafting of South Carolina’s map for the U.S. House. I am retained at the rate of \$250 per hour. My compensation does not depend in any way on the results of the case, or on the opinions and testimony I provide.

District VTD Change

Methodology

In this report I examine whether race was a significant factor in the composition of the redrawn South Carolina Congressional map. I do so with data on the 2000+ voting tabulation districts (VTDs) in the state. Better known as “precincts,” voting tabulation districts are administrative units where election results are reported. Further, VTDs are often receive special consideration from mapmakers during redistricting. For example, in its redistricting guidelines, the South Carolina House cites precinct lines as “evidence of communities of interest to be balanced” while the state Senate recommends “minimizing division of voting precinct boundaries.”¹

¹ See Section VII in the South Carolina House of Representatives’ “2021 Guidelines and Criteria for

For these reasons, VTDs are common units of analysis in redistricting research.²

In the analysis the three independent variables (factors that may explain how the lines were redrawn) are race, partisanship, and precinct size. I measure a precinct's racial composition using publicly available Census data from 2020. Specifically, I record the Black voting age population (BVAP) of each VTD in the state.³ Because they vary in size, in my analysis I also include a variable that records each precinct's total voting age population. I obtained these data from the 2020 Census as well. Finally, I measure a VTD's partisanship using the number of votes for Joe Biden in the 2020 general election.⁴ I obtained these data from SCVotes.gov, the official website of the South Carolina Election Commission.

In my analysis the key question is whether any of the above factors explain how lawmakers drew each district's boundaries. I answer this question with three statistical models. In each model, the dependent variable (the outcome being analyzed) is

Congressional and Legislative Redistricting" and Section III in the South Carolina Senate's "2021 Redistricting Guidelines."

² For example, see "Expert Report of Stephen Ansolabehere" in *Cooper v. Harris* (2013) or "Do Redistricting Commissions Avoid Partisan Gerrymanders?" by Best, Lem, Magleby and McDonald in the journal *American Politics Research* (2021).

³ Data are available at: <http://data.census.gov/>. See table "P3: Race for the Population 18 and Over." In the calculation I include any person who self-identified as Black, including Black in combination with any other category.

⁴ Data are available at: <https://www.scvotes.gov/election-results>.

whether a VTD was included or excluded from the redrawn district.

Model #1 analyzes which VTDs surrounding the district were moved into the redrawn district.⁵ In this analysis, the population is every VTD outside the old district but within the “county envelope.” For example, under the old map CD #1 included portions of five counties: Beaufort, Berkeley, Charleston, Colleton, and Dorchester. In this example, the VTDs in these five counties, but outside the old district, represent the county envelope—precincts that could be added to the redrawn district without crossing county borders and/or significantly reconfiguring the district. At issue is whether the VTDs moved into the redrawn district differ in systematic ways from those kept out of the new district.

Model #2 analyzes the opposite outcome—the decision to remove a precinct from the district. In this analysis, the population consists of all VTDs within the old district’s configuration. For example, in the prior map, CD #2 comprised roughly 300 precincts. In the redistricting process, these VTDs were either kept in the redrawn district or were moved out of the district. At issue is whether the VTDs moved out of the redrawn district differ in systematic ways from those kept in the district.

Finally, Model #3 combines both approaches. It examines which VTDs were moved into and kept in

⁵ If a district was drawn into a new county, those observations are included in the analysis among the positive outcomes as well as precincts added to the district from the county envelope. For example, in the redrawn map CD #1 was extended into a tiny portion of a sixth county: Jasper.

the redrawn district versus those kept out/moved out. Substantively, this model looks at the full range of choices available to mapmakers—to keep VTDs in the district and alter others. In other words, this model captures the decision to redraw some portions of a district and not redraw others. It also captures, in part, how the district was drawn in the previous redistricting cycle. For example, of the roughly five hundred VTDs that could have been selected for the redrawn CD #3, roughly three-fourths were kept in the district or were moved in from the county envelope outside the district. At issue is whether the VTDs moved into and kept in the district differ in systematic ways from those kept out and moved out of the district.

All three models were estimated using multivariate logistic regression.⁶ In simple terms, multivariate logistic regression is used when the dependent variable is binary (1/0) and the researcher wants to study the possible effect of one or more independent

⁶ Because models #1 and #2 have small sample sizes and/or few events per variable in a few cases, I used the *firthlogit* command in Stata 17 to estimate these models. Following recommendations in the analysis of rare events, this routine reduces the amount of statistical bias compared to standard logistic regression. See for example “Bias Reduction of Maximum Likelihood Estimates” by Firth in the journal *Biometrika* (1993) or a recent simulation study “No Rationale for 1 Variable Per 10 Events Criterion for Binary Logistic Regression Analysis” by van Smeden et al. in the journal *BMC Medical Research Methodology* (2016). Because Model #3 combines both models, and therefore has much larger sample sizes and number of events per variable, I used the standard *logit* command in Stata 17.

variables.⁷ In the analysis, the three independent variables will be statistically insignificant if they do not correlate with how the district lines were drawn. An insignificant BVAP variable suggests that race does not explain the district's configuration, an insignificant Biden Vote variable indicates that partisanship does not explain the district's design, and an insignificant Total VAP variable suggests that precinct size does not explain the district's configuration. In contrast, a statistically significant coefficient would indicate that race, partisanship and/or precinct size correlate in a meaningful way with how the district lines were drawn, and this correlation is unlikely to have been caused by chance.

A key feature of this approach is that it allows me to statistically disentangle the effect of each factor. For example, any correlation between race and how the district lines were drawn could be due, instead, to partisan motivations. After all, race and partisanship are highly correlated in South Carolina.⁸ Likewise, because race is measured using number of Black voters, race and precinct size correlate as well. In this

⁷ In models #1 and #2, the positive outcome (coded 1) indicates a VTD was moved into/out of the district and the reference outcome (coded 0) indicates the VTD was kept out/kept in the district. In model #3 the positive outcome (coded 1) indicates that VTD was moved into/kept in the district and the reference outcome (coded 0) indicates that VTD was moved out/kept out of the district.

⁸ According the 2020 Cooperative Election study, 76.3% of Black respondents from South Carolina said they identify as Democrats, compared to just 5.1% who call themselves Republicans. Likewise, 29.8% of White respondents said they identify as Democrats, compared to 52.2% who call themselves Republicans.

respect, perhaps mapmakers selected precincts based on their raw size, not the number of Black voters specifically. Statistically speaking, this analysis will reveal whether race explains how lawmakers redrew the map controlling for the other two factors. In other words, any significant effect of race cannot be explained away as a proxy effect of partisanship or precinct size.

Another measure of significance is the question of “how much” a variable affects some outcome. Although related, a statistically significant effect can nevertheless be small in magnitude. Statisticians refer to substantive significance as an “effect size.” I therefore compute the probability a VTD was chosen for a redrawn district varying only its racial makeup.⁹ In particular, in a series of figures derived from each of the models described above, I plot the probability of selection varying a precinct’s BVAP from 100 to 1500 Black voters.¹⁰

Notably, partisanship and precinct size are set to their mean in each figure. Substantively speaking, these

⁹ I compute these probabilities using the *margins* command in Stata 17. Although the BVAP coefficient in each model also reveal the effect size of race, the number does not have a straightforward interpretation. Indeed, because logistic regression uses a non-linear link function (i.e. a logit), the coefficients represent the effect of a 1-unit change in the independent variable on the log odds of the outcome.

¹⁰ In South Carolina the Black population is unevenly distributed across districts. For example, CD #6 has several VTDs with more than 1500 Black voters and relatively few under 100, while CD #1 has several VTDs with less than 100 Black voters and relatively few above 1500. I therefore selected 100 to 1500 because it contains the bulk of the data in each district and therefore provides a standardized baseline for comparison.

figures show whether VTDs of average size and average partisanship—but varying numbers of Black voters—had the same probability of being selected for the redrawn district. If race was not a substantively important factor in the district’s composition, VTDs with 100 Black voters should have about the same chance of being included in the redrawn district as VTDs with 1500 Black voters. A perfectly flat line in the figure would indicate no effect of race. Alternatively, lines with a steep slope would reveal that the size of the Black population had a substantively large effect on the probability of selection (and by how much).

Results

I discuss the results by district in the pages below.¹¹ All tables and figures can be found at the bottom of this report. In the tables, a positive sign on the BVAP variable indicates that VTDs with a large Black population were *more* likely to be: moved in (Model #1), moved out (Model #2), and moved into and kept in the redrawn district (Model #3). Conversely, a negative sign on the BVAP variable indicates that VTDs with a large Black population were *less* likely to be: moved in (Model #1), moved out (Model #2), and moved into and kept in the redrawn district (Model #3).

All in all, the results show, quite consistently, that race was a significant factor in the construction of South Carolina’s enacted map. In the tables, the BVAP variable is statistically significant in twelve of

¹¹ In the tables, each coefficient was scaled per 100 persons.

the eighteen models (67%) estimated.¹² In other words, in a large majority of cases, a precinct's Black population reliably predicts whether it was included or excluded from the redrawn district. As discussed earlier, these effects cannot be dismissed as a byproduct of partisan redistricting or normal variation in precinct size. Furthermore, the BVAP variable is numerically large in several cases, indicating that race was not just statistically significant, but substantially significant at the same time. I ultimately conclude that race factored into the design of five of the seven districts (CD #1, CD #2, CD #3, CD #5, and CD #6).

CD #1

Looking at Table 1 for CD #1, race was a significant factor in two models. Model 2 reveals that Black voters were significantly more likely to be moved out of the redrawn district while Model 3 shows that Black voters were significantly less likely to be moved into and kept in the district. In this respect, the results in Table 1 point in the same direction: Black voters were excluded from the redrawn district. Figure 1 presents the effect size for the BVAP variable in the three models. In the middle panel, we can see that VTDs with 100 Black voters had only a 13% chance of being moved out of the district, compared to 60% for VTDs with 1500 Black voters. In the bottom panel, we can see that VTDs with 100 Black voters had an 80% chance of being moved into or kept in the district, which compares to just 11% for VTDs with

¹² As explained in detail below, there is no analysis of CD #7 due to the lack of observations. I therefore estimated a total of eighteen models: three each for six districts.

1500 Black voters. Simply put, Figure 1 reveals that precincts of average size and average partisanship had very different probabilities of being included in the redrawn district depending on their racial composition.

I therefore conclude that race was an important factor in the design of the 1st district. All in all, the results indicate that Black voters were excluded from the district in both a statistically significant and substantively consequential fashion.

CD #2

In the analysis of CD #2, race was a significant factor in all three models. Looking at Table 2, Model 1 shows that Black voters were significantly less likely to be moved into the redrawn district while Model 2 reveals that Black voters were significantly less likely to be moved out of the district. Although they point in opposite directions, Figure 2 shows us that these effects are not equivalently sized and thus do not cancel out in the aggregate. Namely, we can see from the slope of each plot line that race had a much larger effect on the VTDs moved into the district (top panel) compared to VTDs moved out of the district (middle panel). In the top panel, VTDs with 100 Black voters had a 36% chance of being moved into the district, compared to just 8% for VTDs with 1500 Black voters. At the same time, Model 3 in Table 2 reveals that Black voters were less likely to be moved into and kept in the district. In the bottom panel of Figure 2, we can see that VTDs with 100 Black voters had an 90% chance of being moved into or kept in the district, compared to just 25% for VTDs with 1500 Black voters. Figure 2 therefore reveals that precincts of

average size and average partisanship had very different probabilities of being included in the redrawn district depending on their Black population.

I therefore conclude that race was an important factor in the design of the 2nd district. According to the results, Black voters were excluded from the redrawn district in both a statistically significant and substantively consequential fashion.

CD #3

Looking at Table 3 for CD #3, we can see that race was a significant factor in two models. Model 1 reveals that Black voters were significantly more likely to be added to the redrawn district while Model 3 reveals that Black voters were significantly more likely to be moved into and kept in the district. In this respect, the results in Table 3 point in the same direction: Black voters were added to and kept in the redrawn district. Figure 3 presents the effect size for the BVAP variable in the three models. In the top panel, we can see that VTDs with 100 Black voters had a 15% chance of being moved into the district, compared to 35% for VTDs with 1500 Black voters. In the bottom panel, VTDs with 100 Black voters had a 65% chance of being moved into or kept in the district, compared to 90% for VTDs with 1500 Black voters. Simply put, Figure 3 reveals that precincts of average size and average partisanship had very different probabilities of being included in the redrawn district depending on their racial composition.

I therefore conclude that race was an important factor in the design of the 3rd district. All in all, the results indicate that Black voters were added to and kept in

the district in both a statistically significant and substantively consequential fashion.

CD #4

In the analysis of CD #4, the BVAP variable is not statistically significant in any of the three models. I therefore conclude that race was not a significant factor in the district's composition.

CD #5

Looking at Table 5 for CD #5, race was a significant factor in two of models. Model 1 reveals that Black voters were significantly less likely to be added to the redrawn district while Model 3 indicates that Black voters were significantly less likely to be moved into and kept in the district. In this respect, the results in Table 5 point in the same direction: Black voters were excluded from the redrawn district. Figure 5 presents the effect size for the BVAP variable in the three models. In the top panel, we can see that VTDs with 100 Black voters had a 38% chance of being moved into the district, compared to <1% for VTDs with 1500 Black voters. In the bottom panel, VTDs with 100 Black voters had a 76% chance of being moved into or kept in the district, compared to 52% for VTDs with 1500 Black voters. Figure 5 therefore reveals that precincts of average size and average partisanship had very different probabilities of being included in the redrawn district depending on their Black population.

I therefore conclude that race was an important factor in the design of the 5th district. According to the results, Black voters were excluded from the redrawn district in both a statistically significant and substantively consequential fashion.

CD #6

In the analysis of CD #6, race was a significant factor in each of the models. Looking at Table 6, Model 1 shows that Black voters were significantly less likely to be added to the redrawn district while Model 2 reveals that Black voters were significantly less likely to be moved out of the district. Although they point in opposite directions, Figure 6 shows us that these effects are not equivalently sized and thus do not cancel out in the aggregate. Namely, we can see from the slope of each plot line that race had a larger effect on the VTDs moved out of the district (middle panel) compared to VTDs moved into the district (top panel). In the middle panel, VTDs with 100 Black voters had a 33% chance of being moved out of the district, compared to just 4% for VTDs with 1500 Black voters. At the same time, Model 6 in Table 6 reveals that Black voters were more likely to be moved into and kept in the district. In the bottom panel of Figure 6, we can see that VTDs with 100 Black voters had an 27% chance of being moved into or kept in the district, which compares to 85% for VTDs with 1500 Black voters. Simply put, Figure 6 reveals that precincts of average size and average partisanship had very different probabilities of being included in the redrawn district depending on their racial makeup.

I therefore conclude that race was a meaningful factor in the design of the 6th district. All in all, the results indicate that Black voters were added to and kept in the district in both a statistically significant and substantively consequential fashion.

CD #7

In the 7th district there were not enough observations to conduct a meaningful analysis (and thus there are no tables and figures below). First, the district, newly created after the 2010 census, is almost entirely within whole counties. For this reason, there are fewer than a dozen VTDs in the county envelope outside the old district. Second, the district's boundaries were only slightly redrawn this cycle. According to the data, there were just a handful of VTDs added to or removed from the redrawn district. I am therefore unable to determine whether race was a factor in the district's configuration.

Table 1: Analysis of CD #1

	<u>Model 1</u>	<u>Model 2</u>	<u>Model 3</u>
	<u>VTDs</u>	<u>VTDs</u>	<u>VTDs</u>
<u>Variables</u>	<u>Moved In</u>	<u>Moved Out</u>	<u>In/Kept In</u>
Biden Vote	0.13	0.39***	-0.11
BVAP	-0.10	0.18***	-0.28***
Total VAP	-0.02	-0.14***	0.12***
Constant	-0.81*	-2.06***	0.56*
N	133	369	502

*** p<0.01, ** p<0.05, * p<0.1

Figure 1: CD #1

Table 2: Analysis of CD #2

	<u>Model 1</u>	<u>Model 2</u>	<u>Model 3</u>
	<u>VTDs</u>	<u>VTDs</u>	<u>VTDs</u>
<u>Variables</u>	<u>Moved In</u>	<u>Moved Out</u>	<u>In/Kept In</u>
Biden Vote	0.34***	0.32**	0.04
BVAP	-0.18**	-0.52*	-0.31***
Total VAP	<-0.01	-0.17***	0.17***
Constant	-3.08***	-0.87	-0.03
N	128	295	423

*** p<0.01, ** p<0.05, * p<0.1

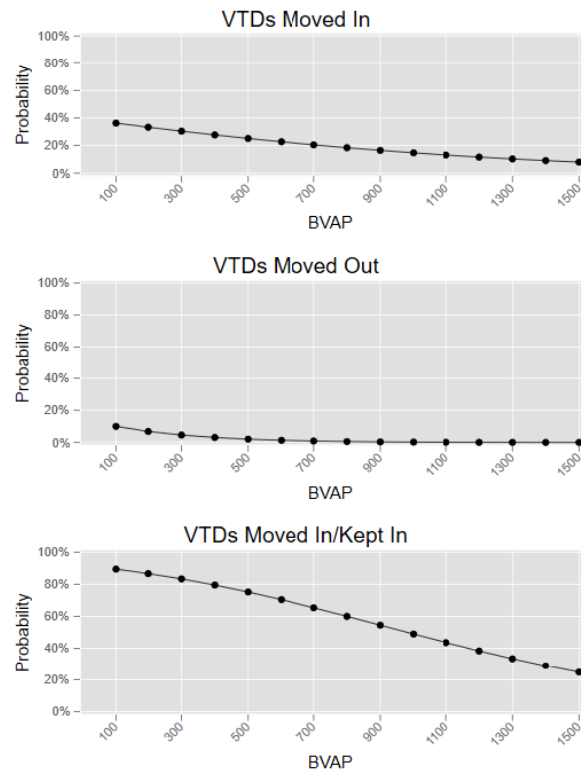
Figure 2: CD #2

Table 3: Analysis of CD #3

	<u>Model 1</u>	<u>Model 2</u>	<u>Model 3</u>
	<u>VTDs</u>	<u>VTDs</u>	<u>VTDs</u>
<u>Variables</u>	<u>Moved In</u>	<u>Moved Out</u>	<u>Moved In/Kept In</u>
Biden Vote	-0.32**	0.89***	-0.72***
BVAP	0.17*	0.08	0.22***
Total VAP	-0.24***	-0.16***	-0.02
Constant	3.79***	-6.15***	3.80***
N	161	339	500

*** p<0.01, ** p<0.05, * p<0.1

Figure 3: CD #3

Table 4: Analysis of CD #4

	<u>Model 1</u>	<u>Model 2</u>	<u>Model 3</u>
	<u>VTDs</u>	<u>VTDs</u>	<u>VTDs</u>
<u>Variables</u>	<u>Moved In</u>	<u>Moved Out</u>	<u>In/Kept In</u>
Biden Vote	0.46	0.02	0.06
BVAP	0.45	-0.19	0.09
Total VAP	-0.22	-0.02	-0.01
Constant	-2.62	-1.57**	1.30**
N	28	231	259

*** p<0.01, ** p<0.05, * p<0.1

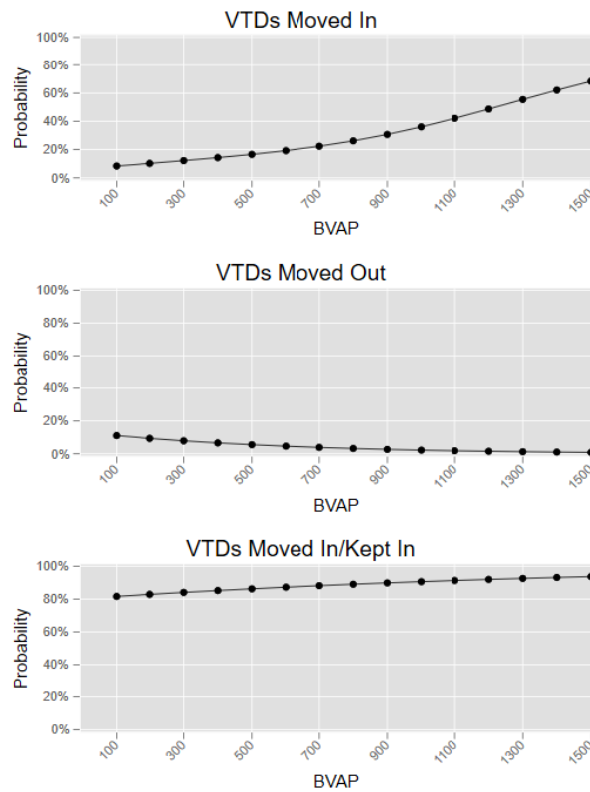
Figure 4: CD #4

Table 5: Analysis of CD #5

	<u>Model 1</u>	<u>Model 2</u>	<u>Model 3</u>
	<u>VTDs</u>	<u>VTDs</u>	<u>VTDs</u>
<u>Variables</u>	<u>Moved In</u>	<u>Moved Out</u>	<u>Moved In/Kept In</u>
Biden Vote	0.29*	0.02	0.10*
BVAP	-0.51***	0.02	-0.08**
Total VAP	0.01	-0.12***	-0.03*
Constant	-1.76***	-0.89**	1.25***
N	122	362	484

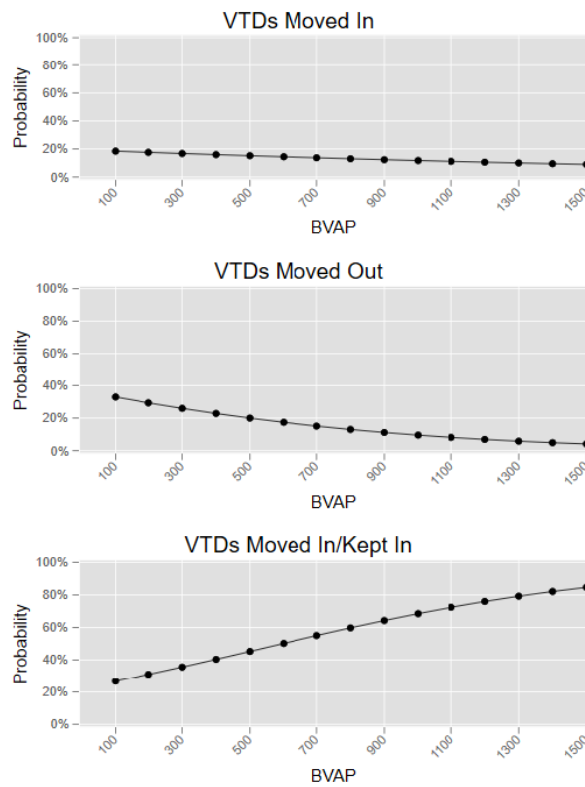
*** p<0.01, ** p<0.05, * p<0.1

Figure 5: CD #5

Table 6: Analysis of CD #6

	<u>Model 1</u>	<u>Model 2</u>	<u>Model 3</u>
	<u>VTDs</u>	<u>VTDs</u>	<u>VTDs</u>
<u>Variables</u>	<u>Moved In</u>	<u>Moved Out</u>	<u>Moved In/Kept In</u>
Biden Vote	0.26***	0.27***	-0.10**
BVAP	-0.06*	-0.21***	0.25***
Total VAP	-0.09***	<-0.01	-0.11***
Constant	-1.54***	-2.02***	0.68***
N	572	408	980

*** p<0.01, ** p<0.05, * p<0.1

Figure 6: CD #6

520a

I declare under penalty of perjury that the foregoing
is true and correct.

A handwritten signature in black ink, appearing to read "Jordan Ragusa", written in a cursive style.

Dr. Jordan Ragusa
April 11, 2022
Charleston, South Carolina

* * *

APPENDIX GG

Supplemental Information on South Carolina
Congressional Districts

Moon Duchin

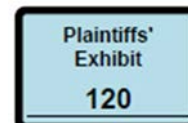
Professor of Mathematics, Tufts University
Collaborating Faculty in Race, Colonialism, and
Diaspora Studies

Senior Fellow, Tisch College of Civic Life

August 9, 2022

I am a Professor of Mathematics and a Senior Fellow in the Jonathan M. Tisch College of Civic Life at Tufts University. I have previously disclosed several reports in this case, and my full credentials and CV are available in prior disclosures. Drawing in part on questions that were posed in my deposition of July 14, 2022, this supplemental report provides further context for the material in the earlier reports. Section 4 contains two minor corrections.

In addition, this report contains data and metrics relating to the so-called “Jessamine” map that was provided to me by counsel. In my understanding, this is a Congressional plan created by the National Republican Redistricting Trust and conveyed to South Carolina officials for their consideration.



1 Distribution of BVAP

First, to help clarify the relationship between race-conscious line-drawing and electoral outcomes, I will illustrate the distribution of race over the districts in Figure 1. The plot shows the Black voting age population (BVAP) in each district, where the conventional numbering of the districts is ignored and we instead order them from lowest BVAP to highest BVAP. Note that this means that the district in column 6 is the one with the second-highest BVAP in each plan, and may be geographically located anywhere in the state. Column 6 therefore shows the same data that is depicted in Figure 10 from my April 11 report, but in fuller statewide context.

We see that the state's plans (benchmark Previous2012 and enacted Enacted2022) not only have unusually low BVAP in column 6, but indeed have unusually low BVAP in all districts except the highest and lowest.

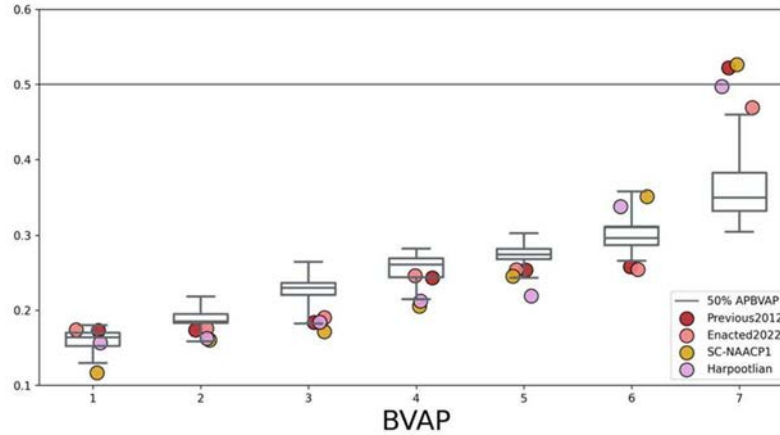


Figure 1: The box-and-whiskers plot shows the comparison of the four highlighted plans against an ensemble of 100,000 neutrally drawn plans (i.e., plans that consider population balance, contiguity, compactness, and the preservation of counties, but do not take racial or partisan data into account).

2 Performance by Black voters' candidates of choice

To allow us to draw out further relationships between patterns of elevated or depressed BVAP and electoral performance, I now turn to the four general elections identified by counsel as “particularly probative for Black electoral opportunity,” as discussed in Section 7 of my April 11 report.¹ The following tables show the

¹ From April 11 report, page 25: “four recent statewide elections that were identified by counsel as particularly probative for Black electoral opportunity. These are the Secretary of State and Treasurer elections from 2018 and the U.S. Senator and President elections from 2020. In each case, a Black-identified candidate was on the ballot (including Kamala Harris on the Biden ticket). These elections have also been confirmed by counsel to display racially polarized voting, in which Black voters cohesively support the candidate of choice,

electoral outcomes for each of the Black voters' candidates of choice (henceforth, "Black candidate(s) of choice" or simply "candidate(s) of choice") in these probative elections. By giving detailed vote shares, and not just counting the number of outcomes over 50%, this section provides additional detail for the effectiveness analysis presented in Section 7 of the April 11 report.

The values shown in the tables below report the share of the major-party vote for the identified candidate, rounded to the third decimal place. I have shaded gray the cells in which the candidate of choice had more votes than their opponent, so that they would have won the district outright (i.e., vote share greater than 50%). In order to highlight patterns in the tables, I've shaded **amber** the outcomes between 46% and 47.5% and have shaded **pink** the outcomes between 47.5% and 50%.

The tables are presented below for one probative election at a time. These four elections have statewide shares for the candidate of choice of .441, .448, .429, and .432, respectively, averaging .4372, or nearly 44%. The other nine statewide elections in my dataset, which were regarded as less probative, have a statewide vote share sometimes as low as 37% for these candidates, averaging .4199. These nine are still the candidates of choice for Black voters, but were referred to as "Other Democratic" candidates in Figure 12 on page 26 of the April 11 report. That figure illustrated that the state's enacted plan provides a far starker disadvantage in the probative

while White voters form enough of a bloc to defeat these candidates in each election."

elections than in other general election contests, leading me to conclude that race was predominating over even partisan advantage in the enacted map.² See Appendix A for the vote share tables across the nine other general elections.

2.1 Pres20 - Biden/Harris - statewide share .441

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.470	0.442	0.310	0.396	0.416	0.678	0.406
Enacted2022	0.456	0.446	0.310	0.406	0.408	0.663	0.406
Jessamine	0.440	0.440	0.310	0.406	0.407	0.693	0.406
SC-NAACP1	0.526	0.379	0.331	0.360	0.405	0.655	0.435
SC-NAACP2	0.525	0.408	0.310	0.397	0.379	0.663	0.406
Harpootlian	0.518	0.365	0.347	0.342	0.469	0.656	0.387
LWVSC	0.517	0.399	0.308	0.404	0.400	0.649	0.408
Foster	0.529	0.335	0.365	0.378	0.376	0.521	0.578
Muscatel	0.478	0.443	0.313	0.399	0.409	0.647	0.406
Harrison	0.520	0.444	0.317	0.394	0.449	0.543	0.416
Sukovich	0.521	0.340	0.364	0.349	0.448	0.662	0.414
Roberts	0.522	0.512	0.396	0.503	0.510	0.329	0.315

Table 1: Performance by the candidate of choice (Biden/Harris) in the 2020 Presidential election, by district in each proposed plan. Colors show 46–47.5%; 47.5–50%; 50% and beyond.

² In the phrasing of the prior report, “The state’s plans Previous2012 and Enacted2022 are not outliers in their performance in generic partisan races, where they sit very near the middle of the pack; rather, they only stand out in the races with a Black candidate on the ballot, where the preferences of Black voters most diverge from those of White voters.”

2.2 Sen20 - Harrison - statewide share .448

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.470	0.446	0.319	0.402	0.428	0.687	0.416
Enacted2022	0.457	0.450	0.319	0.412	0.421	0.669	0.416
Jessamine	0.440	0.444	0.319	0.412	0.420	0.700	0.416
SC-NAACP1	0.536	0.384	0.339	0.369	0.417	0.663	0.433
SC-NAACP2	0.526	0.414	0.319	0.404	0.391	0.668	0.415
Harpootlian	0.516	0.373	0.354	0.352	0.481	0.660	0.397
LWVSC	0.518	0.404	0.317	0.411	0.413	0.653	0.417
Foster	0.529	0.344	0.370	0.385	0.388	0.526	0.588
Muscatel	0.476	0.447	0.322	0.406	0.421	0.657	0.416
Harrison	0.521	0.449	0.327	0.400	0.461	0.548	0.426
Sukovich	0.529	0.347	0.369	0.362	0.460	0.666	0.415
Roberts	0.521	0.520	0.408	0.512	0.517	0.336	0.324

Table 2: Performance by the candidate of choice (Harrison) in the 2020 U.S. Senate election, by district in each proposed plan. Colors show 46–47.5%; 47.5–50%; 50% and beyond.

2.3 SOS18 - Whittenburg - statewide share .429

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.443	0.408	0.305	0.371	0.408	0.681	0.410
Enacted2022	0.433	0.413	0.305	0.380	0.401	0.658	0.409
Jessamine	0.414	0.407	0.305	0.380	0.400	0.691	0.409
SC-NAACP1	0.526	0.351	0.322	0.340	0.396	0.647	0.414
SC-NAACP2	0.505	0.385	0.305	0.375	0.365	0.646	0.409
Harpootlian	0.494	0.343	0.333	0.324	0.464	0.639	0.382
LWVSC	0.496	0.376	0.302	0.380	0.396	0.631	0.406
Foster	0.507	0.323	0.345	0.368	0.363	0.495	0.579
Muscatel	0.450	0.410	0.308	0.375	0.401	0.653	0.409
Harrison	0.499	0.433	0.313	0.369	0.440	0.518	0.421
Sukovich	0.513	0.320	0.344	0.337	0.443	0.642	0.399
Roberts	0.499	0.498	0.390	0.500	0.492	0.312	0.300

Table 3: Performance by the candidate of choice (Whittenburg) in the 2018 Secretary of State election, by district in each proposed plan. Colors show 46–47.5%; 47.5–50%; 50% and beyond.

2.4 Tres18 - Glenn - statewide share .432

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.442	0.409	0.306	0.371	0.417	0.687	0.416
Enacted2022	0.433	0.415	0.306	0.379	0.410	0.661	0.415
Jessamine	0.414	0.408	0.306	0.379	0.409	0.695	0.415
SC-NAACP1	0.532	0.353	0.320	0.343	0.405	0.650	0.411
SC-NAACP2	0.503	0.390	0.307	0.373	0.374	0.648	0.415
Harpootlian	0.492	0.347	0.330	0.328	0.474	0.642	0.386
LWVSC	0.493	0.381	0.303	0.379	0.407	0.632	0.411
Foster	0.508	0.327	0.340	0.370	0.371	0.498	0.586
Muscatel	0.448	0.411	0.309	0.374	0.410	0.659	0.415
Harrison	0.495	0.441	0.315	0.368	0.449	0.519	0.427
Sukovich	0.515	0.323	0.339	0.346	0.454	0.644	0.399
Roberts	0.499	0.500	0.399	0.506	0.491	0.314	0.303

Table 4: Performance by the candidate of choice (Glenn) in the 2018 Treasurer election, by district in each proposed plan. Colors show 46–47.5%; 47.5–50%; 50% and beyond.

2.5 Summary

We can see across all four of these probative contests that the Jessamine plan is more extreme in securing Republican advantage in CD 1. However, the enacted plan stays far enough from competitive in all districts that there is no meaningful difference in minority opportunity to elect candidates of choice.

3 Assessing the Jessamine Plan

The Jessamine plan, which I understand was prepared by the National Republican Redistricting

Trust as a draft plan for South Carolina, is shown here.

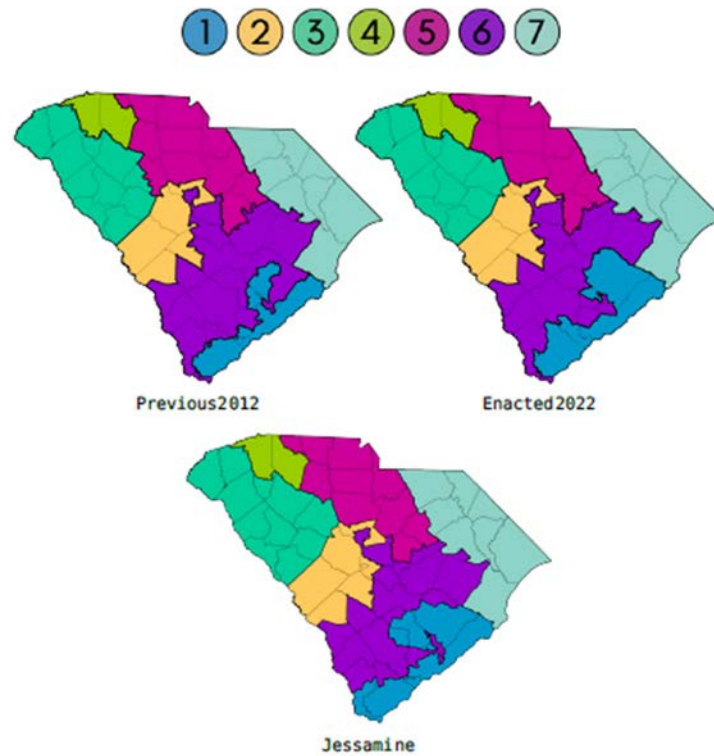


Figure 2: The benchmark and enacted plan (top left/right) and the “Jessamine” plan (bottom). There are minor differences between the enacted plan and the Jessamine plan along several borders, but the major difference is in the interface of CD 1 and CD 6. In particular, the Jessamine plan has a novel T shape at the interface of Charleston, Berkeley, and Dorchester counties.

Next, I will present the redistricting metrics for the Jessamine plan, in the same order and with the same

scoring system as in Section 4 (p9-13) of my April 11 report.

In terms of racial demographics, the plan has 49.3% BVAP in its CD 6, then dropping off to 25.4% in CD 7.

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Enacted2022	0.174	0.254	0.176	0.190	0.247	0.469	0.254
Jessamine	0.163	0.242	0.176	0.190	0.246	0.493	0.254

Table 5: The Jessamine plan has one district in the 40-50% BVAP range and no other districts over 30% BVAP.

The Jessamine plan has *de minimis* top to bottom deviation of one person.

For compactness, the Jessamine plan has an average Polsby-Popper score of 0.212, which is roughly the same as the enacted plan Enacted2022 (0.210) and is worse, for instance, than the Harpootlian plan (0.235). In the Reock metric, the Jessamine plan scores 0.368, comparable to the enacted plan Enacted2022 (0.361) and behind the LWVSC plan (0.379). Its block cut edges score—here, recall that a lower score is better—is 3484 edges that have been cut, which makes it less compact than the enacted plan Enacted2022 (2843), the benchmark plan Previous2012 (3217), and the Harpootlian plan (2227), among others.

The Jessamine plan splits 13 counties, each two ways (so there are 26 pieces). It splits 43 county subdivisions two ways (so there are 86 pieces). And it splits 13 cities (26 pieces) and 13 towns (16 pieces). These numbers are the same whether we consider all splits of territory or whether we restrict to splits of populated territory. Overall, in terms of preserving political subdivisions, the Jessamine plan is generally

somewhat worse than the enacted plan Enacted2022, the benchmark plan Previous2012, and than many of the public proposals, including the Harpootlian plan. No incumbents are paired in the Jessamine plan.

4 Minor corrections to earlier report

Finally, I record two minor corrections to my earlier report of April 11, 2022, offering clarifications in the process. These corrections have no effect on my quantitative or qualitative conclusions from earlier reports.

First, Figure 2 on page 6 of the April 11 report shows a pair of choropleth plots depicting the changes to each county and census tract in South Carolina between 2010 and 2019. They are erroneously labeled “BVAP” (Black voting age population) when they should be labeled “**BCVAP**” (Black citizen voting age population). The reason for using the American Community Survey rather than the Decennial Census data is to make it possible to see intercensal changes, which can show us whether change is gradual or sudden. To illustrate, I am now including several timestamps over the ten-year span in Figure 3 below.³ The 2020 ACS was recently released, allowing me to update the timeline to 2020.

³ Again drawing from ACS 5-year estimates ending in each successive year, the Richland County statistics are as follows. BCVAP10: 122,702; BCVAP11: 125,562; BCVAP12: 128,260; BCVAP13: 130,944; BCVAP14: 133,049; BCVAP15: 135,385; BCVAP16: 137,985; BCVAP17: 140,623; BCVAP18: 142,633; BCVAP19: 144,660; BCVAP20: 152,782. Over the decade, BCVAP has risen by over 30,000 people, or nearly 25%, well outpacing the overall rate of population growth in the county (8%) and in the state (10.7%).

Second, my April 11 report includes the following paragraph:

This finding is even much strengthened by considering the wider dataset of all recent statewide general elections (bottom of Figure 12). This time, **seven** more general elections are evaluated: Attorney General 2018, Governor 2014, Governor 2018, Lt. Governor 2014, President 2016, Secretary of State 2014, Superintendent of Education 2014, U.S. Senator 2014, and U.S. Senator 2016. If we compare the four that are considered probative for Black electoral opportunity against the nine that are not designated in this way, the picture becomes extremely clear. (emph. added)

Here, the reference to “seven more general elections” should have read “nine more general elections.” (The list contains nine elections and the rest of the paragraph also references nine.)

Change in BCVAP from 2010

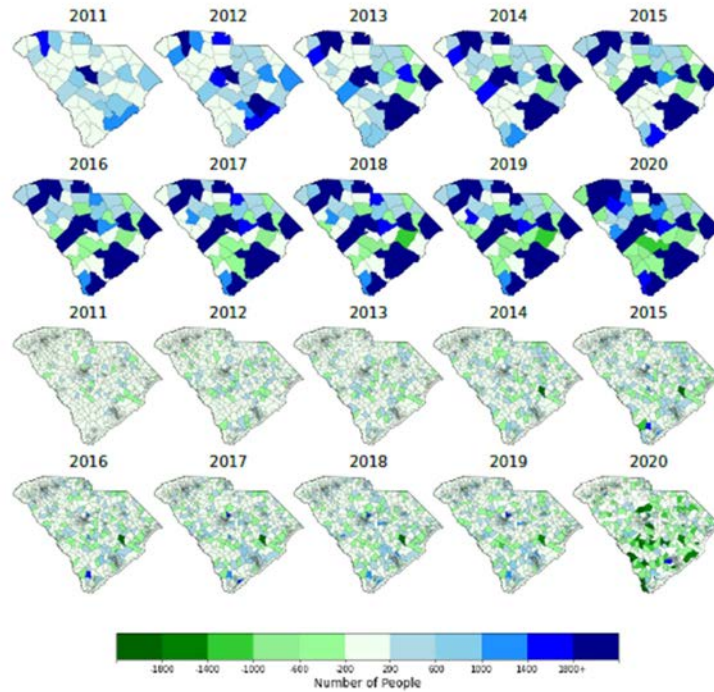


Figure 3: These plots compare the Black citizen voting age population (BCVAP) from the 5-year ACS estimate ending in 2010 to the corresponding estimates from each successive year up to 2019, giving further background for Figure 2 from my April 11 report. We see that Richland County immediately saw its BCVAP count rise by over 1800 people, and indeed the count rose steadily over the decade, outpacing population growth in the state overall. Charleston and Berkeley counties see pronounced BCVAP growth as well. In the bottom plots, which show differences at the tract level, we see that for the most part the growth pattern is not concentrated in a small number of tracts, but is distributed over the counties.

A Performance tables for remaining elections

Recall that the 13 general elections in the dataset have been separated into 4 elections that were identified by counsel as more probative for Black electoral opportunity, and 9 other general elections. In each of the 13, I understand that the Democratic candidate is the Black candidate of choice.

For completeness of the record, this appendix presents the shares for these other Democratic candidates in each district in each plan.

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.479	0.458	0.334	0.411	0.431	0.700	0.427
Enacted2022	0.468	0.461	0.335	0.420	0.423	0.683	0.427
Jessamine	0.449	0.457	0.335	0.420	0.422	0.713	0.427
SC-NAACP1	0.548	0.398	0.355	0.376	0.417	0.670	0.448
SC-NAACP2	0.539	0.423	0.333	0.413	0.393	0.678	0.427
Harpootlian	0.528	0.383	0.369	0.355	0.484	0.672	0.405
LWVSC	0.531	0.413	0.332	0.420	0.417	0.665	0.426
Foster	0.539	0.353	0.382	0.394	0.388	0.543	0.596
Muscatel	0.486	0.459	0.338	0.415	0.424	0.675	0.427
Harrison	0.533	0.461	0.342	0.410	0.465	0.562	0.438
Sukovich	0.541	0.359	0.382	0.367	0.464	0.676	0.429
Roberts	0.533	0.536	0.409	0.521	0.530	0.348	0.334

Table 6: Governor 2018

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.473	0.439	0.319	0.390	0.424	0.698	0.425
Enacted2022	0.460	0.443	0.320	0.398	0.417	0.681	0.425
Jessamine	0.441	0.438	0.320	0.398	0.416	0.712	0.425
SC-NAACP1	0.547	0.380	0.336	0.359	0.411	0.664	0.440
SC-NAACP2	0.536	0.409	0.319	0.391	0.384	0.669	0.424
Harpootlian	0.522	0.368	0.348	0.341	0.479	0.661	0.403
LWVSC	0.530	0.396	0.317	0.398	0.411	0.654	0.423
Foster	0.533	0.340	0.359	0.391	0.380	0.525	0.594
Muscatel	0.480	0.440	0.322	0.393	0.417	0.671	0.425
Harrison	0.532	0.449	0.327	0.387	0.456	0.548	0.436
Sukovich	0.540	0.341	0.358	0.357	0.458	0.666	0.420
Roberts	0.526	0.529	0.405	0.517	0.512	0.331	0.317

Table 7: Attorney General 2018

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.431	0.406	0.302	0.364	0.404	0.688	0.403
Enacted2022	0.422	0.41	0.303	0.374	0.394	0.664	0.403
Jessamine	0.403	0.405	0.303	0.374	0.393	0.693	0.403
SC-NAACP1	0.517	0.357	0.312	0.334	0.389	0.650	0.404
SC-NAACP2	0.501	0.381	0.304	0.364	0.36	0.656	0.402
Harpootlian	0.498	0.347	0.322	0.316	0.465	0.648	0.359
LWVSC	0.491	0.374	0.300	0.373	0.392	0.641	0.396
Foster	0.508	0.323	0.331	0.347	0.355	0.505	0.581
Muscatel	0.440	0.408	0.306	0.368	0.395	0.660	0.402
Harrison	0.491	0.437	0.312	0.361	0.433	0.525	0.415
Sukovich	0.502	0.315	0.331	0.341	0.442	0.654	0.390
Roberts	0.506	0.495	0.380	0.496	0.497	0.308	0.293

Table 8: President 2016

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.334	0.352	0.274	0.310	0.390	0.646	0.374
Enacted2022	0.333	0.359	0.275	0.318	0.381	0.604	0.374
Jessamine	0.315	0.353	0.275	0.318	0.380	0.633	0.374
SC-NAACP1	0.459	0.315	0.272	0.296	0.369	0.608	0.321
SC-NAACP2	0.404	0.329	0.278	0.311	0.341	0.603	0.374
Harpootlian	0.401	0.314	0.277	0.284	0.443	0.596	0.314
LWVSC	0.391	0.329	0.271	0.317	0.381	0.587	0.360
Foster	0.420	0.299	0.279	0.293	0.331	0.451	0.553
Muscatel	0.339	0.356	0.277	0.314	0.380	0.614	0.374
Harrison	0.390	0.398	0.284	0.306	0.408	0.472	0.386
Sukovich	0.424	0.282	0.279	0.317	0.422	0.600	0.322
Roberts	0.415	0.431	0.361	0.464	0.441	0.275	0.259

Table 9: U.S. Senate 2016

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.372	0.377	0.296	0.318	0.409	0.711	0.419
Enacted2022	0.372	0.385	0.296	0.326	0.401	0.673	0.419
Jessamine	0.353	0.379	0.296	0.326	0.400	0.705	0.419
SC-NAACP1	0.544	0.331	0.288	0.305	0.386	0.655	0.342
SC-NAACP2	0.464	0.356	0.297	0.321	0.346	0.646	0.418
Harpootlian	0.437	0.332	0.289	0.293	0.476	0.641	0.367
LWVSC	0.454	0.344	0.293	0.325	0.400	0.631	0.411
Foster	0.463	0.318	0.284	0.335	0.340	0.480	0.611
Muscatel	0.375	0.383	0.299	0.321	0.400	0.685	0.418
Harrison	0.453	0.438	0.306	0.312	0.435	0.511	0.433
Sukovich	0.504	0.304	0.284	0.334	0.454	0.641	0.343
Roberts	0.453	0.507	0.370	0.513	0.472	0.289	0.275

Table 10: U.S. Senate 2014

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.387	0.414	0.303	0.320	0.422	0.711	0.419
Enacted2022	0.382	0.418	0.306	0.327	0.413	0.681	0.419
Jessamine	0.363	0.414	0.306	0.327	0.411	0.710	0.419
SC-NAACP1	0.533	0.362	0.297	0.305	0.403	0.669	0.357
SC-NAACP2	0.478	0.368	0.305	0.319	0.365	0.670	0.418
Harpootlian	0.455	0.351	0.301	0.290	0.494	0.662	0.356
LWVSC	0.466	0.357	0.303	0.327	0.414	0.655	0.407
Foster	0.474	0.324	0.293	0.330	0.335	0.536	0.612
Muscatel	0.391	0.417	0.309	0.322	0.412	0.686	0.418
Harrison	0.465	0.431	0.316	0.315	0.441	0.556	0.433
Sukovich	0.500	0.318	0.292	0.335	0.473	0.668	0.351
Roberts	0.467	0.520	0.371	0.527	0.487	0.306	0.272

Table 11: Governor 2014

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.383	0.378	0.295	0.312	0.397	0.701	0.417
Enacted2022	0.380	0.384	0.297	0.319	0.387	0.668	0.417
Jessamine	0.361	0.379	0.297	0.319	0.386	0.700	0.417
SC-NAACP1	0.528	0.332	0.290	0.295	0.379	0.651	0.358
SC-NAACP2	0.472	0.349	0.296	0.313	0.336	0.646	0.417
Harpootlian	0.449	0.327	0.293	0.280	0.468	0.639	0.364
LWVSC	0.462	0.337	0.293	0.318	0.387	0.631	0.409
Foster	0.468	0.311	0.286	0.338	0.323	0.487	0.601
Muscatel	0.388	0.382	0.299	0.314	0.387	0.675	0.417
Harrison	0.461	0.423	0.305	0.307	0.421	0.514	0.432
Sukovich	0.496	0.299	0.286	0.321	0.447	0.641	0.355
Roberts	0.460	0.499	0.364	0.510	0.468	0.290	0.264

Table 12: Lt. Governor 2014

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.393	0.365	0.286	0.295	0.391	0.695	0.408
Enacted2022	0.389	0.371	0.287	0.302	0.381	0.665	0.408
Jessamine	0.371	0.366	0.297	0.303	0.380	0.695	0.408
SC-NAACP1	0.524	0.320	0.279	0.278	0.371	0.642	0.368
SC-NAACP2	0.481	0.344	0.287	0.298	0.325	0.638	0.407
Harpootlian	0.461	0.315	0.283	0.264	0.460	0.631	0.355
LWVSC	0.468	0.333	0.283	0.301	0.380	0.622	0.399
Foster	0.478	0.302	0.275	0.332	0.310	0.472	0.594
Muscatel	0.399	0.369	0.289	0.298	0.380	0.670	0.407
Harrison	0.468	0.423	0.295	0.291	0.412	0.502	0.423
Sukovich	0.496	0.287	0.275	0.306	0.439	0.633	0.360
Roberts	0.472	0.491	0.358	0.500	0.457	0.279	0.247

Table 13: Secretary of State 2014

	CD 1	CD 2	CD 3	CD 4	CD 5	CD 6	CD 7
Previous2012	0.363	0.343	0.292	0.317	0.399	0.699	0.419
Enacted2022	0.363	0.352	0.291	0.325	0.392	0.661	0.419
Jessamine	0.344	0.344	0.291	0.325	0.391	0.694	0.419
SC-NAACP1	0.529	0.298	0.291	0.303	0.383	0.643	0.337
SC-NAACP2	0.455	0.330	0.292	0.319	0.335	0.629	0.419
Harpootlian	0.433	0.304	0.291	0.288	0.475	0.622	0.354
LWVSC	0.442	0.319	0.289	0.324	0.395	0.612	0.407
Foster	0.456	0.300	0.287	0.325	0.330	0.458	0.603
Muscatel	0.366	0.349	0.294	0.320	0.391	0.673	0.418
Harrison	0.442	0.418	0.301	0.311	0.424	0.485	0.435
Sukovich	0.489	0.280	0.287	0.323	0.453	0.623	0.340
Roberts	0.447	0.480	0.369	0.506	0.458	0.275	0.272

Table 14: Superintendent of Education 2014

538a

I reserve the right to continue to supplement my report in light of additional facts, testimony and/or materials that may come to light. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed this 9th day of August, 2022.

A handwritten signature in black ink, appearing to read 'Moon Duchin', written over a horizontal line.

Moon Duchin

APPENDIX HH

adopted 8.3.21

**South Carolina House of Representatives
Judiciary Committee
Redistricting Ad Hoc Committee
2021 Guidelines and Criteria for
Congressional and Legislative Redistricting**

The South Carolina House of Representatives, the House Judiciary Committee, and the Redistricting Ad Hoc Committee have the authority to determine the criteria that the South Carolina House of Representatives will use to create Congressional and legislative districts. Therefore, the Redistricting Ad Hoc Committee of the South Carolina House of Representatives adopts these guidelines and criteria.

I. Constitution of the United States

Redistricting plans shall comply with the United States Constitution, the Equal Protection Clause of the Fourteenth Amendment, and the opinions of the Supreme Court of the United States.

II. Federal Law

Redistricting plans shall also comply with federal law and the Voting Rights Act of 1965, as amended. Pursuant to the Voting Rights Act of 1965, and in accordance with the opinions of the Supreme Court of

Plaintiffs'
Exhibit

175

Exhibit
0003

the United States, race may be a factor considered in the creation of redistricting plans, but it shall not be the predominant factor motivating the legislature's decisions concerning the redistricting plan and shall not unconstitutionally predominate over other criteria set forth in these guidelines. The dilution of racial or ethnic minority voting strength is contrary to the laws of the United States and of the State of South Carolina, and also is against the public policy of this state. Any proposed redistricting plan that is demonstrated to have the intent or effect of dispersing or concentrating minority population in a manner that prevents minorities from electing their candidates of choice will neither be accepted nor approved.

III. State Law

Except as otherwise required by federal law, redistricting plans also shall comply with the South Carolina Constitution, the laws of this state, and the opinions of the South Carolina Supreme Court.

IV. Equal Population/Deviation

- a. The population of the Congressional and legislative districts will be determined based solely on the enumeration of the 2020 federal decennial census pursuant to the United States Constitution, Article I, Section 2, and the Equal Protection Clause of the Fourteenth Amendment.
- b. The number of persons in Congressional districts shall be as nearly equal in population as is practicable. The ideal population for Congressional districts shall be 731,204. In every case, efforts shall be made to achieve

strict equality or produce the lowest overall range of deviation possible when taking into consideration geographic limitations.

- c. Legislative districts shall have substantial equality of population. The ideal population for a South Carolina House of Representatives district shall be 41,278. In every case, efforts should be made to limit the overall range of deviation from the ideal population to less than five percent, or a relative deviation in excess of plus or minus two and one-half percent for each South Carolina House district. Nevertheless, any overall deviation greater than five percent from equality of population among South Carolina House districts shall be justified when it is the result of geographic limitations, the promotion of a constitutionally permissible state policy, or to otherwise comply with the criteria identified in these guidelines.

V. Contiguity

Congressional and legislative districts shall be comprised of contiguous territory. Contiguity by water is sufficient. Areas which meet only at the points of adjoining corners are not considered contiguous.

VI. Compactness

Congressional and legislative districts should be reasonably compact in form and should follow census geography. Bizarrely-shaped districts are to be avoided except when required by one or more of the following factors: (a) census block geography; (b) natural geography including water; (c) efforts to comply with the standards delineated above in

Section IV; and/or (d) efforts to comply with the Voting Rights Act of 1965, as amended. Compactness may require the division of population concentrations when to do otherwise would mean dramatically altering the character of a district or would require tortuous configuration of an adjoining district.

Compactness should be judged in part by the configuration of prior plans. Compactness should not be judged based upon any mathematical, statistical, or formula-based calculation or determination.

VII. Communities of Interest

Communities of interest should be considered in the redistricting process. A variety of factors may contribute to a community of interest including, but not limited to the following: (a) economic; (b) social and cultural; (c) historic influences; (d) political beliefs; (e) voting behavior; (f) governmental services; (g) commonality of communications; and (h) geographic location and features. Communities of interest should be considered and balanced by the Redistricting Ad Hoc Committee, the House Judiciary Committee, and the South Carolina House of Representatives. County boundaries, municipality boundaries, and precinct lines (as represented by the Census Bureau's Voting Tabulation District lines) may be considered as evidence of communities of interest to be balanced, but will be given no greater weight, as a matter of state policy, than other identifiable communities of interest.

It is possible that competing communities of interest will be identified during the redistricting process. Although it may not be possible to accommodate all communities of interests, the

Redistricting Ad Hoc Committee, the House Judiciary Committee, and the South Carolina House of Representatives will attempt to accommodate diverse communities of interest to the extent possible.

VIII. Incumbency Consideration

Incumbency may be considered in the reapportionment process. Reasonable efforts may be made to ensure that incumbent legislators remain in their current districts. Reasonable efforts may be made to ensure that incumbent legislators are not placed into districts where they will be compelled to run against other incumbent members of the South Carolina House of Representatives. However, incumbency considerations shall not influence the redistricting plan to such an extent as to overtake other redistricting principles.

IX. Priority of Criteria

- a. In establishing Congressional and legislative districts, all criteria identified in these guidelines should be considered. However, if there is a conflict among the requirements of these guidelines, the requirements addressed in Sections I, II, III, and IV herein should be given priority.
- b. If application of the criteria set forth in these guidelines will cause a violation of applicable constitutional, federal, or state law, and there is no other way to conform to the criteria without such violation of law, deviations from the criteria are permitted. However, any deviation from the criteria shall not be any more than necessary to avoid the violation of

law, and the remainder of the redistricting plan shall remain faithful to the criteria.

X. Public Input

The Redistricting Ad Hoc Committee should make reasonable efforts to be transparent and allow public input into the redistricting process.

APPENDIX II

Charleston VTDs Moved from CD 1 to CD 6 Under the Enacted Plan

CD (2011)	CD (En- acted)	County	VTD	Name
01	6	Charleston	019000102	deer park 1a
01	6	Charleston	019000103	deer park 1b
01	6	Charleston	019000104	deer park 2a
01	6	Charleston	019000105	deer park 2b
01	6	Charleston	019000106	deer park 2c
01 (split cd1/ cd6)	6	Charleston	019000107	deer park 3 (split)
01	6	Charleston	019000110	lincolnvile
01	6	Charleston	019000132	ladson
01	6	Charleston	019000201	charleston 1
01	6	Charleston	019000202	charleston 2
01	6	Charleston	019000203	charleston 3
01	6	Charleston	019000204	charleston 4
01	6	Charleston	019000205	charleston 5
01	6	Charleston	019000206	charleston 6
01	6	Charleston	019000207	charleston 7
01 (split cd1/ cd6)	6	Charleston	019000208	charleston 8 (split)

CD (2011)	CD (En-acted)	County	VTD	Name
01 (split cd1/ cd6)	6	Charleston	019000209	charleston 9 (split)
01	6	Charleston	019000501	st. andrews 1
01	6	Charleston	019000502	st. andrews 2
01	6	Charleston	019000503	st. andrews 3
01	6	Charleston	019000504	st. andrews 4
01	6	Charleston	019000505	st. andrews 5
01	6	Charleston	019000506	st. andrews 6
01	6	Charleston	019000507	st. andrews 7
01	6	Charleston	019000508	st. andrews 8
01	6	Charleston	019000509	st. andrews 9
01	6	Charleston	019000510	st. andrews 10
01	6	Charleston	019000511	st. andrews 11
01	6	Charleston	019000512	st. andrews 12
01	6	Charleston	019000513	st. andrews 13

547a

CD (2011)	CD (En-acted)	County	VTD	Name
01	6	Charleston	019000514	st. andrews 14
01	6	Charleston	019000515	st. andrews 15
01	6	Charleston	019000516	st. andrews 16
01	6	Charleston	019000517	st. andrews 17
01	6	Charleston	019000518	st. andrews 18
01	6	Charleston	019000519	st. andrews 19
01	6	Charleston	019000520	st. andrews 20
01	6	Charleston	019000521	st. andrews 21
01	6	Charleston	019000522	st. andrews 22
01	6	Charleston	019000523	st. andrews 23
01	6	Charleston	019000524	st. andrews 24
01	6	Charleston	019000525	st. andrews 25
01	6	Charleston	019000526	st. andrews 26
01	6	Charleston	019000527	st. andrews 27
01	6	Charleston	019000528	st. andrews 28

548a

CD (2011)	CD (En-acted)	County	VTD	Name
01	6	Charleston	019000529	st. andrews 29
01	6	Charleston	019000530	st. andrews 30
01	6	Charleston	019000531	st. andrews 31
01	6	Charleston	019000532	st. andrews 32
01	6	Charleston	019000533	st. andrews 33
01	6	Charleston	019000534	st. andrews 34
01	6	Charleston	019000535	st. andrews 35
01	6	Charleston	019000536	st. andrews 36
01	6	Charleston	019000537	st. andrews 37
01 (split cd1/ cd6)	6	Charleston	019000628	north charleston 28 (split)

Name	Sum of TOTAL	Sum of NH WHT	% NH WHT	Sum of NH DOJ BLK
deer park 1a	2730	887	32.5%	1486

549a

Name	Sum of TOTAL	Sum of NH WHT	% NH WHT	Sum of NH DOJ BLK
deer park 1b	7708	3707	48.1%	2198
deer park 2a	5042	2307	45.8%	1950
deer park 2b	3280	1284	39.1%	1309
deer park 2c	1540	759	49.3%	492
deer park 3 (split)	2726	1308	48.0%	915
lincolnville	3471	1471	42.4%	1494
ladson	5160	2171	42.1%	1988
charleston 1	795	760	95.6%	1
charleston 2	976	922	94.5%	12
charleston 3	1062	987	92.9%	14
charleston 4	1145	846	73.9%	252
charleston 5	1053	965	91.6%	9
charleston 6	1736	1303	75.1%	293
charleston 7	2498	2131	85.3%	171
charleston 8 (split)	127	103	81.1%	12

550a

Name	Sum of TOTAL	Sum of NH WHT	% NH WHT	Sum of NH DOJ BLK
charleston 9 (split)	198	163	82.3%	21
st. andrews 1	885	533	60.2%	266
st. andrews 2	1393	1162	83.4%	84
st. andrews 3	1571	664	42.3%	791
st. andrews 4	1993	1786	89.6%	54
st. andrews 5	1669	1553	93.0%	30
st. andrews 6	1432	1329	92.8%	15
st. andrews 7	2117	1709	80.7%	197
st. andrews 8	1100	392	35.6%	635
st. andrews 9	1743	333	19.1%	1348
st. andrews 10	1484	877	59.1%	451
st. andrews 11	1127	1014	90.0%	41
st. andrews 12	1305	1107	84.8%	105
st. andrews 13	1603	1200	74.9%	226

551a

Name	Sum of TOTAL	Sum of NH WHT	% NH WHT	Sum of NH DOJ BLK
st. andrews 14	1977	1134	57.4%	432
st. andrews 15	2036	802	39.4%	986
st. andrews 16	1233	1019	82.6%	141
st. andrews 17	2290	1772	77.4%	334
st. andrews 18	2724	1222	44.9%	1168
st. andrews 19	424	89	21.0%	274
st. andrews 20	3922	2297	58.6%	1106
st. andrews 21	1385	853	61.6%	329
st. andrews 22	1516	1220	80.5%	179
st. andrews 23	1491	1041	69.8%	256
st. andrews 24	2004	988	49.3%	871
st. andrews 25	2305	1367	59.3%	632
st. andrews 26	1848	1119	60.6%	491
st. andrews 27	6553	4520	69.0%	1250

552a

Name	Sum of TOTAL	Sum of NH WHT	% NH WHT	Sum of NH DOJ BLK
st. andrews 28	4758	3108	65.3%	1036
st. andrews 29	5106	3801	74.4%	561
st. andrews 30	2771	2021	72.9%	438
st. andrews 31	1800	1179	65.5%	254
st. andrews 32	1476	1139	77.2%	162
st. andrews 33	1037	778	75.0%	102
st. andrews 34	3060	2545	83.2%	287
st. andrews 35	2078	1730	83.3%	159
st. andrews 36	2058	1606	78.0%	200
st. andrews 37	6444	4844	75.2%	640
north charleston 28 (split)	556	190	34.2%	253
Total	123521	78117	63.2%	29401

553a

Name	% NH DOJ BLK	Sum of AL BLK	% AP BLK	Sum of VAP TOTAL
deer park 1a	54.4%	1523	55.8%	1838
deer park 1b	28.5%	2358	30.6%	6504
deer park 2a	38.7%	2001	39.7%	4119
deer park 2b	39.9%	1398	42.6%	2617
deer park 2c	31.9%	515	33.4%	1278
deer park 3 (split)	33.6%	973	35.7%	2312
lincolnvile	43.0%	1577	45.4%	2589
ladson	38.5%	2078	40.3%	3862
charleston 1	0.1%	5	0.6%	686
charleston 2	1.2%	16	1.6%	869
charleston 3	1.3%	23	2.2%	945
charleston 4	22.0%	257	22.4%	935
charleston 5	0.9%	15	1.4%	944
charleston 6	16.9%	302	17.4%	1578
charleston 7	6.8%	196	7.8%	2426
charleston 8 (split)	9.4%	14	11.0%	115

554a

Name	% NH DOJ BLK	Sum of AL BLK	% AP BLK	Sum of VAP TOTAL
charleston 9 (split)	10.6%	21	10.6%	174
st. andrews 1	30.1%	280	31.6%	751
st. andrews 2	6.0%	100	7.2%	1231
st. andrews 3	50.4%	809	51.5%	1348
st. andrews 4	2.7%	60	3.0%	1643
st. andrews 5	1.8%	37	2.2%	1305
st. andrews 6	1.0%	16	1.1%	1144
st. andrews 7	9.3%	206	9.7%	1783
st. andrews 8	57.7%	646	58.7%	908
st. andrews 9	77.3%	1360	78.0%	1293
st. andrews 10	30.4%	473	31.9%	1281
st. andrews 11	3.6%	54	4.8%	903
st. andrews 12	8.0%	113	8.7%	1060
st. andrews 13	14.1%	237	14.8%	1293
st. andrews 14	21.9%	439	22.2%	1640

555a

Name	% NH DOJ BLK	Sum of AL BLK	% AP BLK	Sum of VAP TOTAL
st. andrews 15	48.4%	1008	49.5%	1741
st. andrews 16	11.4%	145	11.8%	1027
st. andrews 17	14.6%	343	15.0%	1867
st. andrews 18	42.9%	1218	44.7%	2219
st. andrews 19	64.6%	288	67.9%	349
st. andrews 20	28.2%	1125	28.7%	3329
st. andrews 21	23.8%	336	24.3%	1129
st. andrews 22	11.8%	187	12.3%	1306
st. andrews 23	17.2%	278	18.6%	1247
st. andrews 24	43.5%	896	44.7%	1534
st. andrews 25	27.4%	645	28.0%	1967
st. andrews 26	26.6%	510	27.6%	1537
st. andrews 27	19.1%	1290	19.7%	5075
st. andrews 28	21.8%	1087	22.8%	3749
st. andrews 29	11.0%	592	11.6%	4185

556a

Name	% NH DOJ BLK	Sum of AL BLK	% AP BLK	Sum of VAP TOTAL
st. andrews 30	15.8%	455	16.4%	2424
st. andrews 31	14.1%	267	14.8%	1385
st. andrews 32	11.0%	183	12.4%	1184
st. andrews 33	9.8%	116	11.2%	793
st. andrews 34	9.4%	297	9.7%	2513
st. andrews 35	7.7%	164	7.9%	1694
st. andrews 36	9.7%	216	10.5%	1621
st. andrews 37	9.9%	679	10.5%	5261
north charleston 28 (split)	45.5%	264	47.5%	437
Total	23.8%	30691	24.8%	100947

Name	Sum of VAP NH WHT	%VAP NH WHT	Sum of VAP NH DOJ BLK	%VAP NH DOJ BLK
deer park 1a	764	41.6%	840	45.7%

557a

Name	Sum of VAP NH WHT	%VAP NH WHT	Sum of VAP NH DOJ BLK	%VAP NH DOJ BLK
deer park 1b	3379	52.0%	1750	26.9%
deer park 2a	2033	49.4%	1465	35.6%
deer park 2b	1118	42.7%	956	36.5%
deer park 2c	678	53.1%	384	30.0%
deer park 3 (split)	1167	50.5%	714	30.9%
lincolnvill	1267	48.9%	985	38.0%
ladson	1797	46.5%	1385	35.9%
charleston 1	656	95.6%	1	0.1%
charleston 2	830	95.5%	12	1.4%
charleston 3	887	93.9%	9	1.0%
charleston 4	762	81.5%	135	14.4%
charleston 5	867	91.8%	9	1.0%
charleston 6	1257	79.7%	197	12.5%
charleston 7	2075	85.5%	170	7.0%
charleston 8 (split)	95	82.6%	10	8.7%

558a

Name	Sum of VAP NH WHT	%VAP NH WHT	Sum of VAP NH DOJ BLK	%VAP NH DOJ BLK
charleston 9 (split)	148	85.1%	16	9.2%
st. andrews 1	465	61.9%	224	29.8%
st. andrews 2	1052	85.5%	69	5.6%
st. andrews 3	585	43.4%	686	50.9%
st. andrews 4	1483	90.3%	48	2.9%
st. andrews 5	1226	93.9%	25	1.9%
st. andrews 6	1089	95.2%	12	1.0%
st. andrews 7	1470	82.4%	151	8.5%
st. andrews 8	349	38.4%	510	56.2%
st. andrews 9	298	23.0%	951	73.5%
st. andrews 10	759	59.3%	402	31.4%
st. andrews 11	810	89.7%	35	3.9%
st. andrews 12	903	85.2%	95	9.0%
st. andrews 13	980	75.8%	181	14.0%

559a

Name	Sum of VAP NH WHT	%VAP NH WHT	Sum of VAP NH DOJ BLK	%VAP NH DOJ BLK
st. andrews 14	995	60.7%	365	22.3%
st. andrews 15	749	43.0%	786	45.1%
st. andrews 16	857	83.4%	118	11.5%
st. andrews 17	1495	80.1%	228	12.2%
st. andrews 18	1067	48.1%	924	41.6%
st. andrews 19	65	18.6%	246	70.5%
st. andrews 20	2021	60.7%	872	26.2%
st. andrews 21	717	63.5%	250	22.1%
st. andrews 22	1081	82.8%	133	10.2%
st. andrews 23	905	72.6%	192	15.4%
st. andrews 24	828	54.0%	588	38.3%
st. andrews 25	1212	61.6%	534	27.1%
st. andrews 26	965	62.8%	414	26.9%
st. andrews 27	3535	69.7%	994	19.6%

560a

Name	Sum of VAP NH WHT	%VAP NH WHT	Sum of VAP NH DOJ BLK	%VAP NH DOJ BLK
st. andrews 28	2508	66.9%	790	21.1%
st. andrews 29	3193	76.3%	427	10.2%
st. andrews 30	1794	74.0%	390	16.1%
st. andrews 31	951	68.7%	191	13.8%
st. andrews 32	939	79.3%	121	10.2%
st. andrews 33	609	76.8%	82	10.3%
st. andrews 34	2135	85.0%	230	9.2%
st. andrews 35	1408	83.1%	129	7.6%
st. andrews 36	1288	79.5%	156	9.6%
st. andrews 37	4015	76.3%	524	10.0%
north charleston 28 (split)	175	40.0%	170	38.9%
Total	66756	66.1%	22281	22.1%

561a

Name	Sum of VAP AP BLK	%VAP AP BLK
deer park 1a	851	46.3%
deer park 1b	1869	28.7%
deer park 2a	1496	36.3%
deer park 2b	1005	38.4%
deer park 2c	399	31.2%
deer park 3 (split)	766	33.1%
lincolnville	1034	39.9%
ladson	1444	37.4%
charleston 1	4	0.6%
charleston 2	12	1.4%
charleston 3	17	1.8%
charleston 4	140	15.0%
charleston 5	11	1.2%
charleston 6	203	12.9%
charleston 7	192	7.9%
charleston 8 (split)	11	9.6%

562a

Name	Sum of VAP AP BLK	%VAP AP BLK
charleston 9 (split)	16	9.2%
st. andrews 1	230	30.6%
st. andrews 2	77	6.3%
st. andrews 3	695	51.6%
st. andrews 4	51	3.1%
st. andrews 5	28	2.1%
st. andrews 6	13	1.1%
st. andrews 7	156	8.7%
st. andrews 8	519	57.2%
st. andrews 9	957	74.0%
st. andrews 10	413	32.2%
st. andrews 11	44	4.9%
st. andrews 12	100	9.4%
st. andrews 13	187	14.5%
st. andrews 14	368	22.4%

563a

Name	Sum of VAP AP BLK	%VAP AP BLK
st. andrews 15	801	46.0%
st. andrews 16	118	11.5%
st. andrews 17	231	12.4%
st. andrews 18	955	43.0%
st. andrews 19	253	72.5%
st. andrews 20	887	26.6%
st. andrews 21	254	22.5%
st. andrews 22	137	10.5%
st. andrews 23	199	16.0%
st. andrews 24	601	39.2%
st. andrews 25	542	27.6%
st. andrews 26	426	27.7%
st. andrews 27	1024	20.2%
st. andrews 28	821	21.9%
st. andrews 29	452	10.8%

564a

Name	Sum of VAP AP BLK	%VAP AP BLK
st. andrews 30	404	16.7%
st. andrews 31	202	14.6%
st. andrews 32	133	11.2%
st. andrews 33	92	11.6%
st. andrews 34	239	9.5%
st. andrews 35	133	7.9%
st. andrews 36	164	10.1%
st. andrews 37	553	10.5%
north charleston 28 (split)	180	41.2%
Total	23109	22.9%

APPENDIX JJ

**Charleston VTDs Moved From
District 1 To District 6
2020 Election Results**

Precinct	GOP Total	Dem Total	2-Party Total	Dem %
St. Andrews 1	173	355	528	67.23%
St. Andrews 2	277	573	850	67.41%
St. Andrews 3	186	895	1081	82.79%
St. Andrews 4	580	652	1232	52.92%
St. Andrews 5	432	676	1108	61.01%
St. Andrews 6	564	434	998	43.49%
St. Andrews 7	705	690	1395	49.46%
St. Andrews 8	108	532	640	83.13%
St. Andrews 9	63	793	856	92.64%
St. Andrews 10	289	539	828	65.10%
St. Andrews 11	413	358	771	46.43%
St. Andrews 12	428	434	862	50.35%
St. Andrews 13	372	471	843	55.87%
St. Andrews 14	437	626	1063	58.89%
St. Andrews 15	162	773	935	82.67%
St. Andrews 16	399	442	841	52.56%
St. Andrews 17	705	601	1306	46.02%
St. Andrews 18	304	958	1262	75.91%
St. Andrews 19	22	235	257	91.44%
St. Andrews 20	611	1085	1696	63.97%
St. Andrews 21	256	344	600	57.33%
St. Andrews 22	528	416	944	44.07%
St. Andrews 23	271	407	678	60.03%
St. Andrews 24	300	604	904	66.81%

566a

St. Andrews 25	300	666	966	68.94%
St. Andrews 26	443	608	1051	57.85%
St. Andrews 27	1355	1923	3278	58.66%
St. Andrews 28	1109	1336	2445	54.64%
St. Andrews 29	1170	1387	2557	54.24%
St. Andrews 30	616	719	1335	53.86%
St. Andrews 31	447	447	894	50.00%
St. Andrews 32	503	399	902	44.24%
St. Andrews 33	365	253	618	40.94%
St. Andrews 34	1043	822	1865	44.08%
St. Andrews 35	822	580	1402	41.37%
St. Andrews 36	713	585	1298	45.07%
St. Andrews 37	1684	1751	3435	50.98%
ST. ANDREWS TOTAL	19155	25369	44524	56.98%
Precinct	GOP Total	Dem Total	2-Party Total	Dem %
Deer Park 1A	252	617	869	71.00%
Deer Park 1B	860	1192	2052	58.09%
Deer Park 2A	679	1042	1721	60.55%
Deer Park 2B	359	812	1171	69.34%
Deer Park 2C	365	413	778	53.08%
Deer Park 3	412	1038	1450	71.59%
Lincolntown	596	816	1412	57.79%
Ladson	795	1306	2101	62.16%
Charleston 1	363	265	628	42.20%
Charleston 2	396	324	720	45.00%
Charleston 3	301	459	760	60.39%
Charleston 4	233	387	620	62.42%
Charleston 5	231	368	599	61.44%
Charleston 6	273	520	793	65.57%
Charleston 7	273	518	791	65.49%

567a

Charleston 8	82	657	739	88.90%
Charleston 9	121	415	536	77.43%
North Charleston 28	84	370	454	81.50%
OTHER TOTAL	6675	11519	18194	63.31%
OVERALL TOTAL	25830	36888	62718	58.82%