

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

- - -

THE SOUTH CAROLINA STATE	:	3: 21-cv-03302-MGL-TJH-RMG
CONFERENCE OF THE NAACP,	:	
<i>et al.</i>	:	OCTOBER 3 - 14, 2022
	:	
Plaintiffs,	:	VOLUME VII (PAGES 1611 - 1912)
v.	:	
	:	
THOMAS C. ALEXANDER, <i>et al.</i> ,	:	
	:	
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

- - -

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1 *(The following bench trial proceedings resumed on*
2 *Thursday, October 13th, 2022, at 9:00 a.m.)*

3 THE COURT: Everyone, please be seated.

4 Are there matters counsel need to address with the
5 Court?

6 MR. CHANEY: Yes, your Honor. A couple housekeeping
7 matters for plaintiffs. I think the Court saw last night we
8 filed designations as to the House witnesses.

9 JUDGE GERGEL: Actually, I haven't seen it. But I
10 will look now. Thank you for alerting me to that.

11 MR. CHANEY: And so, over the course of the day
12 today, we'll be filing the transcripts with the color coding,
13 as we told the Court, as to the House witnesses. There's a
14 few counter designations. We're waiting back for the Senate
15 witnesses. As soon as we get those, we'll follow suit.

16 We also filed this morning our demonstratives that we
17 used with the direct witnesses.

18 JUDGE GERGEL: That's helpful. Thank you.

19 MR. CHANEY: And we'd ask that the defendants follow
20 suit with the demonstratives that they've used or intend to
21 use.

22 JUDGE GERGEL: I would also find that helpful, if
23 y'all would do that. Thank you.

24 MR. CHANEY: And then the last thing was, obviously
25 with two different sets of defendants here, when they put on

1 their case, the order of --

2 JUDGE GERGEL: You know it's double the charm.

3 MR. CHANEY: It certainly is for us, your Honor.

4 MR. MOORE: I thought it was triple with me here.

5 MR. CHANEY: Yes -- no comment.

6 But particularly, I know Mr. Trende is going to be
7 the first witness today.

8 JUDGE GERGEL: Okay.

9 MR. CHANEY: He's noticed as a witness by both sides.
10 And so, we would ask that the plaintiffs have an opportunity
11 to cross after both sets of defendants ask their questions,
12 instead of like yesterday, where we went second and then Mr.
13 Moore got to come in behind us with respect to the Senate
14 witnesses.

15 JUDGE GERGEL: Mr. Mathias, what's your thought about
16 that?

17 MR. MATHIAS: I think there's a chance only one of
18 the defendants will ask questions.

19 JUDGE GERGEL: Well, that simplifies the problem,
20 doesn't it?

21 MR. MATHIAS: I can't commit to that at the moment,
22 but --

23 JUDGE GERGEL: I hear you. I think in the order of
24 things, we'd rather hear all the questions from the defense
25 and then hear the cross. I think that, in terms of

1 presentation, is useful to us. So, I think that's fine.

2 MR. CHANEY: And then the last thing was,
3 specifically, with respect to Mr. Trende, I know Mr. Freedman
4 had a few things to inquire of the Court.

5 JUDGE GERGEL: Yes, sir.

6 MR. FREEDMAN: Thank you, your Honor.

7 Just before Mr. Trende comes up, we wanted to just
8 alert the Court to the issues that we raised in our in limine
9 motion 355 about Mr. Trende testifying about matters that
10 weren't disclosed in his written opinions. We noted that the
11 defendants, in their disclosure 441, listed, for example,
12 reports of Dr. Duchin and Dr. Liu. And we're not sure if
13 they're planning to elicit testimony about those experts that
14 was not disclosed in Mr. Trende's report. But for the reasons
15 we cited in our in limine motion 355, which was denied without
16 prejudice, we wanted to alert the Court to the issue and make
17 sure that we have an understanding as to the ground rules.

18 JUDGE GERGEL: Okay. Mr. Gore, your response, sir?

19 MR. GORE: Your Honor, I don't believe we're going to
20 be eliciting testimony on those exhibits. And if we do --

21 JUDGE GERGEL: That, again, solves the problem.

22 MR. GORE: -- objections can be made
23 contemporaneously.

24 JUDGE GERGEL: Make it if the issue comes up, okay?

25 MR. GORE: Thank you, your Honor.

1 JUDGE GERGEL: Very good. Anything further, Mr.
2 Freedman?

3 MR. FREEDMAN: No. Thank you, your Honor.

4 JUDGE GERGEL: Mr. Gore, anything you need to raise
5 with the Court?

6 MR. GORE: No, your Honor.

7 JUDGE GERGEL: Mr. Moore?

8 MR. MOORE: Just briefly, your Honor, just so I
9 understand what Mr. Chaney is saying when he tells you that
10 he's filing those transcripts, as I understand it, he needs to
11 be sending them to your Honors, because they're not to be
12 filed until your Honors rule on the issue of what comes in
13 versus what goes out. I just want to make sure I'm correct
14 about that.

15 MR. CHANEY: Is that correct, you do not want us to
16 file on the public docket unless they're --

17 JUDGE GERGEL: Do not file them -- file them under
18 seal so we can access them remotely. But you're authorized to
19 file them under seal, and we'll unseal it as we rule, okay?

20 MR. CHANEY: I can do that.

21 MR. MOORE: Thank you, your Honor.

22 JUDGE GERGEL: Okay. I want the defendants to give
23 me a little idea about projecting witnesses. We're trying to
24 project trial time.

25 Mr. Gore, what can you tell me about -- after Mr.

1 Trende, what do we have?

2 MR. GORE: Thank you, your Honor. After Mr. Trende,
3 the House will be calling two witnesses who are members of the
4 House.

5 Do you want to speak to that, Mr. Moore?

6 MR. MOORE: Yes, your Honor. It's Representative
7 Bamberg.

8 JUDGE GERGEL: Yes.

9 MR. MOORE: And Representative Jordan.

10 JUDGE GERGEL: Okay.

11 MR. GORE: And after those witnesses, we're planning
12 to call Senator Campsen.

13 JUDGE GERGEL: Okay. And after that?

14 MR. GORE: That would be what we have on tap for
15 today.

16 JUDGE GERGEL: How about tomorrow?

17 MR. MOORE: And so, tomorrow we have potentially two
18 witnesses. One would be Representative Newton, who does need
19 to testify for timing issues. I would propose that after
20 Representative Newton -- again, depending on how long The
21 Panel chooses to run tomorrow -- that the plaintiffs call Dr.
22 Imai, and then we end with Mr. Dennis. Now, whether we get
23 all of that in in both days, I -- I can't tell your Honor.
24 But that's sort of my lineup.

25 JUDGE GERGEL: I'll be honest with you. I think

1 that's very doable. I mean, just in my experience of trying
2 cases. I mean, you know, we might have to work hard. I've
3 made enough statements about very direct directs, and very
4 direct crosses rather than extended -- you know, to be
5 strategic about it. There's still a little bit of repeating
6 things we already heard and that we already know. And, you
7 know, when we raise a point, it's not because we think what is
8 being said is unimportant. It might be very important. It's
9 just been established and there's nothing that adds to it.
10 And that's why I tried to make the point about the matters
11 with Representative King. It wasn't that we were dismissing
12 that as important, it just was the same information over and
13 over again. And we got it. And we've got to weigh it.

14 You know, when you're dealing with totality of
15 circumstances, it's very rare that any one fact is dispositive
16 of anything. And you've got to deal with everything. And
17 you've got to do this sort of brew where you kind of mix it
18 all up and make it reach a conclusion. And hearing this --
19 you know, going over one isolated fact over and over again
20 just doesn't accomplish anything. So, we're neutral on it.
21 When we're raising these things of duplication, it's not
22 because we think it's unimportant, it's just not necessary.
23 So --

24 MR. MOORE: And so, your Honor, as I mentioned
25 yesterday, because of the Representative King issue, we're

1 going to touch it but we're going to deal with the defendants
2 briefly in our defense.

3 JUDGE GERGEL: I would expect you to have to address
4 it in your case. I don't have any problem with that. It's
5 just we don't have to -- the basic facts, we know, okay?

6 MR. MOORE: Fair.

7 JUDGE GERGEL: We've seen the rules. We've seen
8 number one and number 14. We've seen all that. Okay. We've
9 got it. But I would be surprised if the defendant didn't
10 respond. I would expect that.

11 MR. MOORE: And so, do I agree with your Honor that
12 it's possible that we get all those witnesses up in two days?
13 It's possible. I guess we'll see where we are at the end of
14 the day. But my next question is: Let's assume that we do,
15 do we all --

16 JUDGE GERGEL: We bring you back for a day to do
17 closing arguments. That would be my goal. While we're fresh,
18 what I've love to do is get all the witnesses in in the next
19 two days, let you guys go home to think a little bit, and
20 we'll try to find a day -- it's a little complicated on three
21 dockets to get it done, plus y'all have your own busy
22 schedules. But we try to find a day where we're fresh, y'all
23 are fresh, and we hear closings. That would be ideal.

24 MR. MOORE: I think we're all in agreement that that
25 would be ideal.

1 MR. GORE: And I'll just point out that that will
2 allow the record to be completed both with respect to the
3 deposition designations and the data issues we're working
4 through.

5 JUDGE GERGEL: Correct. And, Mr. Gore, you raised
6 this issue of the request for a directed verdict and so forth,
7 which, you know, normally would come at the end of the
8 plaintiffs' case. You know, the facts are contested. You
9 know, the likelihood of that happening -- you know, I haven't
10 heard much evidence about Orangeburg. But, you know, really,
11 it's contested in the light most favorable to the nonmoving
12 party, nobody gets directed verdict.

13 MR. GORE: I think, your Honor, if it suits
14 your Honor when the plaintiffs rest, which may be at the end
15 of all the evidence, I can just stand and make the motion for
16 the record and not belabor the point.

17 JUDGE GERGEL: Correct. You've got to preserve it.
18 But this is the case -- and let me give you another hint.
19 We're going to ask for findings of fact and conclusions of law
20 from both sides. We're going to do that. So, you might want
21 to even start working on that. And I do it not -- because I
22 never adopt one lawyer's findings of fact and conclusions of
23 law. I've just never done that. But it's like a checklist
24 for us. And it highlights us what y'all think are important.
25 And it's invaluable in that. It's almost like a variation of

1 the closing argument. You know, it's valuable in that regard.

2 Yes, Mr. Moore.

3 MR. MOORE: And so, to that point -- and Mr. Gore may
4 have been planning to address it -- I think you have a
5 deadline in your *Chesney* order for findings of fact and
6 conclusions of law.

7 JUDGE GERGEL: Yeah. I don't even know. I clearly
8 lost the thread of everything with calendars these days. When
9 is that?

10 MR. MOORE: I believe it's October 28th.

11 MR. GORE: The 28th, two weeks from tomorrow.

12 JUDGE GERGEL: No. That's not happening. That's not
13 happening.

14 MR. GORE: That was my next point, Mr. Moore.

15 MR. FREEDMAN: We will inform our team that they can
16 actually get some sleep.

17 JUDGE GERGEL: Yes. And I don't want y'all to slap
18 together findings of fact and conclusions of law either. I
19 mean, this is important to us. And it's kind of like it
20 really is the final argument. The final argument is not the
21 final argument, the proposed findings of fact and conclusions
22 of law are. But we're going to move you. I mean, you know,
23 we're going to try to get through this as quickly as possible.
24 We're mindful of the calendar. And we're going to move.

25 So, in saying that, we do think that the sequence

1 ought to be: Finish the evidence, closing arguments, findings
2 of fact and conclusions of law. Turn around like 10 days.
3 That's why I'm saying go and get working on it, because we
4 need it. And the further remote you get from the testimony,
5 it's harder for the judges to remember the details. So, in
6 the interim, we'll do things like get a transcript and so
7 forth, so we'll have that. So, we've got a lot of moving
8 parts, and you've got to do your part by getting through this
9 evidence the next two days. That's your task for the next
10 two days.

11 Yes?

12 MR. FREEDMAN: Your Honor, just so we're clear and
13 can allocate our resources appropriately, it's clear closings
14 will not be tomorrow?

15 JUDGE GERGEL: Will not be.

16 MR. FREEDMAN: And we would also ask if it's possible
17 to entertain doing closings virtually?

18 JUDGE GERGEL: Well, what do folks feel about doing
19 closings virtually?

20 MR. GORE: Yeah. We'd prefer to be in person, at
21 least speaking for Senate Defendants.

22 MR. MOORE: House agrees with the Senate.

23 MR. FREEDMAN: That's fine, your Honor. We enjoy
24 Charleston.

25 JUDGE GERGEL: Charleston in the fall is very nice,

1 guys. Don't whine too much. I'm not sending you to some
2 remote place in Kansas in the middle of the winter or
3 something, okay? No rap on Kansas. But I think we'll do it
4 in person. I will talk to my colleagues before we make a
5 final decision on that. I do a lot -- you know, of course,
6 during COVID, we did a lot remotely. It was very effective.
7 But I'm inclined to do it in person.

8 MR. FREEDMAN: Your Honor, also, just in terms of
9 schedule for the findings of fact and conclusions of law, we
10 would suggest adding two more weeks to the schedule so they're
11 due in mid November.

12 JUDGE GERGEL: I will do it -- once we close the
13 evidence, you're going to count 10 days after that, whenever
14 that is.

15 MR. GORE: Yeah. If I understood your Honor, it
16 would be key to the date of the closings.

17 JUDGE GERGEL: That is exactly right. But I'm
18 saying, to the extent you guys can get to work on it, I mean,
19 y'all can pretty much be writing it right now, frankly.

20 MR. FREEDMAN: We have been, your Honor.

21 MR. CHANEY: We have been, your Honor.

22 JUDGE GERGEL: Yes. I suspect that's so. And if you
23 tell me you don't need 10 days, we'll shorten the time. I get
24 it.

25 MR. GORE: I think we'll need at least 10 days.

SEAN TRENDE - DIRECT EXAMINATION BY MR. GORE

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1 JUDGE GERGEL: Okay. You're not getting more, okay?

2 MR. GORE: Worth a shot.

3 MR. FREEDMAN: Thank you, your Honor.

4 JUDGE GERGEL: Okay. Call your next witness.

5 MR. GORE: We'd call Mr. Sean Trende.

6 ***SEAN TRENDE, having first been called as a witness***
7 ***and duly sworn, testified as follows:***

8 **DIRECT EXAMINATION**

9 **BY MR. GORE:**

10 Q. Good morning, Mr. Trende.

11 A. Good morning. Shall I take my mask off?

12 Q. Please.

13 JUDGE GERGEL: You may.

14 THE WITNESS: Thank you.

15 MR. GORE: And if you can make sure the microphone is
16 close to you.

17 THE WITNESS: Okay.

18 MR. GORE: The court reporter is hearing through the
19 microphone.

20 Your Honor, consistent with the Court's prior
21 guidance, I'd like to tender Mr. Trende as an expert in
22 redistricting, political methodology, and American elections
23 and politics.

24 JUDGE GERGEL: Redistricting.

25 MR. GORE: Political methodology.

SEAN TRENDE - DIRECT EXAMINATION BY MR. GORE

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1 JUDGE GERGEL: Okay.

2 MR. GORE: American elections.

3 JUDGE GERGEL: Okay.

4 MR. GORE: And American politics.

5 JUDGE GERGEL: Is there an objection from plaintiffs
6 beyond what was previously raised in *Daubert* motion?

7 MR. FREEDMAN: Your Honor, no objection as to
8 redistricting, American elections, or American politics. I'm
9 not sure we understand what political methodology is.

10 JUDGE GERGEL: Mr. Gore?

11 MR. GORE: Yeah. Mr. Trende's rebuttal report
12 includes some statistics and other analyses of the reports of
13 the experts. So, that's encompassed within the political
14 methodology that he's studied.

15 JUDGE GERGEL: To the extent that that is what he's
16 doing, do you have an objection?

17 MR. FREEDMAN: No, your Honor.

18 JUDGE GERGEL: The Court recognizes Mr. Trende as an
19 expert in redistricting, political methodology, American
20 elections, and American politics.

21 Please proceed, Mr. Gore.

22 MR. GORE: Thank you. May I approach the witness,
23 your Honor?

24 JUDGE GERGEL: You may.

25 MR. GORE: I've just handed Mr. Trende Senate

SEAN TRENDE - DIRECT EXAMINATION BY MR. GORE

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1 Exhibit 75, which is his report; Senate Exhibit 76, which is
2 his rebuttal report; and Senate Exhibit 29c, which we'll refer
3 to during his testimony.

4 **BY MR. GORE:**

5 Q. If we can start on page nine of your report, Mr. Trende,
6 which is Senate Exhibit 75, which is displayed also here on
7 the screen. Page nine of your report here lists various
8 legitimate goals that the South Carolina General Assembly may
9 pursue in redistricting.

10 Where did you come up with this list?

11 A. I believe that came from the *Colleton County* and *Backus*
12 cases and from the General Assembly's redistricting guidelines
13 that they promulgated.

14 Q. Were there separate House and Senate redistricting
15 guidelines?

16 A. That's my recollection.

17 Q. And did you review both sets of those?

18 A. Yes, sir.

19 Q. And glancing at this list, are these criteria common in
20 redistricting in other states as well?

21 A. Yes. They show up all the time in redistricting cases.

22 Q. Which of those criteria are known as traditional
23 districting principles?

24 A. They're very similar from state to state, but all of them
25 are mentioned as traditional redistricting principles.

SEAN TRENDE - DIRECT EXAMINATION BY MR. GORE

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1 Q. And which of these principles did you look at in your
2 report?

3 A. I looked at core retention, respecting county boundaries
4 and other geographical boundaries, incumbents' residences,
5 equal population, contiguity, and compactness. I looked at
6 communities of interest to the extent this Court has
7 previously suggested that respect for county boundaries and
8 core retention is part of the communities of interest
9 analysis.

10 Q. Thank you. Did you review any plans other than the
11 enacted plan in this report?

12 A. I did.

13 Q. Which were those?

14 A. The benchmark plans. And then I also looked at
15 previously passed South Carolina plans going back to 1900.

16 Q. All right. If we can scroll starting at the bottom of
17 page six of your report and continuing on to page seven. Will
18 you briefly provide a summary of your opinions in this matter?

19 A. So, the first group of bullet points covers those general
20 traditional redistricting criteria, and suggests that the plan
21 does compare favorably to the benchmark plan and is generally
22 compliant with those. There's some analysis towards the end,
23 which looks at the changes on the District 1-6 boundary,
24 suggesting that there's no net change -- or minimal net change
25 on the racial composition of District 1, but that there's a

SEAN TRENDE - DIRECT EXAMINATION BY MR. GORE

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1 change of about three percentage points on the two-party 2020
2 presidential election results.

3 Q. Did you conclude that the enacted map generally reflects
4 only modest changes from the benchmark plan upheld in *Backus*?

5 A. Yes.

6 Q. And did you conclude that the enacted map is contiguous
7 and complies with equal population requirements?

8 A. I did.

9 Q. And did you also conclude that the enacted map contains
10 high percentages of the cores of the benchmark districts?

11 A. Yes.

12 Q. And did you conclude that the enacted map reduces the
13 number of split counties and split VTDs compared to the
14 benchmark map?

15 A. I did.

16 Q. And did you conclude that the enacted plan's districts
17 compare favorably to the benchmark plan on four common
18 measures of compactness?

19 A. I did.

20 Q. Mr. Trende, the Court's already heard a fair amount of
21 evidence on some of these points, so we'll skip ahead to some
22 of the highlights of your report. Let's go to page 10 of your
23 report, if we might. And about the middle of the page, you
24 have a heading that says: Respecting county, municipal and
25 precinct boundaries.

SEAN TRENDE - DIRECT EXAMINATION BY MR. GORE

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1 What did you determine when you examined the enacted plan
2 compared to the benchmark plan in this section of your report?

3 A. So, by the end of the previous redistricting cycle, the
4 previous map split 12 counties -- the benchmark plan split 12
5 counties in 65 voting districts. The enacted plan reduces the
6 number of split counties to 10. Six of those splits are on
7 the boundaries between District 2 through 7, which is only one
8 more split than the realistic minimum splits could have been
9 for those six districts. There are more splits, four on the
10 District 1-6 boundary. The number of precincts split are
11 reduced from 65 to 13.

12 Q. Okay. Let's talk about the county splits for a moment.
13 You used a phrase of "realistic minimum number of splits."
14 What would be the realistic minimum number of splits in a
15 congressional plan with seven districts?

16 A. You could theoretically -- well, theoretically, if
17 lightning struck, it could be zero if there were combinations
18 of districts that worked out where whole counties were
19 equipopulace. I've never seen that. So, realistically, it's
20 the N-minus-one rule. So, if there's seven districts, the
21 realistic minimum boundary number of splits is six.

22 Q. And you said the enacted plan has 10 splits; is that
23 right?

24 A. That's right.

25 Q. And how does that compare to that realistic minimum

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1 number statewide?

2 A. It's only four more splits than could be theoretically
3 reduced to.

4 Q. And then you mentioned District 2 through 7. What would
5 be the realistic minimum number of splits across those
6 districts?

7 A. Well, you've got six counties there, so minus one would
8 be five realistic splits.

9 Q. And how many are there in the enacted plan?

10 A. There's six.

11 Q. You also mentioned that the number of split VTDs in the
12 enacted plan is 13; is that right?

13 A. That's right.

14 Q. And that's a reduction from the 65 that were inherited
15 from the benchmark plan; is that right?

16 A. That's correct.

17 Q. So, Dr. Duchin, the plaintiffs' expert, criticized that
18 comparison as misleading. She said that at the time, the
19 General Assembly drew the benchmark plan, it split only 13
20 VTDs back in 2012. Do you have a response to that?

21 MR. FREEDMAN: Objection. This is beyond the scope
22 of his reports.

23 JUDGE GERGEL: Well, I'm interested in this issue
24 because it came up at trial, and I think part of an expert's
25 role is to address evidence that's relevant. And I don't

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1 think you can anticipate everything. And I'm going to
2 overrule your objection. I think whatever nondisclosure it
3 is, is outweighed by the fact that arose during the trial.
4 So, I overrule that objection.

5 MR. GORE: Thank you, your Honor. I'll also mention
6 that it was raised in Dr. Duchin's rebuttal report, to which
7 Mr. Trende did not have --

8 JUDGE GERGEL: Yeah. But the key is these are issues
9 y'all have raised, and we want all the information we can get
10 about it. And I don't see any great prejudice, since Dr.
11 Duchin raised it herself. And I'd like to hear his response.

12 Go ahead. Please proceed. Overruled.

13 **BY MR. GORE:**

14 Q. Mr. Trende, would you like me to repeat the question?

15 A. No. I think I got it. I don't think that's misleading
16 at all, because you're looking at what the map was that the
17 legislature was looking at when it redrew. And by that point,
18 there were 65 precinct splits that it addressed the bulk of.
19 I also think the fact that they had very few precinct splits
20 at the beginning of 2012, if anything, suggests that they have
21 consistently been concerned about having a low number of
22 precinct splits.

23 Q. Okay. Thank you, Mr. Trende. Let's talk now about the
24 preservation of cores. Did you examine the shape of South
25 Carolina's congressional districts starting back in the early

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1 1900s?

2 A. I did.

3 Q. And have you included maps of those various districts in
4 your report?

5 A. For the most part. I didn't include some years for the
6 60s and 70s, just because it's not the point of the report and
7 it was starting to bog down, but I did include most of them.

8 Q. And what did you discover about the shapes or cores of
9 South Carolina's districts starting in early 1900s?

10 A. So, there are states like Maryland, New York, my home
11 state of Ohio, Pennsylvania, where the district lines just
12 change radically over time. And South Carolina just isn't one
13 of those states. The district cores -- or at least the bases
14 of the districts would be recognizable to someone who was
15 living in 1900, because they generally keep the same anchors
16 on these districts, even to the point of district numbers.
17 That's not to say they're identical obviously, just they're
18 recognizable.

19 Q. And has the number of districts gone up and down in South
20 Carolina over that time?

21 A. Yeah. Sometimes it's six, sometimes it's seven.

22 Q. Let's go to page 14 of your report, if we might. This is
23 the map of the lines for the 1990s. Can you explain to the
24 Court what happened in the 90s congressional redistricting in
25 South Carolina?

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1 A. Yeah. So, I don't know every in and out of it, but I do
2 know in the early 90s, the Bush DOJ -- the first Bush DOJ was
3 pressuring southern states in particular to draw
4 ability-to-elect districts. And there was a number of cases
5 that grew out of that effort. This, the 1992 map, is a
6 court-drawn map that got tweaked a little bit by the
7 legislature eventually. But you can see it's got a district
8 that's anchored in Anderson, a district that includes
9 Greenville and Spartanburg, district in northern South
10 Carolina that's increasingly York County and Charlotte
11 suburbs. You've got a district that extends from Charleston
12 over to Myrtle Beach. You've got a district that's Columbia,
13 down the western border, and then a district that connects
14 parts of Charleston with parts of Columbia.

15 Q. So, let's focus for a moment on the pink district,
16 District 6. Is that the district that ran from parts of
17 Columbia down to Charleston?

18 A. Yes, it is. And I'll just advise you, I don't think you
19 know this, but I'm color blind, so --

20 Q. Oh, that's good to know.

21 A. So, I apologize if the colors are pink and --

22 JUDGE GERGEL: He and Mr. Tyson should not dress each
23 other.

24 MR. GORE: Make sure that's in the transcript.

25 BY MR. GORE:

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1 Q. What was going on here with this District 6?

2 A. So, District 6 was a district that was created as an
3 ability-to-elect district. It runs across a lot of the
4 black-belt counties in South Carolina and then extends up into
5 Columbia down into Charleston.

6 Q. And you used the term "ability to elect." Are you
7 referring to ability to elect African-American voters'
8 candidate of their choice?

9 A. Yes, African-American candidate of choice, consistent
10 with interpretations of the VRA.

11 Q. And who was elected in this district?

12 A. Congressman Clyburn. Jim Clyburn.

13 Q. And did this district also draw -- up there in Richland
14 County -- a hook shape into Richland County for District 2?

15 A. Yes, it does.

16 Q. And do you know what is in that hook shape?

17 A. I believe that is Fort Jackson.

18 Q. All right. Let's go down to now page 15 of your report
19 and look at the map from the post-2000 census cycle. Can you
20 tell the Court a little bit about this map?

21 A. So, this is the 2000 map that was the subject of the
22 *Colleton County* litigation. You can see it's got a lot of
23 similarities with the preceding maps. You've got a district
24 that's anchored in Anderson, a district in Greenville and
25 Spartanburg, a district -- John Spratt's old district,

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1 northern South Carolina, but increasingly it's York County and
2 Charlotte suburbs. Got a district that is kind of anchored in
3 Richland and Lexington County and goes down the Georgia
4 border. You still have a Charleston-based district. And then
5 the same district that stretches from Columbia down into
6 Charleston includes some of the black-belt counties.

7 Q. And that district extending from Columbia to Charleston
8 was District 6; is that right?

9 A. That's correct.

10 Q. And is that a district that continued to elect
11 Congressman Clyburn?

12 A. It did.

13 Q. Does this map also retain District 2's hook shape in
14 Richland County around Fort Jackson?

15 A. Yes, it does.

16 Q. Who drew this map?

17 A. I believe this is a court-drawn map, because you had a
18 Republican legislature and a Democratic governor.

19 Q. And I believe your report says that on page 14; is that
20 right?

21 A. That's right.

22 Q. Let's scroll down now to page 16 and look at the
23 benchmark map adopted after the 2010 census results. Do you
24 see that on your screen?

25 A. I do.

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1 Q. Did South Carolina receive a seventh district after the
2 2020 census results?

3 A. Yes, it did.

4 Q. And will you otherwise explain this map to the Court?

5 A. So, again, you've got a district anchored in Anderson, a
6 district anchored in Greenville and Spartanburg, a district --
7 I guess Spratt lost in 2010, so this would have been
8 Mulvaney's district, I think, that's increasingly anchored in
9 the York County suburbs. You've got the district in Columbia
10 that stretches to the Georgia border. But since you've added
11 a district to the state, the districts can't take on as much
12 area anymore, because they have to shed populations to create
13 the new one. You've got that district that stretches from the
14 6th, it stretches from Columbia down to Charleston. You have
15 a 1st district that's still anchored around Charleston, and
16 then this new district that's based in Myrtle Beach and the
17 Pee Dee region.

18 Q. Does this map also retain District 2's hook shape in
19 Richland County around Fort Jackson?

20 A. It does.

21 Q. Let's turn now to page 17 of your report, which is the
22 enacted map. And after the 2020 census, were any districts in
23 South Carolina particularly overpopulated or underpopulated?

24 A. Yes. If you can go back to page nine of my report
25 Table 1, this gives the populations of the benchmark plan

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1 measured against the ideal district population in South
2 Carolina after of the 2020 census. So, Districts 2, 3, 4, 5
3 and 7 are all pretty close to their ideal populations.
4 Districts 1 and 6, District 1 is overpopulated, so it's going
5 to have to shed persons; District 6 is underpopulated, so it
6 has to gain persons.

7 Q. Do these deviations reflect population growth along the
8 coast of South Carolina between the 2010 and 2020 censuses?

9 A. Certainly in the Charleston region, yes.

10 Q. Let's go back to page 17, which is the map adopted by the
11 General Assembly and known as the enacted plan. Will you
12 explain to the Court what happened in this plan?

13 A. So, this worked out nicely with the report. This wasn't
14 intentional. But when it gets printed double-sided and
15 stapled together, it's side by side. And as you can see,
16 Districts 3, 4, 5, and 7 really don't change their shapes that
17 much. Even District 2, there's some more changes to that, but
18 it's got the same basic shape. So, of course, you've got the
19 same anchors.

20 The district that has -- the district boundary -- and
21 this is kind of what I was hinting at in some of the earlier
22 answers. The district boundary that has some of the more
23 substantial changes is that 1-6 boundary where they kind of
24 change the way the 6th District enters Charleston. But you've
25 still got a district that stretches from Columbia down to

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1 Charleston. You still got that first district that's anchored
2 in the Charleston area.

3 Q. And does this map also retain the hook in Richland County
4 around Fort Jackson?

5 A. It does.

6 Q. And Dr. Ragusa criticizes you for saying that District 1
7 remains in Charleston in this map. How do you respond to
8 that?

9 A. I guess a more precise way would have been the Charleston
10 area. But if I were to talk about a district in the Columbus
11 area or, say, anchored in Columbus --

12 JUDGE GERGEL: Columbia.

13 THE WITNESS: Oh, I'm sorry. I'm talking about
14 Columbus, my home state, your Honor.

15 JUDGE GERGEL: Yeah. All right. Go ahead.

16 THE WITNESS: Even if it wasn't in the city proper,
17 you'd still say it's a Columbus district. So, that's what I
18 meant. But Charleston area is probably more precise.

19 Q. Mr. Trende, is it possible to calculate a plan's core
20 retention mathematically?

21 A. Yes.

22 Q. And let's scroll down to page 18 of your report. Did you
23 prepare this table showing the core retention numbers for the
24 enacted plan?

25 A. I did.

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1 Q. And will you explain to the Court the method you used to
2 calculate these percentages?

3 A. Okay. So, this is done in R -- it's just the letter "R,"
4 for the court reporter, which is a commonly used computer
5 statistical program. And what you do is the program will
6 match census blocks with the geographies of the districts.
7 So, it'll tell you block 00001 or whatever is in the 1st
8 District, 00002 is in the 6th District. So, I did that for
9 the benchmark plan and then the enacted plan. And you can
10 look then -- you can have it summarized for you what the
11 population that was included in a district in the benchmark
12 plan was then included in the enacted plan as well.

13 So, all this is, is the percentage of individuals who
14 lived in a district in the benchmark plan who continue to
15 reside in that district in the enacted plan.

16 Q. And what are those percentages here on this chart?

17 A. Well, you can see for Districts 2, 3, 4, 5 and 7, those
18 are very high levels of core retention. I mean, District 7
19 kept almost everyone that it had in its previous iteration.
20 Districts 6 and 1 are a little bit lower. You've got 87.55
21 core retention in District 6; 82.84 core retention in District
22 1.

23 Q. And these percentages are just a division problem, right?

24 A. Oh, yeah.

25 Q. Numerator divided by a denominator. So, can you explain

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1 to the Court in your method what's the numerator and what's
2 the denominator?

3 A. So, the numerator is the -- the denominator is the
4 population of the district, and the numerator is the number of
5 people who resided in the district in the old map that are in
6 it in the new map.

7 Q. Did you use the benchmark population as the denominator?

8 A. Ah....

9 Q. Why don't we turn to --

10 A. Yeah. Sorry, I need my coffee today, but I think that's
11 right.

12 Q. Okay. Let's turn to Senate Exhibit 29c, which is the
13 core constituency's report for the enacted plan generated by
14 the Senate. The numbers in this report are a little different
15 than the numbers in your table; is that right?

16 A. That's right.

17 Q. We've heard testimony that this report was generated
18 using the enacted plan district as the denominator, this
19 Senate 29c.

20 A. Right.

21 Q. And so, how does your approach differ from that?

22 A. So, it's a different way of looking at core retention.
23 What this is looking at, it's kind of the opposite question.
24 It's the percentages of people in the new district that were
25 in the plan in the old district.

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1 Q. So, this method used the enacted district as the
2 denominator. Did yours use the benchmark district as the
3 denominator?

4 A. Yes.

5 Q. Is either of those methods better than the other?

6 A. Fine. There are different ways of looking at the same
7 question. They give slightly different answers. You need to
8 be aware of that context, like District 6. Since District 6
9 had to gain population, there's no way it could have a
10 hundred-percent core retention under this metric, because it
11 had to have people added to it. But either is acceptable.

12 Q. Let's return to page 18 of your report, if we might for
13 just a moment. I believe that you've already implicitly
14 answered this, but why are the core retention numbers lower in
15 Districts 1 and 6 than in other districts?

16 A. Oh, because Districts 1 and 6 have some swaps in their
17 populations. And also District 1 was overpopulated, so it had
18 to shed people.

19 Q. If we scroll down to the bottom of page 18, did you also
20 prepare a table showing the population movements across
21 districts in the enacted plan?

22 A. Yes.

23 Q. And can you just briefly summarize or explain this table
24 to the Court?

25 A. Yes. So, Table 4 is kind of a version of Table 3. It's

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1 a breakdown of it. What it does is it asks: How many of the
2 people who are living -- step back one more. It's probably
3 best read in rows. And so, of the people who were in District
4 1 in the benchmark plan that moved, where did they go? And
5 so, 140,489 people moved from District 1 in the benchmark plan
6 to District 6 in the enacted plan. 14,397 people moved from
7 District 2 in the benchmark plan to District 6 in the enacted
8 plan. So forth and so on. And District 5, 31,309 moved to
9 District 3, and 10,038 people moved to District 6.

10 Q. Mr. Trende, did you also examine the changes in racial
11 demographics in districts from the benchmark plan to the
12 enacted plan?

13 A. I did. And I should probably clarify on that last
14 answer. I kept saying they moved. They didn't move. They
15 were moved by mapmakers.

16 Q. Thank you for that clarification. The mapmaker moved
17 those people by moving the lines; is that correct?

18 A. That's correct.

19 Q. Let's go to page 22 of your report. You have Table 7
20 here, where you list the BVAP in the old and new districts and
21 then the difference in the right-hand column; is that right?

22 A. That's correct.

23 Q. Which BVAP metric did you use to generate this table?

24 A. I used DOJ Black.

25 Q. Why did you use DOJ Black?

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1 A. It's my understanding that's what the legislature was
2 using as well.

3 Q. And will you briefly summarize the information presented
4 on this table?

5 A. So, this shows the Black voting age population of -- I
6 called it old and new, it should have been benchmark and
7 enacted plans for point of comparison.

8 So, District 1 had a BVAP of 16.6 percent in the enacted
9 plan. That goes up a hair to 16.7 in the enacted plan, and so
10 forth and so on.

11 Q. Now, speaking of District 1, it says 16.6 and 16.7, and
12 you say the difference is .2 percent. What is the explanation
13 for that?

14 A. That's a quirk of rounding. If you have 16.55 and 16.74,
15 it will round those numbers to 16.6 and 16.7. Then, when you
16 take the difference, it will be .17, I think. And that will
17 round up to .2.

18 Q. And is the difference here material at all, the .1 or .2
19 difference?

20 A. It really isn't.

21 Q. And I want to look at District 6 for a moment. Again, it
22 looks like it says .5. Minus 5.5 percent is the different in
23 the chart, and I think in the text below, it's minus
24 5.6 percent. Is that also a quirk of the rounding?

25 A. That's either a quirk of the rounding or my fat fingers.

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1 Q. And does this reduction in District 6's BVAP mean that
2 there was actually 5.5 percent BVAP to be allocated across
3 other districts?

4 A. No, it wouldn't be that, because District 6 had to take
5 on population. And so, since it had to take a significant
6 number of residents, the census didn't free up anyone to be
7 moved into other districts in that district.

8 Q. Was the 51.4 percent BVAP in benchmark District 6
9 calculated using an underpopulated district under the Census
10 results?

11 A. That's right, consistent with Table 1 in this report.

12 Q. Mr. Trende, did you also analyze the changes in political
13 composition from the benchmark plan to the enacted plan?

14 A. I did.

15 Q. Okay. Could we go to page 23 of your report. And
16 Table 8 at the top, did you prepare this table?

17 A. I did.

18 Q. And what does this table show?

19 A. So, this shows the percentage of the two-party vote. I
20 keep using the term "two-party vote." That's what we
21 typically do in elections when analyzing politics, we
22 eliminate third parties. And so, under the -- using the
23 two-party vote share, the elimination of third parties, Joe
24 Biden got 47 percent of the vote in the old district,
25 45.6 percent of the vote in the enacted plan.

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1 Q. And what is the significance of the changes shown on this
2 Table 8?

3 A. Well, Joe Biden's percentage in the district drops to
4 where he lost the district by around nine points. And so,
5 since this was a district that had become a swing district by
6 the end of the decade, it makes it much less competitive and
7 harder for the Democrats to win.

8 Q. And in District 6, it looks like there was a reduction of
9 about 1.6 percent of the Biden vote share; is that right?

10 A. That's right.

11 Q. And does that have any effect on that district's
12 performance in realistic terms?

13 A. It really doesn't. You would have to have a massive
14 shift in the political demographics of the district or a
15 political wave, the likes of which we've never seen for that
16 district to elect a Republican.

17 Q. And even in enacted District 6, the Biden vote share is
18 still over 66 percent; is that right?

19 A. Yes.

20 Q. Let's go to the bottom of this page. Did you prepare
21 this Table 9?

22 A. I did.

23 Q. And what is this table showing?

24 A. So, this is showing the net movement of Biden voters by
25 district from the benchmark plan to the enacted plan. And

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1 it's read similar -- it should be read similar to the earlier
2 districts. So, on net, in District 1, 10,808 Biden voters
3 were moved to District 6. And, on net, from District 2, 2755
4 Biden voters went to 6. If you go down to, say, District 5,
5 on net, 3,211 voters were taken from District 3, and then 212
6 Biden voters were sent to District -- or the mapmakers moved
7 212 Biden voters to District 6.

8 Q. Let's focus in on the District 1 and District 6 swaps for
9 a moment. I think you said that from District 1, there were
10 10,808 Biden voters that were moved into District 6; is that
11 right?

12 A. On net, that's right.

13 Q. On net. And how about from District 6 to District 1?

14 A. You had 3242 Biden voters moved from District 6 to
15 District 1 on that.

16 Q. And the difference in those numbers is somewhere around
17 7500 or so; is that right?

18 A. Yes.

19 Q. And does that account for that 1.4 percent change in the
20 Biden vote share we saw in the other table?

21 A. It does.

22 Q. Now, Mr. Trende, we've been talking about changes to the
23 enacted plan and the benchmark plan. Did you also look at
24 some specific changes in lines between districts?

25 A. I did.

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1 Q. Let's turn to page 24 of your report. And this map here,
2 what does this map show?

3 A. So, this shows the precincts that were -- well, first
4 off, this is Sumter County, or the Sumter area. It shows the
5 boundary between District 5 and District 6. And I've gone
6 ahead and highlighted the precincts that were moved in that
7 area, with the black line reflecting the old district line.

8 Q. So, on here, is the black line the old district line?

9 A. That's right.

10 Q. And the shaded areas are the areas moved from the
11 benchmark district to the enacted district?

12 A. Yes.

13 Q. And what did you observe about the changes the enacted
14 plan made to the line in Sumter?

15 A. So, a lot of these movements simply make precincts whole.
16 So, that Maywood precinct, you can't really -- this is one
17 thing that wasn't illustrated well, but it's actually on both
18 sides of that kind of peninsula from District 6. And the same
19 with Turkey Creek, it was actually split down the middle. And
20 so, those precincts are made whole, a couple of the precincts
21 in the actual city of Sumter made whole. And then a few
22 precincts are added that sort of smoothed the line out to make
23 it a more compact line there.

24 Q. Did you prepare a map of the Sumter area with the
25 precincts shaded by BVAP as well?

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1 A. Yes, I did.

2 Q. Can you scroll down to page 26 of your report?

3 A. Okay.

4 Q. And will you explain to the Court what this map shows?

5 A. So, this is the same map as before, but it includes the
6 BVAP of the district and the surrounding area. So, using this
7 approach, the black line is still the old district line, but
8 the green line -- if it's printed in color -- is the new
9 district lines. Maybe that is green. Again, color blind.

10 Q. So, are the areas between the black-and-green lines the
11 areas that were moved into District 6 by the enacted plan?

12 A. That's correct.

13 Q. And is there any -- and the BVAP shading is by BVAP
14 percentage; is that right?

15 A. That's correct.

16 Q. And you used DOJ Black as the metric, I believe you
17 testified earlier; is that right?

18 A. That's right.

19 Q. Is there any significance from this that you see?

20 A. I mean, to me, it looks like there were a lot of Black
21 precincts that didn't get moved into District 6. The
22 precincts that got moved in, you know, they weren't
23 necessarily the Whitest in the area, but, you know, they're
24 somewhere in the middle. But, again, it gives a sense,
25 looking at the area, of what the mapmakers could have seen if

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1 they were drawing with respect to race and then what they
2 actually moved.

3 Q. All right. Let's go to page 27 of your report. Did you
4 also look at Orangeburg County?

5 A. I did.

6 Q. And, Mr. Trende, will you explain this map on page 27?

7 A. Yeah. So, this is looking at the District 2-6 boundary.
8 And it is the same as the previous one. It shows the old
9 district lines between 2 and 6. And then the precincts that
10 were moved are shaded.

11 Q. And what did you observe about the changes that were made
12 in Orangeburg County?

13 A. So, it's much the same as we saw in Sumter. Most of
14 what's being done is precinct repair. The small portion of
15 Cordova 2 goes into District 2, which makes it whole. A
16 portion of North 2 and Pine Hill are put into District 2,
17 which makes it whole. And then Limestone 1 and 2 are moved
18 into the 2nd District as well.

19 Q. Let's scroll down to the next page, page 28 of your
20 report. Did you also prepare a BVAP shaded map for those
21 changes in Orangeburg?

22 A. I did.

23 Q. And, again, are those changes in the area between the
24 black and green lines?

25 A. That's correct.

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1 Q. Let's then scroll down to page 29 of your report. You
2 also looked at the Richland area; is that right?

3 A. Oh, that's correct.

4 Q. And does this map show changes in the Richland area from
5 the benchmark plan to the enacted plan?

6 A. That's right.

7 Q. And what is this map depicting?

8 A. So, this is depicting Biden vote share in the area. So,
9 the bluer the precinct, the more heavily Biden vote -- votes
10 for President Biden.

11 Q. Again, are the areas between the black and green lines
12 the areas that were moved from the benchmark plan to the
13 enacted plan?

14 A. That's right.

15 Q. And what did you observe about the changes that the
16 enacted plan made to the district line here in Richland?

17 A. You can see some pretty nice relief between the red and
18 the blue areas. And if you look in the area to the west of
19 Fort Jackson that gets moved into District 6, it's a blue and
20 purple precinct, a lot of it is precinct repair, as we've seen
21 before, and then some making the boundaries smooth.

22 Q. And does your report also contain other information about
23 these moves, like the BVAP?

24 A. Yes. It's all contained in the text of the report.

25 Q. If we scroll down to page 30, is this a similar shading

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1 map for the moves in Richland County?

2 A. Yes. So, this is another version of the maps we've seen
3 before that I prepared that shows the precincts that were
4 moved into District 2 -- I'm sorry, the precincts that were
5 moved, with the black line indicating the benchmark map.

6 Q. And if we scroll down quickly to page 32, is there also a
7 map to show that shading for BVAP in Richland?

8 A. Yes, there is.

9 Q. Now, did you also examine the change in the district line
10 between Districts 1 and 6 in the Charleston area?

11 A. Yeah, I did.

12 Q. All right. Let's go to page 34 of your report. Will you
13 explain this map to the Court?

14 A. So, this is a version of the previous maps that we've
15 seen. I didn't include the precinct labels, because it would
16 just be too busy to be useful. You've got just a field of
17 overlapping flags. But you can see the areas that the black
18 line is the previous boundary and the shaded precincts are the
19 ones -- are the precincts that are moved.

20 Q. Let's scroll down to page 35 of your report. The first
21 whole paragraph on page 35 starts "all told." And this is, I
22 think, a synopsis of some of what you observed in that
23 1st-to-6th swap; is that right?

24 A. That's right.

25 Q. So, will you go ahead and read that paragraph?

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1 A. Yes. "All told, 140,489 residents are moved from the 1st
2 to the 6th, of whom 113,531 are of voting age. Of these
3 voting-age residents, 63.9 percent are non-Hispanic White,
4 while 23.4 percent are Black. This compares to an overall
5 combined BVAP in Charleston and Dorchester Counties of
6 22.5 percent. So, the net effect of these moves on the racial
7 composition of the districts is minimal. But moving these
8 districts reduces the Democratic performance in District 1
9 appreciably, as these residents voted for Joe Biden by an
10 18-percent margin. Another 5,309 voters are moved in from the
11 6th District to the 1st. These districts are 64-percent
12 non-Hispanic White, and voted slightly for President Trump."

13 Q. So, what is the takeaway from what you observed in
14 Charleston?

15 A. The moves end up being, on net, race neutral. You move
16 -- what changes is the politics. You move in some
17 African-American areas of Berkeley that have White Trump
18 voters mixed in, you move out some in the Charleston area that
19 have more liberal white voters mixed in, changing the
20 composition of the district.

21 Q. So, I think you mentioned before that there was
22 a .2-percent increase in the BVAP in District 1; is that
23 right?

24 A. That's right.

25 Q. And a 1.4-percent decrease in the Biden vote share; is

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1 that right?

2 A. That's correct.

3 Q. And can you give us a little bit more explanation as to
4 why that happens?

5 A. Well, there's a variety of reasons. But part of it is
6 that BVAP is voting age population, but not everyone who's
7 voting age population votes. Some of it is that people aren't
8 perfectly segregated within precincts, generally. So, as you
9 move over a group of, you know, African-American voters that
10 have Trump voters mixed in, it's going to be different than
11 moving over African-American voters with White Biden voters
12 mixed in.

13 Q. Mr. Trende, this data that you used here to calculate the
14 BVAPs and the non-Hispanic White population -- share of the
15 population, where did you get that data from?

16 A. It's census data. We downloaded it from a place called
17 the Redistricting Data Hub. It's a common source for academic
18 inquiries.

19 Q. And how about the political data?

20 A. The political data come from the same source.

21 Q. That came from the Census?

22 A. I'm sorry. No. It came from Redistricting Data Hub.

23 Q. Okay. Great. Mr. Trende, let's go ahead and turn to
24 your rebuttal report, if we might. And that is Exhibit 76,
25 which we'll show now on the screen.

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1 Mr. Trende, is this the rebuttal report you created in
2 this case?

3 A. That's right.

4 Q. What are the topics of your rebuttal report?

5 A. I was asked to respond to the reports of Dr. Imai and Dr.
6 Ragusa.

7 Q. Okay. And let's start with Dr. Imai. He's not yet
8 testified to this Court. But will you briefly summarize the
9 simulation analysis method he uses?

10 A. So, Dr. Imai runs three sets of simulations that are --
11 I'll -- I'll let him explain it. But it goes through and
12 takes the enacted map and perturbs it by swapping precincts or
13 chunks of precincts in and out. And the idea behind these --
14 there's a bunch of varieties of these merged split algorithms.
15 The idea is that gerrymanders are fragile but enacted plans
16 are not. So, if you move even a little bit off of a
17 gerrymander, it should show up as something very different;
18 whereas, if you're drawing a neutral plan, there's a lot more
19 ways to end up with it mathematically, so it shouldn't really
20 change things.

21 And so, basically I took -- Dr. Imai's runs three
22 different sets of simulations. One of them looks just at the
23 precincts in Districts 1 and 6, one of them looks at
24 Charleston County, and one of them looks at statewide. And he
25 runs his simulations, compares them to the enacted plan.

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1 Q. If we scroll down to page two of your report, you mention
2 that Dr. Imai's simulation analysis doesn't control for
3 several redistricting principles. Can you expand on that a
4 little bit?

5 A. So when you run these simulations, it's real easy to do
6 in a state like Maryland, where it's very obvious that they
7 didn't have traditional redistricting concerns because of how
8 convoluted the lines are. In a state where there are other
9 concerns, it's much more difficult. So, you can think of it
10 as there is a near-infinite number of maps the legislature
11 could have drawn. And there are legitimate and illegitimate
12 reasons for narrowing that distribution of maps from which
13 they've drawn.

14 And the idea of these simulations is to pull maps from
15 that distribution and compare it to the enacted plan, and if
16 the enacted plan doesn't look like that distribution, they try
17 to raise the inference that, well, it must be an illegitimate
18 reason. Well, that's only true if you're controlling, for
19 legitimate purposes, that the legislature was using to narrow
20 its selections of plans. So, if you have this near-infinite
21 universe of plans and the legislature says, well, when we draw
22 the plan, we're going to exclude maps that don't include
23 district cores, they're narrowing the distribution of maps
24 from which they can draw their final map. Well, if the
25 simulation doesn't do the same thing, it's not drawn from the

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1 same distribution of the legislature, and you can't rule out
2 the possibility that the reason that the simulation ensemble
3 looks different from the enacted map is because it's pulling
4 from a different distribution of maps.

5 Q. So, based on your review, did Dr. Imai's simulation
6 analysis control for all the criteria identified in the
7 Court's prior cases and in the House and Senate guidelines?

8 A. No, it did not.

9 Q. You mentioned it does not control for core retention; is
10 that right?

11 A. That's right.

12 Q. And will you describe what you observed with respect to
13 core retention when you analyzed Dr. Imai's simulations?

14 A. So, Dr. Imai provided his code and actually provided the
15 maps that he produced. And so, I was able to -- one of the
16 nice features of the Redist program is that -- it's actually a
17 special program written for "R," that he employs. One of the
18 nicest things about it is it will provide you with a precinct
19 assignment list, and so you can recreate every one of the maps
20 in the ensemble. And so, I did that. And I was able to
21 compare in the ensemble the core preservation for each
22 district in all the maps and see how it compared to what the
23 enacted plan did.

24 Q. Right. So, let's scroll down to page three of your
25 rebuttal report. Did you prepare these histograms, or visual

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1 aids, to depict what happens with core retention in the Imai
2 simulation?

3 A. I did. I think it starts on the next page -- or it
4 starts on the next page.

5 Q. Page three of the report, page four of the PDF?

6 A. Yes.

7 Q. And what did you observe about the performance of Dr.
8 Imai's simulation plans on core retention compared to the
9 enacted plan?

10 A. So, the histograms are ways of describing or presenting
11 counts. And so, what's going on is the X axis, or the
12 horizontal axis, shows core retention, and the Y axis is a
13 count. It's the number of districts that fall into a certain
14 percentage of core retention. So, you can see that giant
15 spike just north of 72 percent. That means that there are
16 about 3400 maps in Dr. Imai's ensemble that retain around 73
17 percent of District 1's core. And so, you can see what the
18 distribution of all the maps are. So, his ensemble was
19 producing maps where District 1 retained about 45 percent of
20 its core all the way up to about 75 percent of its core.

21 Q. And in the next paragraph I believe your report gives
22 some data and statistics about this, right?

23 A. That's right.

24 Q. And so, can you briefly summarize that for the Court?

25 A. So, the first thing I did was calculate the -- you know,

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1 when you're looking at a distribution, the first thing you
2 want to do is measure -- the first thing you'd generally do is
3 measure centrality. And so, I calculated the average core
4 retention of the maps in Dr. Imai's ensemble. And so, on
5 average, District 1 in his ensemble features a core-retention
6 rate of 68.5 percent. I then looked at the standard
7 deviation, which is a measure of spread, how widely dispersed
8 a distribution is. And so, the enacted plan's core-retention
9 rate is about three standard deviations above the mean.

10 Q. And how about in District 2?

11 A. So, District 2 fares worse. Its average, or mean
12 core-retention rate, is 48 percent. The enacted plan's
13 core-retention is about 4.7 standard deviations above that.

14 Q. How about Districts 3 and 4?

15 A. It's similar results. The average core-retention rate is
16 69.5 percent in District 3, and that's compared to an actual
17 core-retention rate of 98.02, which is about 2.3 standard
18 deviations higher. Dr. Imai's ensemble has a core-retention
19 rate of 62.1 percent for District 4, which is compared to the
20 enacted plan's retention of 94.3 percent, about 1.9 standard
21 deviations higher.

22 Q. Okay. And let's move down. If we look at the bottom of
23 the page, are these the histograms for Districts 3 and 4?

24 A. That's right.

25 Q. And the vertical line on the right, does that represent

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1 the core retention for each of those districts in the enacted
2 plan?

3 A. That's right. I should have clarified that. The red
4 line, the vertical line on these maps, is the core retention
5 for the enacted plan.

6 Q. Did you also observe that the core retention in Dr.
7 Imai's simulation plans was lower for Districts 5, 6 and 7 in
8 the enacted plan?

9 A. Yes. It's the same story. He's consistently -- in some
10 cases, always producing districts with much lower core
11 retention than the enacted plan.

12 Q. And are those data and histograms also in your rebuttal
13 report?

14 A. They are.

15 Q. Let's move ahead to page five of your rebuttal report. I
16 believe your next criticism of Dr. Imai -- well, actually,
17 let's go back up to page four just briefly.

18 And you say here for District 6 at the top of the page --
19 what is the mean core-retention rate in District 6 for Dr.
20 Imai's -- in Dr. Imai's simulation?

21 A. Dr. Imai's simulations retain about, on average,
22 43.7 percent of that district's constituents.

23 Q. So, does that mean that, on average, under Dr. Imai's
24 simulation plans, about 56 percent of Congressman Clyburn's
25 constituents would be new to him?

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1 A. Yeah. About four out of every five maps replaces the
2 majority of Congressman Clyburn's constituents.

3 Q. Let's scroll down then to page five of the plan -- of
4 your rebuttal report. You mentioned also that Dr. Imai's
5 simulations do not address partisanship or politics. Can you
6 explain what you observed as a result of that?

7 A. So, using the same approach, which is taking Dr. Imai's
8 ensembles and measuring the political variation in the
9 districts, I was able to compare the ensemble to the enacted
10 plan's partisanship for the districts.

11 Q. And what did you observe about the partisanship of
12 District 1 in Dr. Imai's simulation plan?

13 A. Dr. Imai's simulation plan consistently produces District
14 1's that are more Democratic than the actual enacted map. As
15 a matter of fact, the majority of them are won outright by
16 President Biden.

17 Q. So, in the bottom of page five, in that paragraph, can
18 you tell the Court what percentage of the statewide ensemble
19 districts in which Nancy Mace was placed were carried by Joe
20 Biden in 2020?

21 A. It's 91 percent.

22 Q. And will you briefly explain the charts here below on
23 page six?

24 A. So, these are the same charts we saw with respect to the
25 core retention, except now the X axis, the horizontal axis, is

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1 President Biden's vote share. So, you can see Dr. Imai's
2 ensemble maps cluster around about a 52-percent vote share for
3 President Biden, which is obviously a much more competitive
4 district for Representative Mace than the legislature drew for
5 her.

6 Q. And is the vertical line shown on this histogram the
7 Biden vote share in enacted District 1?

8 A. That's right.

9 Q. Let's scroll down to the bottom of page seven. And you
10 say here that Dr. Imai's analysis misses the forest for the
11 trees. What do you mean by that?

12 A. Well, when you do these simulations, you know, it's
13 looking at kind of what a blank slate map might look like.
14 But that's not what the legislators were doing. They were
15 drawing it from a map that had already been drawn. And so,
16 you know, these blank slate maps don't take account that from
17 Districts 2 to 6, about 40,000 residents total were swapped.
18 And it doesn't take into account that -- regardless of what
19 you might do on a blank slate, the racial breakdowns of
20 Districts 1 and 2 and 5 are hardly changed.

21 And so, again, it gets back to that -- if Dr. Imai's maps
22 are producing something wildly different from what the
23 legislature did with respect to legitimate principles like
24 core retention, incumbent protection partisanship, you know,
25 there are good reasons why -- there are reasons why the

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1 legislature want to avoid those maps other than race.

2 Q. And turning to page eight, before we get into your
3 response to Dr. Ragusa, you say here about District 6, that it
4 took on large numbers of voters to achieve equal population,
5 including White Democratic voters from District 1.

6 Can you expand on that a little bit?

7 A. Well, this is something we've mentioned before, that
8 District 6 was underpopulated to begin with. And so, it had
9 to take on a large number of voters. And the legislature put
10 in some African-American voters in the Charleston area, but it
11 put in a lot of White liberal voters as well from North
12 Charleston to West Charleston.

13 Q. Let's get into your response to Dr. Ragusa here for just
14 a moment. Dr. Ragusa has already testified to the Court, and
15 the Court has heard about his three tests. I believe you have
16 three criticisms here in your rebuttal report. What is your
17 first criticism of Dr. Ragusa's approaches?

18 A. So, the first is that he's using count data, when I think
19 we're more interested in the rate. So, his predictors are the
20 number -- his response, what he's trying to predict, is
21 whether the district gets moved in and out, or out and in.
22 But the things that he hypothesized to influence that decision
23 are the number of Black voters, the number of Republican
24 voters, the number of total voters. Well, what that does is
25 it treats a precinct with 50 Black voters and 50 voters of

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1 voting age, a movement of that, a hundred percent BVAP
2 district, the same as a precinct with 50 Black residents and a
3 total population of a thousand, even though that latter would
4 just be five percent and would actually make the district as a
5 whole Whiter if it moved in. So, for our purposes, at least,
6 it's matching apples to oranges.

7 Q. So, if I understand what you're saying, the total number
8 of Black residents of voting age in a district is not
9 necessarily probative of the effect of moving that precinct
10 from one district to another; is that right?

11 A. Well, it answers how the total number of Black residents
12 might influence things, but it misses the forest for the trees
13 again, because it doesn't take into account directly the
14 effect of whether it's a precinct with 50 voters or a
15 thousand. He has the separate control for it, but that's
16 additive, right? It's the effect of African-American
17 population, political population, total population. But what
18 we're really interested in is multiplicative. It's the number
19 of voters divided by the total population. And he just
20 doesn't account for it that way.

21 Q. Let's turn to your second criticism of Dr. Ragusa. Does
22 he consider all traditional districting principles?

23 A. To my understanding, and having run his code, he does
24 not. So, he's not asking why districts were kept in tact.
25 He's not asking about concerns about incumbents. He's not

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1 asking about any of these factors we've talked about so far.
2 Just simply about population, Black population, and Biden
3 voters.

4 Q. Does he consider district core retention?

5 A. He does not.

6 Q. Or reducing precinct splits?

7 A. He does not.

8 Q. Or preserving communities of interest?

9 A. No.

10 Q. Or keeping municipalities and counties in tact?

11 A. He does not.

12 Q. All right. If we scroll down to the page nine of your
13 report, this is what you describe as the most serious problem
14 with Dr. Ragusa's analysis. Will you just briefly explain
15 that to the Court?

16 A. So, I use Colleton County as an illustrative issue. But,
17 you know, one of the foundational redistricting principles is
18 that districts have to be contiguous. And Dr. Ragusa's
19 approach does not account for contiguity. What he is asking
20 when the -- or what the regression is asking when it's looking
21 at Colleton County, is: Okay, why -- when the legislature was
22 deciding which precincts in Colleton County to include in the
23 2nd -- or in the 1st -- and not include: Why didn't it
24 include Borea Smoaks? Borea Smoaks has an unusual number of
25 Black residents. It would say, well, that's a racial

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1 consideration. But, obviously, looking at Colleton County,
2 that's not the only consideration, because there's no way to
3 put Borea Smoaks in the district by itself. You would have to
4 put Borea Smoaks in with Edisto, and Kennedys, and Horse Pen,
5 Walterboro No. 5, 6 3 -- or some combination of precincts that
6 would make that contiguous. And if you just selected the
7 precincts that I had listed, you'd end up with a weird
8 non-compact finger adding into Colleton County. So, there's
9 just no consideration of -- it would treat the decision to not
10 include Borea Smoaks as equivalent to the decision not to
11 include the remainder of the Green Pond precinct, which is
12 just detached from how maps are actually drawn.

13 Q. Looking at this map, does the envelope approach treat
14 every VTD here in Colleton County as equally available to the
15 map drawer?

16 A. That's right.

17 Q. And in reality, is that true?

18 A. Well, no, for the reasons I just stated. At least not
19 without conducting major surgery on the district elsewhere.
20 You know, if you were going to try to keep counties whole, and
21 you made Colleton County whole, you have to figure out: Well,
22 where am I going to give up the 38,000 residents to offset
23 this?

24 And not only that, but then there's a whole host of --
25 you can't view the racial makeup of Borea Smoaks in a vacuum,

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1 because you can't put Borea Smoaks in this district in a
2 vacuum. To get Borea Smoaks in requires you to put some
3 combination of precincts in the middle, all of which will have
4 racial makeups and affect the racial makeup of the district as
5 well. There's no independence here. Putting Borea Smoaks in
6 is dependent on some combination of precincts in between, also
7 going in.

8 Q. And if we scroll down to page 10 of your rebuttal report,
9 did you provide a similar illustration of this phenomenon in
10 Richland County?

11 A. Yes. So, again, this is just meant to be illustrative of
12 what the issue is. It's present any time there's split
13 counties. But to give an example, Dr. Ragusa's regression
14 analysis will look at the Monticello precinct. And it will
15 ask: Well, why didn't the Monticello precinct get made whole
16 in District 6 as opposed to District 2? Well, I don't think
17 that's a question you can really evaluate in a vacuum, because
18 if you make Monticello precinct, which is kind of up towards
19 the top of the district along that northern tier of precinct,
20 if you make Monticello whole in the 6th District, you've then
21 split the 2nd in two. And so, it is noncontiguous. You would
22 have to come up with some combination -- either take the
23 entire arm to the east and also put it in District 6, or come
24 up with some radical redrawing of District 2 that would keep
25 it contiguous. So, again, that's just not -- it is simply not

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1 something that can be evaluated in a vacuum.

2 Q. And, Mr. Trende, in your experience, does redistricting
3 require tradeoffs between various criteria?

4 A. Oh, absolutely. Absolutely. Having drawn the maps in
5 Virginia, it's -- it's involved.

6 Q. And do Dr. Imai's and Dr. Ragusa's analyses address all
7 of those various tradeoffs that may be implicated?

8 A. They simply don't.

9 MR. GORE: No further questions. I'll pass the
10 witness.

11 JUDGE GERGEL: Thank you.

12 MR. MATHIAS: House defendants have no questions.

13 JUDGE GERGEL: Very good. Cross-examination.

14 **CROSS-EXAMINATION**

15 **BY MR. FREEDMAN:**

16 Q. Good morning, Mr. Trende. Nice to see you again.

17 A. Good to see you.

18 Q. So, I want to start with some of your testimony about Dr.
19 Imai and some of your experience testifying in other
20 gerrymandering cases. In some of your reports in
21 redistricting cases, you actually do simulation analysis,
22 right?

23 A. Oh, yes.

24 Q. All right. For example, in the report you filed earlier
25 this year in the *Szeliga v. Lamone* case -- that's the Maryland

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1 partisan gerrymandering case -- you conducted a simulation
2 analysis, right?

3 A. Now, that's correct.

4 Q. And in the report you filed earlier this year in the
5 *Harkenrider v. Hochul* case -- the New York partisan
6 gerrymandering case -- you also conducted a simulation
7 analysis, right?

8 A. Yes. I don't have a problem with the simulation analysis
9 in general. I just know from experience that it's tricky to
10 do them if you don't -- if it's not obvious what the
11 legislature was doing, or if you're not controlling for
12 everything the legislature is doing.

13 Q. And in *Harkenrider*, you presented an analysis based on
14 5,000 simulations, right?

15 A. That's correct -- well, in the initial report, it was
16 5,000. We did another 35,000 in the rebuttal.

17 Q. And, when you presented those simulations in the Maryland
18 case and in the New York case, you wrote in your reports that
19 simulation analysis is widespread in political science?

20 A. Yeah.

21 Q. And you wrote it's been accepted by multiple courts,
22 right?

23 A. Oh, yeah. I don't have any problem with simulation
24 analysis properly done in the abstract, not at all.

25 Q. And when you ran the simulations in those cases, you used

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1 a broadly accepted packaging R called Redist, right?

2 A. That's right.

3 Q. You testified about Redist at about 10:05 this morning,
4 about 20 minutes ago. Do you remember that?

5 A. Oh, yeah.

6 Q. And you're aware and you've testified that Redist was
7 developed by Dr. Imai, right?

8 A. Absolutely.

9 Q. The academic you support -- that you cite in your New
10 York and Maryland reports about use of Redist cites an article
11 that Dr. Imai co-authored; right?

12 A. Oh, that's right.

13 Q. Now, when you ran your simulations in the New York and in
14 the Maryland case, your simulations didn't use strict equal
15 population, right?

16 A. That's right.

17 Q. For example --

18 MR. FREEDMAN: Why don't we pull up, Stephen, PX-165,
19 the New York report, at page nine.

20 BY MR. FREEDMAN:

21 Q. I'm showing you -- it's at the bottom. This is from your
22 New York report. You write that: "Here, the simulation was
23 instructed to follow federal and state law by drawing
24 districts that would be largely equipopulace. The simulation
25 allows a population tolerance of plus or minus one percent.

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1 Do you see that?

2 A. Yeah. That's right.

3 Q. Now, you also wrote in your New York reports that you
4 follow the lead -- in preparing that report, you followed the
5 lead of Dr. Imai and the approach Dr. Imai took in his South
6 Carolina report. Do you recall writing that?

7 A. I think it was the South Carolina legislative report
8 where he was using Sequential Monte Carlo as opposed to what
9 he's using this time. But I believe that I wrote that.

10 Q. Let's take a look at your reply report in New York.

11 MR. FREEDMAN: Stephen, can you pull up the New York
12 2 and pull up page 16, the third paragraph and the first
13 sentence. And then can you also pull up page 17, the second
14 full paragraph, the first sentence, at the same time? Can you
15 put them both up?

16 BY MR. FREEDMAN:

17 Q. You write: "To that end, I produced additional
18 simulations that, following the lead of Dr. Imai, freeze
19 certain districts in place." Do you see that?

20 A. Yeah. So, they had complained that -- reasonably -- that
21 the initial simulations didn't follow all the considerations
22 that the legislature did. So, what we're doing here is
23 producing additional simulations that are drawn to try to
24 guarantee that they are drawn from the same simulation -- same
25 distribution as the legislature.

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1 So, for example, they complained that I didn't take
2 account of core retention like the legislature did. So, I
3 used Dr. Imai's software and the commands that he wrote to
4 control for core retention, to ensure that I was drawing from
5 the same distribution. So, that's what this is about. I
6 don't know why he didn't do it here.

7 Q. Okay. On page 17, second full paragraph, the first
8 sentence, you write that: "Because the remaining precincts
9 are noncontiguous, the simulations were run in three batches.
10 This follows the approach of Dr. Imai in his recent South
11 Carolina report." You see that?

12 A. Yeah. Yeah. You need -- it doesn't do any good to run
13 the simulations on noncontiguous precincts. You have to break
14 it down. And so, I'm following his approach. But, again, I'm
15 pretty sure this is from the legislative case, not this case.

16 Q. Now, the New York court found, in crediting your opinion,
17 that your maps -- Mr. Trende's maps and simulations did not
18 include every constitutional consideration, right?

19 A. That's right.

20 Q. And the Court accepted your opinion in that case, right?

21 A. It did.

22 MR. FREEDMAN: Stephen, can we pull up the Maryland
23 report, page 35, paragraph 80?

24 **BY MR. FREEDMAN:**

25 Q. Now, in your report in the Maryland case, you explained

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1 why you conducted a simulations analysis in addition to a
2 qualitative assessment of maps, right?

3 A. Yes.

4 Q. And you wrote that you conducted a simulations analysis
5 to avoid the critique that a qualitative assessment of maps is
6 an I-know-it-when-I-see-it standard. That's what you wrote,
7 right?

8 A. It can be critiqued that way, yes.

9 Q. Okay. Let's turn to your analysis in this case. You
10 didn't conduct a simulations analysis in South Carolina, did
11 you?

12 A. I used Dr. Imai's simulations.

13 Q. You didn't conduct your own independent simulations
14 analysis, right?

15 A. No.

16 Q. And in presenting your analysis, you provide some
17 comparisons of the enacted map with historic maps, right?

18 A. Correct.

19 Q. For example, you include comparisons between the enacted
20 map and the 2011 map, what you refer to as the benchmark map,
21 right?

22 A. That's right.

23 Q. And you include an analysis of each map going back to
24 1902, with the exception of the 1970s map, right?

25 A. And I think the 1966 redraw or '68. But, yeah.

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

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1 Q. But you don't include any comparisons to any other maps
2 concerning this redistricting cycle, right?

3 A. That's right. I wasn't asked to look at any of those.

4 Q. So, for example, you didn't compare the enacted plan to
5 Senate Amendment 2A, the plan sponsored by Senator
6 Harpootlian, right?

7 A. That's right.

8 Q. And you didn't compare the enacted plan to the League of
9 Women Voters Plan, right?

10 A. That's right.

11 Q. And you didn't compare the enacted plan to the plan
12 submitted by the NAACP, right?

13 A. That's right.

14 Q. You didn't compare the enacted plan to the three plans
15 submitted by the National Republican Redistricting Trust,
16 right?

17 A. That's right.

18 Q. And you didn't compare the enacted plan to the South
19 Carolina House staff plan, the first one prepared by the House
20 -- first one prepared by the House defendants?

21 A. That's right. I was just looking at how actual enacted
22 maps changed over time.

23 Q. Okay. Now, at about an hour ago, a little over an hour
24 ago, about 9:25, Mr. Gore was asking you to walk through your
25 historical analysis. And you write that: "Looking at the

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1679

1 South Carolina maps going back to 1902, South Carolina's
2 district cores have remained surprisingly consistent over the
3 past century," right?

4 A. That's right.

5 Q. And I think you testified -- I didn't get it exactly
6 right, but you testified that district cores would be
7 recognizable to someone living in 1900, they keep to the same
8 core areas, even some of the district numbers are the same,
9 right?

10 A. That's right.

11 Q. And you write in your report, going back to the early
12 1900s, the 1st District was anchored in Charleston, right?

13 A. That's right.

14 Q. And you also write in your report in the 1992 map, that
15 the 1st District was still anchored in Charleston, right?

16 A. Right.

17 Q. Now, when you talk about the enacted plan on page 16 of
18 your report, you don't say in your report that CD 1 in the
19 enacted map is still anchored in Charleston, right?

20 MR. FREEDMAN: Stephen, can you show Senate Defendant
21 Exhibit 75 on page 16 at the bottom.

22 BY MR. FREEDMAN:

23 Q. You talk about the 2nd District, the 3rd District, the
24 4th, the 5th. You don't talk about the core of the 1st
25 District being the same, right?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1680

1 A. It's not in the paragraph, no.

2 MR. FREEDMAN: Stephen, can you pull up image one?

3 BY MR. FREEDMAN:

4 Q. So, this is a close-up of the 1902 map in your report.

5 And I think we can all agree that in 1902, Congressional

6 District 1 was anchored in Charleston, right?

7 A. Yes.

8 MR. FREEDMAN: Stephen, can you put up image two,
9 which is a side-by-side of the 1902 map and the enacted plan?

10 BY MR. FREEDMAN:

11 Q. Can we agree that in the current plan under the enacted
12 plan, the city of Charleston is no longer in CD 1?

13 A. The city of Charleston is not.

14 Q. It's no longer in CD 1, right?

15 A. Right.

16 Q. And Charleston County is no longer the largest county,
17 population wise, in CD 1, right?

18 A. Oh, that's right.

19 Q. Now, you also wrote in your report that, going back to
20 the early 1900s, the 7th District was anchored in Columbia?

21 A. I'm sorry. What?

22 Q. You wrote -- and we can pull it up. You wrote, going
23 back to the early 1900s, the 7th is anchored in Columbia. Do
24 you see that?

25 A. Yeah. If I did, that's -- okay. Yeah.

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1681

1 Q. And I think we can agree that the 7th is no longer
2 anchored in Columbia, right?

3 A. No. The 7th is now like the old 6th in the Pee Dee
4 region.

5 Q. Myrtle Beach and Pee Dee?

6 A. Yeah.

7 MR. FREEDMAN: Stephen, can you pull up page 16, the
8 text at the bottom?

9 BY MR. FREEDMAN:

10 Q. You write in your discussion of the enacted plan that the
11 2nd District remains based in Columbia, right?

12 A. That's right.

13 Q. So, a hundred years ago the Columbia-based district was
14 CD 7, and under the current map it is CD 2, right?

15 A. That's right.

16 MR. FREEDMAN: Can you pull up image three?

17 BY MR. FREEDMAN:

18 Q. So, I've shown what is image 3, which is a close-up of
19 your 1902 map in the Columbia region. And I think we can all
20 agree that a hundred years ago, the congressional district
21 we're looking at was anchored in Columbia, right?

22 A. Yeah. And I should probably clarify. The dash lines
23 here are not the counties at the time, because the county
24 boundaries shifted. So -- but, yeah.

25 MR. FREEDMAN: Stephen, can you pull up image 4?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1682

1 BY MR. FREEDMAN:

2 Q. This is a comparison of the enacted plan in the 1902
3 plan. And I think we can agree that, under the enacted plan,
4 most of the city of Columbia is no longer in the district,
5 right?

6 A. District 7?

7 Q. Well, it's certainly not in District 7, because most of
8 it is not in District 2, where you say it's anchored, right?

9 A. Oh, yeah. Like I said in my direct, I would be more
10 precise to say city or county or whatever. But I think it's
11 still anchored in the Columbia area.

12 Q. Okay. Let's shift gears. We can talk a little bit about
13 population movements. At about 9:35, Mr. Gore asked you about
14 Table 1 from your report.

15 MR. FREEDMAN: Stephen, can you pull that up? It's
16 Senate Exhibit 75, at page nine, table 1.

17 BY MR. FREEDMAN:

18 Q. According to your analysis -- and I don't think there's
19 any dispute -- after the 2020 census, the 5th District was
20 overpopulated by 5,082 people, right?

21 A. That's right.

22 MR. FREEDMAN: And, Stephen, can you do a split
23 screen with Table 4 from his report. That's at page 18. Just
24 the two tables side by side.

25 BY MR. FREEDMAN:

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1683

1 Q. So, we see that there were 5th District overpopulated by
2 5,082 people. And according to your analysis, Table 4, which
3 I don't think there's any dispute about, the enacted map moved
4 41,407 people, right?

5 A. Yeah. Yeah, I'll trust your math. 41,000 some odd
6 people were moved out of the 5th. Right.

7 Q. Overpopulated 5,082 people, 41,000 people moved out,
8 right?

9 A. Yeah. Yeah, mostly on the 5-4 boundary.

10 Q. And if you look at District 2, District 2 was
11 underpopulated by 9,375 people, right?

12 A. That's right.

13 Q. So, the district is underpopulated, but the enacted plan
14 moved 14,397 people out. Do you see that in Table 4?

15 A. Yes.

16 Q. And after the 2020 census, District 6 was underpopulated
17 by 84,741 people, right?

18 A. Oh, that's right.

19 Q. And I did some quick math. Table 4 -- even though
20 District 6 was more underpopulated than any other district in
21 the state under the enacted map, 80,469 people who had been
22 living in District 6 were moved out, right?

23 A. Oh, that's right.

24 Q. And after the 2020 census, District 1 was overpopulated
25 by 87,689 people, right?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1684

1 A. That's correct.

2 Q. And if we look at Table 4, the enacted plan moved -- even
3 though District 1 was only overpopulated by 87,689 people, the
4 enacted plan moved 140,489 people out of District 1, right?

5 A. Oh, that's right.

6 Q. And just looking at Table 4, if we were to add up all the
7 movements of people in the enacted plan, the enacted plan
8 moved hundreds of thousands of people from their old districts
9 to their new districts, right?

10 A. Yes.

11 Q. Like, I did the math --

12 A. I believe you.

13 Q. You know me, I --

14 JUDGE GERGEL: You're going to cross a lawyer on
15 math? I figure you're going to be a while. And I don't want
16 to kill my staff, particularly, my court reporter. Is this a
17 good time to break?

18 MR. FREEDMAN: Let me just ask this one question,
19 Your Honor.

20 JUDGE GERGEL: You tell me when you're ready, but
21 we've got to break a minute, okay?

22 MR. FREEDMAN: Certainly.

23 BY MR. FREEDMAN:

24 Q. Adding up all the numbers in Table 4, 334,069 people were
25 moved from their old districts to new districts. Does that

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1685

1 sound about right?

2 A. I'm sorry. I lost -- I will trust your math.

3 Q. Okay.

4 MR. FREEDMAN: This is a good time for a break,
5 Your Honor.

6 JUDGE GERGEL: Good. We'll take about a 10-minute
7 break.

8 *(Recess.)*

9 JUDGE GERGEL: Please be seated.

10 Mr. Freedman, please continue, sir.

11 MR. FREEDMAN: Thank you, Your Honor.

12 **BY MR. FREEDMAN:**

13 Q. Sir, I just want to ask one more question about the
14 historical analysis you did looking at maps back to 1902. You
15 would agree the two earliest maps that you're looking at
16 there, the 1902 and the 1930s maps, were passed under the Jim
17 Crow era, right?

18 A. Yes.

19 Q. And those maps were enacted at a time before we had the
20 one-person-one-vote standard, right?

21 A. Yes.

22 Q. Okay. I want to turn quickly -- you covered compactness
23 very, very quickly with Mr. Gore. There's a chart in your
24 table, I just have a few questions about it. Would you agree
25 that, under the enacted plan -- and if you want to look at it,

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1686

1 it's Table 5. We can put it up, page 20 of the report.

2 You would agree with me that, under the enacted plan, the
3 2nd District is less compact than under the 2011 plan, right?

4 A. Yeah. It scores marginally less on these numeric
5 metrics.

6 Q. It's less under all four metrics you looked at?

7 A. Yeah.

8 Q. And you would agree with me that, under the enacted plan,
9 the 6th District is less compact than under the benchmark
10 plan, right?

11 A. Yeah. I think the analysis in the text is that they have
12 roughly the same scores. But, yeah, there are some marginal
13 differences here.

14 Q. And under three of the four metrics that you looked at,
15 the 6th District is less compact than any other district in
16 the map, right?

17 A. Yes.

18 Q. And 1st District is either the least compact or second
19 least compact under all four metrics, right?

20 A. That's right.

21 Q. Okay. And to be clear, you assessed compactness using
22 statistical measures even though the House guidelines provide
23 that compactness should not be judged based upon any
24 mathematical, statistical, or formula-based calculation or
25 determination?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

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1 A. Yeah. It suggests that their eyeballs were consistent
2 with what the mathematical measures -- well, roughly
3 consistent with what the mathematical measures would say.

4 Q. Now, I want to turn -- fairly early in your examination,
5 between 9:20 and 9:25, Mr. Gore asked you about your analysis
6 about splits. And he showed you the section from page 10 of
7 your report, respecting county, municipal, and precinct
8 boundaries. And elsewhere in your report you write that the
9 Court -- referring to prior decisions of the Court -- have
10 identified respecting county and municipal boundaries as a
11 legitimate goal that the South Carolina legislature may pursue
12 when redistricting, right?

13 A. Correct.

14 Q. And you write that the Senate guidelines make minimizing
15 the number of county, municipal, and precinct splits separate
16 criteria, right? Not in this -- elsewhere in your report.

17 A. I'd have to see that.

18 MR. FREEDMAN: Let's pull up page nine, top
19 paragraph.

20 **BY MR. FREEDMAN:**

21 Q. You see the part where you write after the semicolon,
22 about two-thirds of the way down: "The Senate guidelines make
23 minimizing the number of splits at those three levels separate
24 criteria"?

25 A. Okay. Yeah, I see that.

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1688

1 Q. And you write just before that: "The House guidelines
2 specify that county, municipal, and precinct boundaries may be
3 relevant when considering communities of interest," right?

4 A. That's right.

5 Q. Now, if we can go back to the analysis on page 10,
6 respecting county, municipal, and precinct boundaries. Your
7 report doesn't identify the number of municipal splits in the
8 enacted plan, right?

9 A. That's right.

10 Q. Your report doesn't provide a comparison of the number of
11 municipal splits in the enacted plan as opposed to the 2011
12 map, right?

13 A. That's right.

14 Q. You don't present any analysis of municipal splits in
15 your report at all?

16 A. That's correct.

17 Q. You're aware that there are 22 split cities under the
18 enacted map, right?

19 A. No. I didn't have those data.

20 MR. FREEDMAN: Let's pull up the Senate Exhibit 62 at
21 page 13. This is an exhibit that the Court saw yesterday, an
22 analysis prepared by Mr. Breeden John. If you could highlight
23 the split cities analysis.

24 BY MR. FREEDMAN:

25 Q. You're not aware of this data?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1689

1 A. No.

2 Q. Okay. And you don't know how the number of split cities
3 compares under the enacted plan as opposed to the benchmark
4 plan, right?

5 A. Well, that's right. Yeah, I didn't have the city shape
6 files.

7 Q. Okay.

8 MR. FREEDMAN: Let's pull back up page 10, the
9 respecting county, municipal, and precinct boundary language
10 again.

11 BY MR. FREEDMAN:

12 Q. Now, you note that there are 10 county splits in the
13 enacted plan, right?

14 A. Right.

15 Q. And you observed that six of those splits occur on the
16 boundaries between Districts 2 and 7, right?

17 A. Correct.

18 Q. Now, another way of looking at the county splits is that
19 eight of the 10 splits are on the border of CD 6, right?

20 A. Yeah, I think that's right.

21 Q. All right. You identify in your report -- you write:
22 "District 1 and District 6 split four counties," right?

23 A. Yeah, yeah. I was just checking. I think you're right.

24 Q. And Orangeburg and Richland are split between Districts 2
25 and 6. You talk about that elsewhere in your report?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1690

1 A. Yes.

2 Q. And Sumter is split between Districts 5 and 6, you talk
3 about that elsewhere in your report, right?

4 A. Yes.

5 Q. And Florence is split between Districts 6 and 7, right?

6 A. Correct.

7 Q. Now, earlier this morning, Mr. Gore asked you about
8 Table 3 on page 18 of your report. And I believe you
9 testified that you consider Districts 2, 3, 4, 5 and 7 to have
10 very high levels of core retention. Do you recall that
11 testimony?

12 A. That's right.

13 Q. Now, your report doesn't actually propose a generally
14 accepted threshold for what is considered high core retention,
15 right?

16 A. No, that's right. I don't know when stubble becomes a
17 beard, but I'd like to think we could all agree that
18 Rutherford B. Hayes has a very long beard. And if 99.96
19 percent core retention isn't very high, then the term "very
20 high" has no meaning.

21 Q. Right. There's no generally accepted standard among
22 political scientists for what is high or not high core
23 retention, right?

24 A. I mean, if the proposal is you can't really use
25 adjectives for 99.96, then I guess yeah. But I can't imagine

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1691

1 anyone who would not consider 99.96 percent anything high.

2 Q. Okay. Now let's move on. At about 9:48 in morning, Mr.
3 Gore asked you about Table 9 of your report. Is this your
4 analysis of the Biden voter movements?

5 A. That's right.

6 Q. Now, you're measuring the number of Biden voters from
7 District 1 to District 6, right? Do you see that?

8 A. That's correct.

9 Q. Now, there were seven split precincts between Districts 1
10 and 6, right?

11 A. That's right.

12 MR. FREEDMAN: And can we pull up Senate Exhibit 29E
13 side by side?

14 BY MR. FREEDMAN:

15 Q. This is the enacted plan political subdivision split
16 analysis. And let's scroll down to the bottom of the first
17 page, and top of the second page, and the bottom of the first
18 page as well.

19 So, we have at the bottom of the first page, six of the
20 seven precincts. You see that?

21 A. Yes.

22 Q. And the total population, if you look at all seven
23 precincts, is 16,345 people. You can trust my math on that?

24 A. I'll accept it.

25 Q. Actually, you can trust Mr. Hindley's math on that. I

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1692

1 did not do that one myself.

2 A. Okay.

3 Q. And South Carolina doesn't report political election
4 results below the precinct level, right?

5 A. I don't know that anyone does. But, no, South Carolina
6 does not.

7 Q. So, we have 16,345 voters in precincts split between 1
8 and 6. The South Carolina Elections Commission doesn't report
9 election results by split precincts. And you are saying that
10 10,808 Biden voters moved from one district to another?

11 A. So, I think you said "16,000 voters." And I don't think
12 that's right. It's 16,000 residents.

13 Q. All right. Well, I misspoke then. So, thank you for
14 that.

15 A. Well, it's important.

16 Q. Okay. Let's walk through your district-by-district
17 demographic analysis. I think at about 9:55, you said a lot
18 of the details in the report. And I appreciate the summary
19 coverage of it, but I want to go through in a little bit more
20 detail just so the Court is clear what's in your report and
21 what's not in your report.

22 A. Sure.

23 Q. So, at about 9:50 you started talking about Sumter.

24 MR. FREEDMAN: Stephen, can you pull up Senate
25 Defendant Exhibit 75, page 25. And then I want to do a side

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1693

1 by side, if we can, with Table 4 on page 18.

2 **BY MR. FREEDMAN:**

3 Q. So, on page 25 of your report, you talk about three ways
4 in which the lines were redrawn in Sumter County, two of which
5 -- and we can highlight the relevant language, Stephen -- two
6 of which shifted 10,038 people from the 5th District to the
7 6th District. That's the reference -- if you look at the top
8 paragraph, there's a reference to 7,299 residents added to the
9 6th District and the demographics; and then in the last
10 sentence -- so, the next paragraph -- it's the 2,739 residents
11 and the demographics.

12 A. Okay.

13 Q. Okay. So, that's how we get to the 10,038.

14 Now, you also talk in the next paragraph about 346
15 residents and provide the demographics. And if you look on
16 your Table 4, that ties to the -- if you look across rows six
17 and column five, the 346.

18 A. Okay.

19 Q. Now, in presenting this information, you're describing
20 voting age populations for the 2nd and 3rd moves, and total
21 population for the first move, right?

22 A. Okay. Yes.

23 Q. So, that's a mix of statistics and a little uneven. So,
24 I think to help the Court understand what these demographics
25 mean -- let me see if I can help straighten that out.

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1694

1 MR. FREEDMAN: Stephen, can you pull up Exhibit 29c?

2 BY MR. FREEDMAN:

3 Q. This is the core constituency analysis, which looks at
4 the enacted plan. And it's comparing it to the benchmark map.
5 And if we go under District 6, the District 6 grouping, if we
6 highlight that, you see we've got the 10,038 number we were
7 talking about before. And, sir, you can see that, of the
8 10,038 people shifted from District 5 to District 6, 467 were
9 Black under the Department of Justice definition. Do you see
10 that?

11 A. Yes.

12 Q. And of the people of voting age population, the 7,762, we
13 can see that -- well, actually, before I do that, just in
14 terms of percentage of the people shifted from District 5 to
15 District 6, 40.6 percent were Black. That's 4,076 out of
16 10,038. Does that sound about right?

17 A. Yes.

18 Q. And then, looking at the voting age population numbers,
19 of the 7,762 people of voting age in the district, shifted
20 from District 5 to District 6, 2,973 were Black under the
21 Department of Justice's definition. Do you see that?

22 A. That's right.

23 Q. And so, the people of voting age shifted from District 5
24 to District 6, of those people, 38.3 percent were Black.
25 That's 2,973 divided by 7,762. Does that sound about it?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1695

1 A. I'll accept your math.

2 Q. Now, I want to just briefly compare how that compares to
3 the benchmark, the district before the enacted plan.

4 MR. FREEDMAN: Stephen, can you pull up Senate
5 Exhibit 28e? And I want to highlight District 5.

6 BY MR. FREEDMAN:

7 Q. So, this is the Senate's analysis of the benchmark plan.
8 And you see that it shows in the right-most column that the
9 Black population of District 5 before these shifts was 26.01.
10 Do you see that?

11 A. Yeah, I see that.

12 Q. So, the total population of the 5th District before the
13 enacted plan was 26.01 percent, and the population shifted to
14 the 6th District was 40.6 percent. Does that sound right?

15 A. Okay. Yeah. Without a calculator, I can't be a
16 hundred-percent sure, but that sounds reasonable.

17 Q. Now, I would love to be able to present Black voting age
18 population numbers.

19 MR. FREEDMAN: Stephen, please pull up Senate
20 Defendant Exhibit 28f, which is the Senate's analysis of
21 voting age population.

22 BY MR. FREEDMAN:

23 Q. Sir, does this show a Black voting age population
24 percentage?

25 A. It doesn't appear to.

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1696

1 Q. The Senate, on its website, in the analysis it conducted,
2 calculated the voting age population for the White population
3 but not the Black population of the benchmark plan. Do you
4 see that?

5 A. I don't see it here, no. I mean, I don't see the Black
6 population here. I do see the White voting age population
7 here.

8 Q. There's neither Black population nor a percentage?

9 A. If I'm reading this correctly, that's right.

10 Q. Okay.

11 MR. FREEDMAN: Stephen, can we pull up an image of
12 the map that we spent some time on, Senate Defendant
13 Exhibit 75, the map on page 26.

14 **BY MR. FREEDMAN:**

15 Q. Now, you included -- I think it's a pretty nice and
16 helpful graphic of the Black voting age population in the
17 Sumter area. And you recall discussing that with Mr. Gore?

18 A. That's right.

19 Q. And this shows I think fairly that the parts of Sumter
20 with higher or more substantial Black population are in CD 6,
21 right?

22 A. Of the city of Sumter, yeah.

23 Q. Now, of the precincts that are moved, one of the
24 precincts that is moved is the Wilder precinct. Are you
25 familiar with that one?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1697

1 A. Yes. I see that. Just south of that little inlet,
2 Sumter.

3 Q. And that precinct that was moved from the 5th District
4 into the 6th District had a Black voting age population
5 percentage of 88 percent. Are you aware of that?

6 A. I am not.

7 Q. Okay.

8 A. And from the map, it would be higher than 70 percent.

9 Q. Let's turn to your analysis of the Districts 2 and 6.

10 MR. FREEDMAN: Steven, can you pull up page 31 of his
11 report?

12 BY MR. FREEDMAN:

13 Q. Okay. And this is at the very top. You're talking about
14 the number of people moved in Richland County from the 6th to
15 the 2nd. And you write: "Overall 17,798 people are moved
16 from the 6th to the 2nd here, of whom 13,585 are voting age
17 population." And you provide the demographics.

18 And there was also a population migration from the 6th to
19 the 2nd, right?

20 A. 6th to the 7th?

21 Q. 6th to the 2nd.

22 A. 2nd. I'm sorry. Yes.

23 MR. FREEDMAN: Stephen, can you pull up page 27 and
24 top of page 28 -- bottom of 27 and the top of page 28.

25 BY MR. FREEDMAN:

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

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1 Q. And this is talking about one of the sources of movement,
2 which is in the Orangeburg area. And you're talking about a
3 bunch of different moves. You talk about a small portion of
4 Cordover 2 being moved to the 2nd District; a portion of North
5 2 precincts and a portion of Pine Hill precinct, also assigned
6 to the 2nd; Limestone one and two, also assigned to the 2nd.
7 And then you conclude overall 5,973 residents have moved, of
8 whom 42,500 are voting age --

9 A. 4522, yes.

10 Q. Now. When we were talking about the Richland County
11 moves from the 2nd to the 6th, you provided a partisan
12 analysis of that. You concluded that those voters were
13 largely Democratic, right?

14 A. Yes.

15 MR. FREEDMAN: Stephen, if we can pull back up page
16 31, just so we can see that.

17 **BY MR. FREEDMAN:**

18 Q. You write in the middle of that paragraph: "However,
19 they're also heavily Democratic, having cast an estimated
20 67 percent of their votes for Joe Biden."

21 Now, you talked about the partisan move going from the
22 2nd to the 6th, but you didn't talk about the partisan moves
23 from the 6th to the 2nd, right?

24 A. That's right.

25 Q. And that's also true of the similar analysis of Richland

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1699

1 County, right?

2 A. Richland County?

3 Q. Richland County in the moves that went from the 6th to
4 the 2nd, you also didn't discuss the partisan analysis there
5 either, right? I can pull that up.

6 A. I'm sorry. I thought we had Richland County 2nd to 6th
7 in front of me.

8 Q. Well, yeah. But the 6th to the 2nd, let's pull that up.
9 It's pages 30 to 31 of your report.

10 A. Oh, I see. I'm sorry. I understand your question now.

11 Q. If you look at the -- you've got one paragraph, which is
12 talking about the moves going one way. A portion of the
13 Pontiac precinct is moved from the 6th District to the 2nd to
14 the south of Fort Jackson; parts of Brandon one and two
15 precincts are moved to the 2nd. A portion of Briarwood
16 precinct is added to the 2nd. Midway precinct is added to the
17 2nd. A portion of the Spring Valley precinct is added to the
18 2nd. I assume you meant the 2nd?

19 A. Yeah.

20 Q. Portions of the Harbison 2 and Monticello are in the 2nd.
21 So, all these moves from the 6th to the 2nd, there's no
22 partisan analysis, right?

23 A. That's right.

24 Q. Only going the other way.

25 A. Yeah. I mean, you can derive it -- the data are here,

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1700

1 and you can derive it. But, yeah, that's correct.

2 MR. FREEDMAN: Okay. And then, Stephen, can you pull
3 up a split screen of the maps on pages 28 and 32?

4 **BY MR. FREEDMAN:**

5 Q. So, again, you've included in your report I think very
6 helpful BVAP maps of the Orangeburg and Richland Counties.
7 And they show how District 6 includes the precincts with
8 heavier or more substantial Black populations; is that fair?

9 A. Yes.

10 Q. Okay. Let's turn to your analysis of the 1st and 6th
11 Districts.

12 MR. FREEDMAN: Stephen, can you pull up page 35 of
13 the report.

14 **BY MR. FREEDMAN:**

15 Q. Now, this is your summary at the -- first of all, the
16 first paragraph, you write: "All told, 140,000 residents are
17 moved from the 1st to the 6th, of whom 113,000 are of voting
18 age. And then you provide some demographics. And then you
19 write: "Of the voting age residents, 63.9 percent are
20 non-Hispanic White, while 23.4 percent are Black."

21 Okay. I want to go back to the core constituency
22 analysis we were looking at earlier.

23 MR. FREEDMAN: Stephen, can we pull up 29c. And go
24 to the second page. And under the District 6 grouping, can
25 you highlight District 1?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1701

1 BY MR. FREEDMAN:

2 Q. And we can see from this that of the 140,489 people --
3 it's the number you used in your report -- shifted from
4 District 1 to District 6, 35,629 were Black, right?

5 A. Yes.

6 Q. And so, of the people shifted from District 1 to District
7 6, 25.1 percent were Black. That's just dividing 35,629 by
8 140,489.

9 A. That sound reasonable.

10 Q. Okay. And looking at the voting age population of the
11 113,531 people of voting age shifted from District 1 to
12 District 6, 26,617 were Black, right?

13 A. Correct.

14 Q. And this is the number you include in your report of the
15 people of voting age shifted from District 1 to District 6,
16 23.4 percent were Black, right?

17 A. That's correct.

18 Q. So, let's look quickly to how that compared to what the
19 districts looked like before these shifts.

20 MR. FREEDMAN: Stephen, can you pull up Senate
21 Exhibit 28e and highlight District 1?

22 BY MR. FREEDMAN:

23 Q. So, this is the benchmark total population report from
24 the Senate. And you see that before -- in the right-most
25 column, the benchmark Black population of District 1 before

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1702

1 these shifts was 17.78 percent, right?

2 A. I see that.

3 Q. And that's 145,634 out of 818,893, right?

4 A. I see that, yes.

5 Q. And so, the total population of the 1st District under
6 the old map was 17.78 percent Black, and the population that
7 shifted from the 1st to the 6th District was 25.1 percent
8 Black, right?

9 A. Yes.

10 Q. Okay. Now, if we go back to page 35 of your report, the
11 paragraph we were talking about before the 140,489 residents,
12 about halfway through that paragraph, you talk about the
13 Democratic performance in District 1. Do you see that?

14 A. Yes.

15 Q. But like we saw before with District 2 and District 6,
16 you didn't provide any reciprocal analysis of the Democratic
17 performance of voters who moved from the 6th District to the
18 1st, right?

19 A. No, that's not right.

20 Q. Certainly, there's an --

21 A. It's in the next sentence. Another 5,309 voters were
22 moved from the 6th to the 1st. There's 64 percent
23 non-Hispanic White and voted slightly for President Trump. I
24 did that. I don't trust your math anymore.

25 Q. You don't provide any racial demographic information of

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1703

1 the voters who moved from the 6th to the 1st, do you?

2 A. There's 64 percent non-Hispanic White.

3 Q. Do you provide any information about the Black population
4 moved from the 6th to the 1st?

5 A. I don't have the Black population, no.

6 Q. Okay. So, you're talking about 5,309 voters.

7 MR. FREEDMAN: Let's do a split screen of this on
8 page 18, Table 4 of your report. Stephen, highlight the 5,309
9 number. And let's blow up Table 4.

10 **BY MR. FREEDMAN:**

11 Q. In your analysis, you talk about 5,309 voters, and in
12 your population movement by district -- it's not voters, it's
13 total population -- but you're talking about 52,799 people
14 being moved from the 6th to the 1st, right?

15 A. That's right.

16 Q. Now, unlike Richland, Orangeburg, or Sumter counties, you
17 didn't provide the Court with a BVAP map of the people who
18 were moved in Charleston County between the 1st and the 6th
19 Districts, right?

20 A. Yeah. I sadly ran out of time.

21 Q. Okay. All right. I want to turn back to your rebuttal
22 report. I don't know that we need to talk more about Dr.
23 Imai. Let's talk a little bit about Dr. Ragusa. You
24 understand that his regression controlled for precinct size,
25 right?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1704

1 A. It did have that as a control. It didn't do it as a rate
2 though, so it's going to have a different interpretation.

3 Q. Okay. But at 10:17 this morning, you acknowledged that
4 his regression had a control for size of the precincts, right?

5 A. Right. Just not in a percentage rate way.

6 Q. Okay. Let's talk a little bit about your criticism of
7 the county envelope concept.

8 MR. FREEDMAN: Stephen, can you pull up page nine of
9 the report?

10 **BY MR. FREEDMAN:**

11 Q. And you talked about this before. You write: "Dr.
12 Ragusa's approach asks why didn't the mapmakers include the
13 Borea Smoaks precinct in District 1," right?

14 A. Correct.

15 Q. And you've got your map. And we'll do a split screen of
16 that. In making that criticism, you didn't consider that the
17 legislature actually considered maps that included the Borea
18 Smoaks precinct in District 1, did you?

19 A. I didn't look to see if they made Colleton County whole.

20 MR. FREEDMAN: Let's pull up map one, which is from
21 the Senate Amendment 2A map of Colleton, and do a comparison.

22 **BY MR. FREEDMAN:**

23 Q. So, as an example, you didn't consider the fact that
24 Senate Amendment 2A, which was considered by the Senate,
25 included the Borea Smoaks precinct and the rest of Colleton

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1705

1 County in District 1, did you?

2 A. Well, right. But the regression analysis is asking why
3 not Borea Smoaks alone. It's a different problem. The
4 problem isn't that it's not hypothetically possible to include
5 Borea Smoaks, the problem is that it's not possible to include
6 Borea Smoaks without including a whole bunch of other stuff.

7 Q. All right. Well, let's take a look at map two in
8 comparison to your map. And this is a side by side with the
9 staff plan drafted by the House defendants.

10 And in reaching your conclusion about the county
11 envelope, you didn't consider that the House staff, when it
12 came up with its December 13th plan, included a different mix
13 of precincts in District 1, including Borea Smoaks, right?

14 A. Right. But this is proving my point. The only way they
15 get Borea Smoaks in there is by also including Edisto, and
16 Kennedys, and Sidney's and Maple Cane. You cannot include
17 Borea Smoaks in a vacuum, which is what Dr. Ragusa's
18 regression analysis is trying to do. It has this little
19 precinct sitting out there in space disconnected from the
20 district. And that's why I didn't do that, because that
21 doesn't make sense.

22 Q. Let's look at map three, a comparison. This is the map
23 drawn by the NAACP. You didn't consider that different
24 mapmakers could be picking different precincts to be in
25 District 1 or in a different district, right?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1706

1 A. Right. But all those districts are contiguous. And Dr.
2 Ragusa isn't considering contiguity, which is what the actual
3 criticism is.

4 Q. You've drawn maps. You've been involved in drawing maps
5 for Virginia this year. Mapmakers certainly have a lot of
6 choices, don't they?

7 A. Yes. But one of those choices is not drawing
8 noncontiguous districts.

9 Q. Now, on direct, over my objection, you talked briefly
10 about Dr. Duchin's analysis of split precincts, right?

11 A. I believe that's right.

12 Q. And you're aware that the analysis that she presented on
13 this point was in her May 4th report, right?

14 A. I'm sorry. I didn't catch that.

15 Q. You're aware that she lodged this criticism of your
16 analysis on May 4th -- in a report she filed on May 4th,
17 right?

18 A. Oh, okay. Yes.

19 Q. And since receiving Dr. Duchin's May 4th report, you
20 never prepared a supplemental report to address that point,
21 right?

22 A. That's right.

23 Q. You had the report for five months. You could have filed
24 a supplemental, or requested leave to file a supplemental, and
25 nobody ever did, right?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1707

1 A. I don't know how the Court would have done that. I don't
2 think I've ever filed a fourth report -- or a second report as
3 a defense expert. But I guess it's theoretically possible.

4 Q. Okay. Let's go back to the report on page six.

5 A. I'm sorry, which one?

6 Q. Your main report, page six, it's Senate Defendant
7 Exhibit 75. And your first conclusion there, the first part
8 of your summary of opinion you write: "The enacted map is
9 contiguous," right?

10 A. Yes.

11 Q. On page 10, you use the same term: "The resulting plan
12 is contiguous and minimizes population deviations." You see
13 that?

14 A. Yes.

15 Q. Now, you don't define contiguity in your report, do you?

16 A. That's correct.

17 Q. And you don't provide any analysis in your report that
18 supports your conclusion that the enacted plan is contiguous,
19 right?

20 A. That's right.

21 Q. You've concluded that the map is contiguous just by
22 looking at the map, right?

23 A. No. There's a command you can run in the R program
24 that'll check to make sure the precincts are contiguous.

25 Q. Contiguity isn't something you know when you see it?

SEAN TRENDE - CROSS-EXAMINATION BY MR. FREEDMAN

1708

1 A. It's -- one form is, and one form isn't.

2 MR. FREEDMAN: Let's pull up image five. Image five
3 is a blowup of Charleston County.

4 **BY MR. FREEDMAN:**

5 Q. And you're aware that, under the enacted plan, you can't
6 actually drive from the first part, northeast -- the
7 Sullivan's Island part, the northeast part of District 1, to
8 James Island, the southwest part of District 1 without going
9 through District 6, right?

10 A. Yeah. That's functional contiguity, not census
11 contiguity.

12 Q. Okay. You're aware there's no bridge or tunnel that
13 allows one to drive from Sullivan's Island to James Island,
14 right?

15 A. Right, right.

16 Q. And it's actually a substantial drive.

17 MR. FREEDMAN: Stephen, can you pull up image six?

18 **BY MR. FREEDMAN:**

19 Q. To get from the Mt. Pleasant pier to James Island, you
20 have to go through District 6. It's a 6.7-mile drive. Do you
21 see that?

22 A. I see that, yes.

23 Q. Now, sir, you've testified in a lot of redistricting
24 cases, right?

25 A. That's right.

SEAN TRENDE - REDIRECT EXAMINATION BY MR. GORE

1709

1 Q. And you've seen a lot of districts with crazy shapes,
2 including from my home state of Maryland, right?

3 A. Yes.

4 Q. Probably nobody's is as crazy as Maryland, right?

5 A. It's hard to top those old Maryland districts.

6 Q. Have you ever seen, in all your experience --

7 MR. FREEDMAN: Stephen, let's pull up image 7.

8 BY MR. FREEDMAN:

9 Q. Have you ever seen a district that resembles a two-headed
10 dragon?

11 A. I know a district that resembles a dragon in flight. I
12 don't know about the two-headed dragon.

13 MR. FREEDMAN: Stephen, can you pull up Exhibit 8.

14 Now you have, sir. No further questions.

15 JUDGE GERGEL: Mr. Gore, redirect.

16 REDIRECT EXAMINATION

17 BY MR. GORE:

18 Q. Thank you, Mr. Trende. In your experience as a
19 redistricting professional, is water contiguity a permissible
20 form of contiguity?

21 A. It depends on the jurisdiction. Some have specific
22 rules. But there's two types, there's functional contiguity
23 -- this is in my Virginia report online. But there's
24 functional contiguity, which is the driving contiguity; and
25 then there's census contiguity, which is just whether the

SEAN TRENDE - REDIRECT EXAMINATION BY MR. GORE

1710

1 precincts and blocks abut each other.

2 MR. GORE: And can we pull up Exhibit 76, page nine?

3 I want to go back to the map of Colleton County in
4 your rebuttal report.

5 BY MR. GORE:

6 Q. So, this is the map of Colleton County that you discussed
7 on your direct and discussed again on your cross-examination.
8 And I believe you testified that Edisto Beach and Borea Smoaks
9 are not contiguous VTDs, correct?

10 A. Not with the rest of the district, that's right.

11 Q. And Mr. Freedman showed you some maps of districts that
12 made Colleton County whole; is that right?

13 A. In whole and in part, yes.

14 Q. And did he show you the rest of those districts?

15 A. No, he did not.

16 Q. Would making Colleton County whole in the district
17 require some tradeoffs elsewhere?

18 A. Yes.

19 Q. And why is that?

20 A. Because you have the federal equi-population requirement.
21 And so, if you're going to add tens of thousands of people to
22 Colleton County, you have to subtract them elsewhere.

23 Q. And if you were to follow traditional districting
24 principles, would making Colleton County whole potentially
25 require different moves to ensure compactness or retain

SEAN TRENDE - REDIRECT EXAMINATION BY MR. GORE

1711

1 district cores as well?

2 A. Redistricting is all about tradeoffs. So, yeah, there
3 would likely be some tradeoff made somewhere else.

4 Q. Mr. Freedman asked you a couple questions about Dr.
5 Imai's analysis. And you're familiar with the simulation
6 analysis he runs, right?

7 A. Very, yes.

8 Q. Is it possible, within Dr. Imai's method, to control for
9 core preservation?

10 A. Yeah. We did that in New York on rebuttal.

11 Q. And so, you've done it using Dr. Imai's method in prior
12 cases; is that right?

13 A. That's correct.

14 Q. And did Dr. Imai do it here?

15 A. He did not.

16 Q. And you mentioned that there are two different forms of
17 this simulation analysis. I think one's Sequential Monte
18 Carlo and one's Markov chain Monte Carlo; is that right?

19 A. Yeah. Yeah. They're in a family of kind of flip Monte
20 Carlo techniques, where you flip precincts between districts.

21 Q. But those are two different methods?

22 A. Yes.

23 Q. Mr. Freedman asked you about some of the maps and the
24 changes observed over time. And there was talk about whether
25 a district was in Columbia or anchored somewhere else. Just a

SEAN TRENDE - REDIRECT EXAMINATION BY MR. GORE

1712

1 simplifying question: Can district numbers change over time?

2 A. Yes, they can.

3 MR. GORE: Let's go to Senate 75, which is the left
4 tab there.

5 **BY MR. GORE:**

6 Q. And I want to ask you some questions here about what's on
7 page nine. So, Mr. Freedman was asking you about this Table 1
8 here and balancing the population, where there is a population
9 deviation across districts. Do you recall that discussion?

10 A. Yes.

11 Q. So, in your experience as a redistricting professional
12 and map drawer, do you view districts in isolation for
13 balancing the population, or do you have to do that plan wide?

14 A. You have to do a plan wide and subject to a number of
15 other considerations.

16 Q. And have you ever in your experience been able to find
17 exactly the right number of people to move into one district
18 without requiring changes in another district?

19 A. I guess you could theoretically do it if you didn't care
20 about anything else. But that movement of 87,000 people out
21 of District 1 is going to have cascading effects into the
22 other districts wherever you place them.

23 Q. And can adhering to traditional districting principles
24 also require movement of people between districts?

25 A. Absolutely. If you're trying to make a county whole, you

SEAN TRENDE - REDIRECT EXAMINATION BY MR. GORE

1713

1 have to add people. And if you're trying to repair precinct
2 splits, you're going to add or subtract people.

3 Q. How about if you're making moves for political reasons?

4 A. That will have impacts as well, because sometimes you
5 have to move a lot of people to make it work out with other
6 redistricting principles you're trying to achieve.

7 Q. I couldn't follow Mr. Freedman's math entirely, but I
8 think he said that a total amount 334,000 people were moved in
9 the enacted plan. Does that sound about right?

10 A. I think he said hundreds of thousands. I don't remember
11 the exact number.

12 Q. I believe it was around 334,000. And are you aware that
13 the total population of South Carolina is over 5 million?

14 A. Yes.

15 Q. So, if 334,000 people were moved out of a population of 5
16 million, would that be about less than seven percent of the
17 total population of South Carolina?

18 A. I would have guessed it as eight, but seven sounds -- I
19 trust your math.

20 Q. Oh, well. We're doing a lot of that than maybe I should
21 today. But it could be less than seven percent; is that
22 right?

23 A. Yes.

24 Q. And would a movement of seven percent of the total
25 population of South Carolina be consistent with the core

SEAN TRENDE - REDIRECT EXAMINATION BY MR. GORE

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1 preservations statistics and conclusions you reached in your
2 report?

3 A. Absolutely. It's consistent with most of these districts
4 having very, very little change to them.

5 Q. And so, moving about less than seven percent of the total
6 population of the state is consistent with high or very high
7 core-retention percentages across districts?

8 A. That's correct.

9 Q. Now, Mr. Freedman asked you a couple questions about the
10 reporting of election data. And he pointed out that South
11 Carolina does not report election data at the sub-precinct
12 level; is that right?

13 A. That's right.

14 Q. Does any state do that, to your knowledge?

15 A. Not to my knowledge.

16 Q. So, how do you figure out what the vote share was in a
17 split precinct? How do you break that election data down to
18 the block level?

19 A. So, the way this is done -- and I don't know of any other
20 way to do it -- is that you take the blocks that are in the
21 precinct and you look at their population, and you look at
22 percentage of the population that is in one part of the
23 precinct versus the other part of the precinct, and you
24 allocate the precinct-wide votes according to -- I use voting
25 age population, which is the common tool. And like I said, I

SEAN TRENDE - REDIRECT EXAMINATION BY MR. GORE

1715

1 don't know any other way to do it, so this would be the same
2 data the legislature had in front of them. And I believe this
3 is what plaintiffs' experts do as well.

4 Q. So, is the method you used for doing that generally
5 accepted among experts in your field?

6 A. Absolutely.

7 MR. GORE: Can we pull up 29F?

8 BY MR. GORE:

9 Q. So, Mr. Freedman asked you about a population summary
10 report that was placed on the Senate redistricting website.
11 Do you remember that?

12 A. Yes.

13 Q. This is Exhibit 29F. I think Mr. Freedman suggested that
14 the Senate had not placed BVAP information on its website in
15 connection with the enacted plan. Do you recall that?

16 A. I do remember that, yes.

17 Q. So, this is a report that was placed on the Senate
18 redistricting website, along with that other report he showed
19 you. Do you see that?

20 A. Yes.

21 Q. And does this report show BVAP information both by total
22 numbers and by percentage?

23 A. It does.

24 Q. So, looking down at District 6, what is this report, the
25 BVAP, in District 6?

SEAN TRENDE - REDIRECT EXAMINATION BY MR. GORE

1716

1 A. 47.82.

2 Q. And Mr. Freedman asked you about BVAPs of certain areas
3 that were moved into 6. And I think he calculated those at
4 25 percent or 38 percent or 40 percent -- I couldn't
5 necessarily follow all the numbers. My question is:

6 If you have a 47-percent BVAP in District 6, what's the
7 effect on District 6's total BVAP from moving in, say, a
8 25-percent BVAP area?

9 A. It will lower the BVAP, although that's contingent on the
10 total of people moved, how much it lowers the BVAP.

11 Q. Now, Mr. Freedman asked you about some maps, the BVAP and
12 political maps -- the shaded maps that you created for certain
13 counties. Do you remember that?

14 A. Yes.

15 Q. And he mentioned that your report does not contain
16 similar maps for Charleston County, right?

17 A. That's right.

18 Q. And you ran out of time and didn't include those in your
19 report; is that right?

20 A. That's right.

21 Q. Can those maps be recreated from the census data and the
22 political data?

23 A. Easily.

24 Q. And did any of plaintiffs' experts recreate those maps in
25 their rebuttal report?

SEAN TRENDE - REDIRECT EXAMINATION BY MR. GORE

1717

1 A. Not to my recollection.

2 Q. Now, Mr. Freedman showed you a drawing of a two-headed
3 dragon; do you remember that?

4 A. I do.

5 Q. And superimposed that over District 6?

6 A. Yes.

7 Q. Are you aware that the plaintiffs have not challenged
8 District 6 in this case?

9 A. That's my understanding.

10 Q. And do you have any understanding as to why they haven't
11 challenged this two-headed dragon that they claim is a
12 misshapen district?

13 A. My understanding is that district was upheld in the
14 *Backus* decision.

15 MR. GORE: No further questions, Your Honor.

16 JUDGE GERGEL: Thank you. You may step down. Thank
17 you, Dr. Trende.

18 THE WITNESS: Thank you, Your Honor.

19 JUDGE GERGEL: Okay. Call your next witness.

20 MR. MOORE: The House calls Representative Justin
21 Bamberg.

22 ***JUSTIN BAMBERG, having first been called as a***
23 ***witness, was duly sworn and testified as follows:***

24 THE WITNESS: Good morning, Your Honor.

25 JUDGE GERGEL: Good morning.

JUSTIN BAMBERG- DIRECT EXAMINATION BY MR. MOORE

1718

1 MR. MOORE: May I proceed, Your Honor?

2 JUDGE GERGEL: Yes, sir.

3 MR. MOORE: Okay. And I did tell Representative
4 Bamberg he could take down his mask. Is that correct?

5 JUDGE GERGEL: Very good.

6 **DIRECT EXAMINATION**

7 **BY MR. MOORE:**

8 Q. So, Representative Bamberg, I want to ask you some
9 questions, but let's first start with a little bit of
10 information about your background. Where are you from?

11 A. I am from Bamberg, South Carolina.

12 Q. Okay. And do you represent a House district currently?

13 A. Yes, sir.

14 Q. And what district do you represent?

15 A. House District 90.

16 Q. Okay. And where is that located primarily?

17 A. So, at present, it is Bamberg, Barnwell and Colleton
18 Counties. And then after the upcoming election -- so, it's
19 going to be Bamberg and Orangeburg Counties.

20 Q. All right. And, Representative Bamberg, do you live in a
21 particular congressional district?

22 A. I do.

23 Q. Okay. And what district is that?

24 A. Congressman Clyburn's district.

25 Q. Okay. And is that CD 6?

JUSTIN BAMBERG- DIRECT EXAMINATION BY MR. MOORE

1719

1 A. Yes, sir.

2 Q. Okay. And have you lived in that district for some time?

3 A. Yes, sir.

4 Q. Okay. And how long have you served as a representative
5 in the South Carolina House?

6 A. I have been serving since 2014.

7 Q. Okay. And with which political party do you affiliate?

8 A. The Democratic Party.

9 Q. Okay. And prior to running for office, did you affiliate
10 with the Democratic Party?

11 A. I've always kind of considered myself a Democrat. For
12 me, it was one of those things -- growing up, most of the
13 minorities that we ever known were Democrats. So, if you
14 don't follow politics, like I didn't, you just kind of viewed
15 yourself as a Democrat. And then after, you know, studying it
16 more, I got older, I just more aligned with Democratic values.

17 Q. Okay. And as a representative in the House of
18 Representatives, do you caucus with any particular caucuses in
19 the legislature?

20 A. Yes, sir, I do.

21 Q. Would you please tell the Court about that?

22 A. I am a member of the House Democratic Caucus, as well as
23 the South Carolina Legislative Black Caucus.

24 Q. Okay. And who is the current chair of the South Carolina
25 Legislative Black Caucus?

JUSTIN BAMBERG- DIRECT EXAMINATION BY MR. MOORE

1720

1 A. Representative Pat Henegan.

2 Q. Okay. And how well do you know Representative Henegan?

3 A. I know Representative Henegan very well.

4 Q. Okay. And outside of your position as an elective
5 official, what do you do for a living, Representative Bamberg?

6 A. I'm a practicing attorney.

7 Q. Okay. And are you a sole practitioner, currently?

8 A. You can consider it that. I have my own law firm. I
9 presently have two other lawyers who work for my firm, as well
10 as I believe four or five paralegals, some legal assistants,
11 things of that nature.

12 Q. And prior to opening your own firm -- and when did you
13 open your own firm?

14 A. I opened Bamberg Legal on -- I believe it was
15 November 28th of 2016.

16 Q. Okay. And I know that dates aren't your strongest suit,
17 but you remember that one, don't you?

18 A. I absolutely remember that one. That was a very, very
19 stressful/life-altering thing for me.

20 Q. And prior to opening your own firm, Representative
21 Bamberg, did you work for some other firms as a lawyer?

22 A. Yes, sir, I did. Immediately before starting my firm, I
23 worked for Lanier Boroughs in Orangeburg, South Carolina. And
24 then immediately before then, I worked for the Hood Law Firm,
25 which is right here in Charleston.

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1 Q. Okay. And, Representative Bamberg, how many offices does
2 your firm currently have?

3 A. My firm has two office locations, one in Bamberg, and one
4 in Orangeburg.

5 Q. Okay. And, Representative Bamberg, do you focus on
6 particular types of cases in your law practice currently?

7 A. Yes, sir, I do.

8 Q. Okay. Would you tell us about those?

9 A. So, my firm does primarily personal injury work and
10 wrongful death work. So, for example, motor vehicle
11 accidents, a lot of commercial litigation, tractor trailers
12 that hit people, things of that nature. We do some
13 slip-and-fall work, not much. And then I have a civil rights
14 practice.

15 Q. And tell us about your civil rights practice?

16 A. Oh. Well, it's a little weird, because my family is law
17 enforcement. So, my dad is currently the sheriff of Bamberg
18 County. My mom did approximately 30 years retiring from the
19 Orangeburg County Sheriff's Office. And I have a brother
20 who's in law enforcement.

21 I don't like to see law enforcement officers abuse their
22 power or trample on people's civil rights. So, generally the
23 civil rights arena for me is restricted to excessive use of
24 force. You know, I handled, for example, the Walter Scott
25 case here in Charleston, where Walter was shot in the back

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1 running away from the police. I do SCDC litigation, just
2 because -- in my opinion, just because you are --

3 Q. And SCDC is?

4 A. The South Carolina Department of Corrections.

5 Just because you have been convicted of a crime, you're
6 given a sentence, and that sentence is not, say, the death
7 penalty, does not mean that you don't have certain human
8 rights. So, deliberate indifference to medical emergencies, I
9 do cases like that. Or when guards -- as horrible as it
10 sounds, sometimes the guards will do things they're not
11 supposed to and they'll abuse inmates physically or mentally.
12 I do cases like that as well.

13 Q. And how important is civil rights for you?

14 A. Civil rights is very important. I decided I wanted to be
15 a lawyer in the fifth grade after reading *To Kill a Mocking*
16 *Bird*. And it's the story of Atticus Finch fighting for Tom
17 Robinson, which was a really big deal at that time because of
18 the racial dynamics in the area they lived.

19 Civil rights is not -- there's this misnomer because of
20 recent settlements that people see. So, whether it was a
21 Alton Sterling case I did in Baton Rouge, Walter Scott, if you
22 look at George Floyd, that it's a very financially lucrative
23 thing. And it's not, because most of those cases cost you a
24 lot of money to bring in the private sector, a lot of time.
25 And you can fight and fight and fight four, five, six years

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1 and not get anything, or get a nominal amount. So, you really
2 have to care about it. For me, my grandfather did two tours
3 in Vietnam. My parents were in the army. And I do not
4 believe that any of them or anyone else went and served
5 American armed forces only to have people's civil rights not
6 mean anything here at home.

7 Q. Okay. All right. And have you experienced
8 discrimination in your life?

9 A. I absolutely have, yes, sir.

10 Q. Okay. Now, I want to ask you a couple questions about
11 your familiarity with the plaintiffs in this case. Are you
12 familiar with the South Carolina State Conference of the
13 NAACP?

14 A. Yes, sir, I am.

15 Q. Okay. And how are you familiar with it?

16 A. Well, I think it's safe to say that most minorities are
17 familiar with the NAACP. You know, between various
18 conversations from time to time, I have spoken, for example,
19 at the NAACP, like Martin Luther King, Jr. Day breakfasts.
20 I've been the keynote speaker at various ones of those. Back
21 home in Bamberg, I've been recognized by my local branch NAACP
22 for some of the work and things of that nature that I do.

23 Q. Okay. And do you believe in the work of the NAACP?

24 A. I absolutely do. Yes, sir.

25 Q. All right. And at some point as a college student, did

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1 you develop some passing familiarity with the NAACP's Legal
2 Defense Fund?

3 A. Yes, sir, I did.

4 Q. Please tell the Court about that.

5 A. So, I believe it was 2006, I joined Alpha Phi Alpha
6 Fraternity, Incorporated, which is the oldest of The Divine
7 Nine, the Black Greek Letter Organizations, for college. And
8 through that, we ended up volunteering -- me and some of my
9 frat brothers. One of my frat brothers was actually the
10 stepson of the Reverend Charles White with the NAACP. And the
11 NAACP and Legal Defense Fund had something called Operation
12 Bike Week Justice. And effectively, it's the motorcycle weeks
13 in Myrtle Beach. You had Harley Week, which was predominantly
14 White motorcyclists, and then you had what's known as Black
15 Bike Week, which is usually the Black bikers. And I want to
16 say I did that up through my first -- my first, second year of
17 law school. So, I think about six years. We would go down
18 during Harley Week, and the goal was to cut down on the
19 discrimination that was taking place.

20 So, we'd go during Harley Week, and go to, say, a gas
21 station to see are the restrooms open, how is the service. In
22 the beginning, there was a big issue with the traffic patterns
23 in Myrtle Beach, and it was very discriminatory in nature in
24 terms of how they did the loops and stuff. So, we would
25 monitor all that during Harley Week, we would take video of

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1 hotels and stuff, and then we'd go back during Black Bike Week
2 and go to these same gas stations. For example, I vividly
3 remember one where we went, asked to use the restroom. The
4 restrooms were closed because the store had excess supplies.
5 As the store clerk told me: We want to make sure that y'all
6 have everything you need. So, you'd ask a question like: You
7 mean to tell me if I buy a candy bar off the shelf, it could
8 have been in the box by the toilet? And then you'd have to
9 use the porta potties outside and stuff like that. Or hotels
10 that would not rent to you as a minority. We tried to get a
11 room, and the hotel would say: We don't have any
12 availability. So, you'd go back over the week and see that
13 the parking lot's three-fourths empty and the only people you
14 see going in and out are older White people or things like
15 that.

16 And then there were a couple where I was a plaintiff -- I
17 became a named plaintiff. And then you had some where we
18 would just find people who wanted to complain, like they would
19 approach us or call the tip line, and we would assist them
20 with that process, to try and hold those businesses -- and
21 then at that point, Myrtle Beach itself -- accountable for
22 blatantly discriminating against people of color.

23 JUDGE GERGEL: Mr. Moore, let's move on.

24 MR. MOORE: Yes, sir. I'm almost finished, Your
25 Honor.

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1 THE WITNESS: I apologize, Your Honor.

2 JUDGE GERGEL: No apology. I just think we know that
3 Mr. Bamberg's committed to these causes and we want to hear
4 his testimony.

5 MR. MOORE: Yes, sir. I'm about to get to the heart
6 of it, your Honor.

7 **BY MR. MOORE:**

8 Q. Representative Bamberg, do you believe you know
9 discrimination when you see it?

10 A. I do know discrimination when I see it, yes, sir.

11 Q. All right. And have you gotten to know a number of the
12 members of your colleagues in the House?

13 A. Yes, sir, I have.

14 Q. Okay. What committees do you currently serve on,
15 Representative Bamberg?

16 A. I currently serve on the House Judiciary Committee. I
17 serve on the House Ethics Committee. I serve on the House Ad
18 Hoc Rules Committee. I think that's it, presently.

19 Q. Okay. And how long have you served on the Judiciary
20 Committee?

21 A. It's been a couple of years. I started out on 3M. I
22 think I did two years there. So, that's 2016. Then I did a
23 year on Ag, and then I went to Judiciary.

24 Q. Okay. And have you gotten to know the members of the
25 Judiciary Committee fairly well in the time that you served

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1 with them?

2 A. Yes, sir, I have.

3 Q. All right. Now, were you a member of the -- as a part of
4 your duties with the Judiciary Committee, were you a member of
5 the Redistricting Ad Hoc Committee this year?

6 A. Yes, sir, I was.

7 Q. This and last year?

8 A. Yes, sir.

9 Q. And who were the other members of the ad hoc committee as
10 it was currently constituted, if you recall?

11 A. Representative Jason Elliott; Jay Jordan; Weston Newton;
12 Neal Collins, my desk mate; Pat Henegan; Beth Bernstein; and
13 myself.

14 Q. Okay. And was there, at first, a representative, Brandon
15 Newton, who was appointed but stepped down?

16 A. Yes.

17 Q. And do you know all those people fairly well,
18 Representative Bamberg?

19 A. I know them fairly well, yes, sir.

20 Q. Okay. You mentioned Representative Collins and you
21 mentioned the fact that he is your desk mate?

22 A. Yes, sir.

23 Q. Okay. Is Representative Collins a Democrat or a
24 Republican?

25 A. No. He's a Republican. As we say, from two completely

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1 different worlds. He's from easily up in Pickens County, and
2 I'm from Bamberg.

3 Q. Okay. And how long have you been desk mates?

4 A. We started out as desk mates our freshman year. And we
5 were desk mates every year, with the exception of one year
6 Representative Chris Murphy took my seat. And we've always
7 had a laugh about that one. But every year, other than that.

8 Q. Are you familiar with the phrase "desk mates for life"?

9 A. Yes, sir, I am.

10 Q. Okay. And is Representative Collins one of your best
11 friends in the legislature?

12 A. Oh, yes, sir, he is.

13 Q. And with respect to the members of the ad hoc committee
14 as it was ultimately constituted, based on your own
15 observations of the people on that committee, do you believe
16 that any of them would participate in or tolerate purposeful
17 racial discrimination?

18 A. I absolutely do not think that they would. With respect
19 to, for example, Neal, A, I know him very well. We spend a
20 lot of time together. We disagree on just about everything
21 politically, but we do meet in the middle in terms of right
22 and wrong. And when we were doing the confederate flag
23 debate, which was probably the most contentious thing that's
24 happened, I told Neal, like: We need votes. We've got to
25 bring the flag down. And Neal was supposed to be out of state

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1 or whatever. He actually flew back that night to make sure he
2 did not miss the vote, knowing that, back home, that's going
3 to cause him some problems. That's just one example.

4 And, you know, I've said this before, that, to me -- and
5 I can only speak for myself -- it is a little offensive to
6 hear anybody say that any of them, or me, would engage in, be
7 okay with, or otherwise go along with any type of purposeful
8 discrimination.

9 Q. Let me ask you this question, Representative Bamberg.
10 With respect to yourself -- and you said Representative
11 Henegan is also on the ad hoc committee; is that right?

12 A. Correct.

13 Q. Is she also an African American?

14 A. She is.

15 Q. Okay. And if someone were to say or suggest that you and
16 Representative Henegan are not strong enough voices for the
17 rights of African-American voters on that committee, what, if
18 anything, would you say to that?

19 A. I would take personal offense to that for myself. I
20 would be offended for Ms. Henegan. A, Pat is older. And in
21 my experience, older African Americans have dealt with certain
22 things that a lot of us as a younger generation could never
23 fathom dealing with. And I know Pat has dealt with that. Pat
24 is a very strong voice. Pat is not okay with bigotry, with
25 mistreating people in general, regardless of whether it's

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1 about race or not.

2 For me, I mean my work, in my opinion, speaks for itself,
3 the civil rights work. Now President Joe Biden, and Senator
4 Bernie Sanders picked me. And I was the only person from
5 South Carolina. Myself, Attorney General Eric Holder, Vanita
6 Gupta, who was at one point over the Civil Rights Division of
7 DOJ under President Obama, and President Biden brought her
8 back. I served on the committee with them, preparing the plan
9 for how the White House, if Joe Biden was elected president,
10 would approach criminal justice and reforms in prisons, with
11 policing, things like marijuana. And I would not have -- he's
12 the President. So, it's very offensive, because I put a lot
13 of time and effort into doing the best job that I can and
14 standing up against prejudice and discrimination. I even
15 called out Representative Crystal Matthews, an
16 African-American female running for Senate against Tim Scott.
17 And she made a comment -- it was a big hoopla about it. I was
18 the first person -- Republican, Democrat or otherwise -- the
19 very first person to say that she made some bigoted comments
20 towards White people, and it was not okay. And I drew
21 backlash for that. But right is right, and wrong is wrong.
22 And it's very offensive if somebody thinks or says that.

23 Q. Now, we've heard a lot about the ad hoc committee. And
24 I'm not going to belabor all those points. As a member of the
25 ad hoc committee, were you a participant in a number of

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1 hearings?

2 A. Yes, sir, I was.

3 Q. Okay. And did you travel the state for those public
4 hearings?

5 A. Yes, sir I did.

6 Q. Okay. And in those public hearings, did you listen to
7 the comments made by members of the public?

8 A. I not only listened, I, at the time, would take notes in
9 case there was a question that needed to be asked, or if it
10 was something that I think warranted being looked at a little
11 bit in terms of a plan.

12 Q. And, Representative Bamberg, did you hear a number of
13 comments from members of the public during the process of
14 participating in these public hearings across the state?

15 A. Yes, sir.

16 Q. Okay. You serve as a political officer, correct?

17 A. Yes, sir.

18 Q. Okay. Can you always give each member of the public who
19 testifies what they want in any piece of legislation, but
20 particularly in redistricting?

21 A. No, sir.

22 Q. Okay. Why not?

23 A. Well, not just members of the public, members of the body
24 too. And I think that's -- a piece of it is, you know, I'm
25 one of 124 other -- there are 124 other members of the House,

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1 all who have interests in lines. You've got the Senate, then
2 you've got the Congress people, then you've got the public.
3 And the public matters more than any of the rest of us. But
4 everyone has an opinion. Everyone has a preference. And in
5 the course of my life, I have learned that everyone has an
6 agenda in some way, shape, or form. People want what they
7 believe is best for them and their communities. So, my
8 approach to it was: Listen to what everyone has to say
9 whether you agree or disagree. And in the mind of me, it
10 doesn't matter, it's about what they want. And you just do
11 the best job that you can.

12 Q. Now, I just want to deal with this upfront. I mean, you
13 were not a fan of the process that was used with respect to
14 congressional redistricting; is that right or wrong?

15 A. That is 100-percent correct.

16 Q. Okay. And why was that?

17 A. So, the House --

18 Q. And I'm referring to congressional redistricting in the
19 House of Representatives. Let me make that crystal clear.

20 A. Understood. The House redistricting process on the state
21 level was very intensive, very demanding. A lot of time we
22 had population shifts, issues like census undercounts, etc.
23 And you had so many people. So, that was a very like
24 intensive thing. And members of the committee were trying to
25 invest all the time they could in dealing with that. And I

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1 had posed the question of when we were going to start the
2 congressional redistricting process. And my understanding was
3 that that process was not going to start until maybe January
4 or something like that. My understanding was, there was time.
5 And because of that, and because we were still dealing at the
6 time with House plan issues, when I find out, hey, we're going
7 to meet, there's a draft staff plan for the congressional
8 lines, I was bothered because that did not vibe with my
9 understanding. And I'm like, where the hell did these -- I'm
10 sorry. I'm like: Where did the maps come from? And, you
11 know, hey, the staff did it up, etc., and now we're in that
12 process. I wasn't prepared to get there yet, so I didn't
13 agree with that.

14 Q. Now, let me ask you a couple of other questions to
15 backtrack for just a moment. When you were taking public
16 testimony, okay, as you traveled across the state, did you
17 hear testimony from the public not only about State House
18 districts, but also about congressional districts?

19 A. Oh, yes, sir.

20 Q. Okay. All right. And did you hear, either in the
21 initial public hearings, or in the public hearings that
22 occurred after a first staff plan was released -- and I
23 understand you're critical about the process. But did you
24 hear testimony from people from Beaufort County about the
25 first House staff plan that put them -- had it passed, would

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1 have put them in CD 2?

2 A. What I remember is there were comments from the various
3 people of the public with regards to -- I vividly remember
4 people complaining about Joe Wilson's seat and whether they
5 wanted him or didn't want him. And then there were complaints
6 about Charleston at one point in terms of Charleston being
7 split or not split. Where in time that fell in the process,
8 that, I do not remember. But I do remember hearing comments
9 from the public about some of those areas.

10 Q. Okay. And let me move on for just a minute. With
11 respect to -- you said you live in CD 6; is that correct?

12 A. Yes, sir.

13 Q. Okay. All right. And do you believe that CD 6 is a
14 district that should continue to have the ability -- or the
15 citizens of CD 6 should continue to have the ability to elect
16 an African-American candidate of choice in that district?

17 A. Yes, sir.

18 Q. And why is that historically important to you as someone
19 who has your background and who has lived in CD 6?

20 A. I think it's a mix of the makeup historically of that
21 area, our way of life there. And then, of course, Congressman
22 Clyburn, and the fact that that seat, for as long as I can
23 remember -- and I'm 35 now -- but as long as I can remember,
24 that seat has always been a seat for the African-American
25 voice in the state.

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1 You know, and I have my own views a little bit about
2 percentages and things of that nature for that district, but
3 for me, it was important that that seat not be lost for
4 Democrats and for African Americans.

5 Q. And obviously you were on the Ad Hoc Committee. You
6 understand that census data was released late in the game,
7 correct?

8 A. Correct. It was the late release of the census data.
9 And a lot of the members -- I think Democrat and Republican --
10 it was the legitimacy of the census count itself because of
11 COVID-19 at the time and the normal followups weren't
12 happening. There weren't phone calls. No one was going to
13 the doors knocking on people. And in these rural counties
14 where I live, people were not answering the census. So, it
15 makes it even more difficult to draw the lines, in my mind, in
16 a fair way when you're relegated on a congressional process to
17 what the census count is when you know more likely than not
18 that there's a massive undercount there.

19 So, for example, in Orangeburg County, the
20 African-American population, because it is a majority
21 African-American county, in real life is probably a lot higher
22 in number than what the census shows. But we're stuck with
23 the census number, which then impacts other counties down the
24 way as you try to draw the lines.

25 Q. And those concerns about potential undercount in the

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1 census, we've heard a lot about that from various people over
2 the past two years, have we not?

3 A. We have.

4 Q. And that's one of the reasons why you voted for an
5 amendment to try to change the deviation with respect to the
6 State House districts from five percent to 10 percent; is that
7 correct?

8 A. Correct.

9 Q. That's an amendment that ultimately failed, correct?

10 A. Correct. And during that process, we wanted the
11 10 percent deviation to allow for the census undercount, take
12 that into account. And in doing that, information was
13 submitted, and I actually believe one of the briefs that I
14 relied on in making certain arguments on a case law point as a
15 lawyer on the committee was one of the NAACP Legal Defense
16 Funds's briefs that had already prepared everything and had
17 case law about the deviation and stuff like that. But that
18 was not an option for the congressional lines.

19 Q. Because with congressional lines, you have to get as
20 close to one of them as possible --

21 JUDGE GERGEL: Mr. Moore, I want to urge you again to
22 get to the congressional plan.

23 MR. MOORE: Yes. That's why I -- I'm getting there,
24 Your Honor.

25 BY MR. MOORE:

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1 Q. With respect to the congressional plan, you mentioned
2 that you have some concerns about CD 6; is that right?

3 A. Correct.

4 Q. Okay. And are you concerned about the future of CD 6
5 with respect to its African-American voting population?

6 A. Correct.

7 Q. Please tell us what that is.

8 A. The short version is that there's one thing in life that
9 remains constant, and that's change. And you have population
10 shifts. So, my grandma, for instance, she's 80 something.
11 Most of her friends are dead. Younger people, like myself,
12 because of certain life opportunities and career or otherwise,
13 are leaving and they're going to the bigger cities, right.
14 So, the concern is that if you take away too much of the
15 African-American vote, or the Democratic vote in Congressman
16 Clyburn's district in order to try and bolster another area
17 that is also changing, I don't -- me, personally, I don't want
18 to see a day within 10 years or whatever where not only do you
19 not pick up any other African-American seats, but you lose one
20 that you're technically supposed to have because you weren't
21 careful.

22 Q. And so, Representative Bamberg, do the Republicans have a
23 majority in the State House of Representatives?

24 A. They -- it's almost a supermajority, yes.

25 Q. Okay.

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1 MR. MOORE: I don't mean to belabor the point,
2 your Honor.

3 **BY MR. MOORE:**

4 Q. But with respect to this vote on the deviation,
5 originally in the ad hoc committee, did that vote come down 4
6 to 3 on the party lines?

7 A. It's a partisan split, yes, sir.

8 Q. Okay. All right. And do you see partisan splits perhaps
9 more regularly than a lot of people would like in the House of
10 Representatives?

11 A. Oh, absolutely, yes.

12 Q. Okay. All right. And, Representative Bamberg, I know,
13 as you've told me, dates are sometimes not your strongest
14 suit, correct?

15 A. Correct.

16 Q. Okay. You were -- correct me if I'm wrong. You were not
17 at the January 10th meeting of the ad hoc committee that also
18 then became a Judiciary Committee meeting; is that correct?

19 A. Correct, I was not present that day.

20 Q. Okay. And where were you?

21 A. I represented -- still represent -- a number of the
22 victims of Alex Murdock. And he had recently been charged for
23 some other crimes and he had a bond hearing that day. And I
24 had to go be the voice for the victims that I represented.

25 Q. And while legislators enjoy sort of like legislative

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1 excuses from court appearances, do you enjoy that same excuse,
2 if you will, if you are representing a victim as opposed to a
3 party?

4 A. No, sir. Legislative protection only applies if you are
5 representing a party to the case. But in the criminal cases,
6 it's the State vs. Alex Murdock, so I don't get to the
7 dictate, hey, y'all aren't going to have the bond hearing
8 because I have a committee meeting. I wish we had that, but
9 we don't.

10 Q. All right. And with respect to the ad hoc committee
11 itself, let me ask you this question: Do you believe that the
12 members of the ad hoc committee as ultimately constituted had
13 a reputation among their peers in the House for being
14 cooperative, collegial and perhaps not as partisan as some
15 others?

16 A. Oh, yes, sir.

17 Q. Do you know Representative John King?

18 A. I do, yes, sir.

19 Q. Does Representative King have a similar reputation for
20 being collegial and cooperative as the members of the ad hoc
21 committee as ultimately constituted?

22 A. No, sir.

23 Q. All right. And at one point, were you asked perhaps to
24 put your name in for the position of first vice chair for the
25 Judiciary Committee?

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1 A. Yes, sir.

2 Q. And did you have the votes to win that race?

3 A. Yes, sir. I had majority -- well, the Republicans, and
4 majority of the Democratic votes for that. I have a deep
5 respect for the institution, sometimes more respect for the
6 institution than it may deserve. But, nonetheless, it's
7 there. And with that comes seniority, things like that. So,
8 I went to Representative King and I asked him -- because he's
9 been on the committee longer than me. And I asked him if he
10 wanted to be first vice chair, and he said he would appreciate
11 it. I then talked to people and said, hey, look, I'm not
12 going to allow myself to be nominated for the spot, and if
13 somebody does nominate me, I'm going to turn it down with John
14 King.

15 Q. And, Representative Bamberg, you've been on the Judiciary
16 Committee for a few years; is that correct?

17 A. Yes, sir.

18 Q. Okay. Have you ever in your time on Judiciary seen a
19 meeting which was run solely by the first or even the second
20 vice chair with the chairman being absent?

21 A. No, sir, not in my time.

22 Q. Okay. And we all know Representative Murphy is the Chair
23 of the Judiciary Committee, correct?

24 A. Correct.

25 Q. Okay. And in your experience as a member of the

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1 Judiciary Committee, if the Chair is absent or is required to
2 be absent and there's a particularly important matter that is
3 taken up, does someone else chair the meeting, or is the
4 meeting canceled?

5 MR. INGRAM: Objection. Leading, Your Honor.

6 JUDGE GERGEL: Overruled. Please continue.

7 THE WITNESS: So, in my time, I don't recall there
8 ever being a time when the chair of Judiciary wasn't there,
9 because you're chair of Judiciary. We get -- 60 percent of
10 the legislation that gets filed in the House comes to us. So,
11 that was like a whole new thing. That's not how things would
12 generally go.

13 **BY MR. MOORE:**

14 Q. Okay. And let me ask you this question. Representative
15 Murphy, following this January 10th meeting, was out for a
16 long period of time thereafter, correct?

17 A. Yes, sir.

18 Q. Were a number of House Judiciary Committee meetings
19 simply canceled in his absence?

20 A. There were times we did not meet, yes, sir.

21 Q. Okay. All right. Representative Bamberg, so you weren't
22 there on the 10th, correct?

23 A. Correct.

24 Q. All right. And that's the 10th of January?

25 A. Yes, sir.

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1 Q. I believe you were, however, present for the debate on
2 the bill that the House originally passed -- is that correct
3 -- on January 12th, two days later?

4 A. Yes, sir.

5 Q. And correct me if I'm wrong, you voted against the House
6 bill?

7 A. Oh, yes, sir, I did.

8 Q. Okay. Why did you vote against the House bill? Let's
9 just deal with that upfront.

10 A. I, again, did not like the process by which we got there.
11 I wanted more time. I thought that, compared to how we did
12 the House plan for the state level and the congressional plan
13 -- like I said, it was not a protest vote, I just wasn't going
14 to vote for it because I didn't like the way that we had got
15 to that point.

16 Q. Did you think that that plan that was ultimately adopted
17 by the House and sent to the Senate was designed or based in
18 an effort to discriminate against African-American voters or
19 was a racially-based plan?

20 A. No, sir, I did not. And if I had -- I'm one of the
21 loudest Democrats at the State House. I'm engaged in almost
22 every debate of substance. I lead a lot of the debates for
23 the Democrats. If I had thought that, I would have taken the
24 podium and I would have said it. There's no doubt in my mind
25 about that.

JUSTIN BAMBERG- DIRECT EXAMINATION BY MR. MOORE

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1 Q. Okay. And you have friends on the Republican side of the
2 aisle, correct? You mentioned Representative Collins.

3 A. Yes.

4 Q. Okay. Are you friends with the Republican members of the
5 ad hoc committee?

6 A. I'm friends with them. I'm friends with anybody who, in
7 my opinion -- speaking to my life experiences, speaking to
8 where I want to see politics go in this state, I am friends
9 with people who want to do a good job and who are not -- are
10 there bigots or racists in the South Carolina General
11 Assembly? In my opinion, I think there are some, okay. And
12 I've had run-ins with people, but not committee members and
13 not other people I associate with.

14 Q. And do you believe that if any of those committee members
15 had seen any evidence of that, they would have come to you?

16 A. I 100-percent believe that if they had seen any evidence
17 -- even if -- even if for some reason politically they would
18 have felt like they couldn't do anything about it themselves,
19 they would have given me, in my opinion, the ammo needed to
20 address it and get it handled, because sometimes that's what
21 happens.

22 Q. Now, during that meeting that we talked about a few
23 minutes ago where the bill was advanced -- and ultimately you
24 would agree with me on this point: The bill that advanced out
25 of the House is not the bill that was ultimately signed into

JUSTIN BAMBERG- DIRECT EXAMINATION BY MR. MOORE

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1 law by the governor; is that correct?

2 A. From what I remember, it was not.

3 Q. Okay. All right. But during that hearing -- and at that
4 hearing on the House floor, and the vote on the House floor,
5 do you recall Representative Cobb-Hunter coming to the well
6 and addressing the issue of a Section 2 analysis?

7 A. I don't -- I don't remember her taking the well or what
8 she said if she did. I just know that she never said anything
9 to me about it as a committee member.

10 Q. So, do you recall before that hearing having any
11 discussions with Representative Cobb-Hunter where she
12 requested or asked if the ad hoc committee, of which you're a
13 member, performed a Section 2 or voting rights analysis?

14 A. No, sir.

15 Q. Okay. Do you believe you would have remembered that if
16 it had happened?

17 A. If Representative Cobb-Hunter asked me or directed me --
18 and I say "directed" -- X, Y, Z, then you would do it.

19 Q. You have a lot of respect for her, too?

20 A. Yes. I've known Representative Cobb-Hunter for a while,
21 and she's known my mom. She -- I listen to her, as do I think
22 most people, including Republican leadership.

23 Q. Let me ask you this question, okay. Representative
24 Bamberg, from where you sat, okay, from your position as a
25 member of the ad hoc committee, okay, do you believe that the

JUSTIN BAMBERG- DIRECT EXAMINATION BY MR. MOORE

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1 bill that advanced out of the House was in any way motivated
2 by race or an intent to discriminate against race?

3 A. No, sir.

4 Q. And do you believe, however, that it was a political
5 bill?

6 A. There's no doubt there was, on the congressional side, a
7 lot of hype- -- what I refer to as hyper-partisanship
8 politics, where it was Democrat, Republican, you know. And
9 the best way I can try to describe it is, it's no secret that
10 on the Democratic Party side, majority of the Democrats in
11 this state are African Americans, but there are also White
12 Democrats. Just like predominantly, the Republican Party is
13 White, but there are a handful of Black Republicans. What I
14 think is politics was the pivotal point. It was R and D,
15 right?

16 And it's just like in the policing context. I'm going to
17 speak something I know, right. If you have a majority Black
18 area of town, right -- so when I was doing the Scott case
19 stuff, the majority Black part of town, and the police are
20 writing tickets, right. Well, statistically speaking, most of
21 the tickets are going to be to Black people, but it doesn't
22 mean the intent behind doing tickets is to screw over Black
23 people. Compare that situation with what I have seen, this
24 concept of spotlighting in order to pull people over, which is
25 where the cop sits perpendicular to the road and shines a

JUSTIN BAMBERG- CROSS-EXAMINATION BY MR. INGRAM

1746

1 spotlight at night to see if the driver is Black or has
2 dreadlocks or things like that, and then they pull that car
3 over, they spotlight the next one, and you're lighter-toned or
4 something, and you don't pull them over, right, that's
5 intentional discrimination. That's how -- that's the best way
6 I can explain the difference.

7 MR. MOORE: I beg a moment, your Honor?

8 JUDGE GERGEL: Yes. Take your time.

9 MR. MOORE: Representative Bamberg, thank you very
10 much. I don't have any other questions. Pass the witness.

11 JUDGE GERGEL: Cross-examination?

12 MR. TRAYWICK: No questions from the Senate. Thank
13 you for being here today, Representative Bamberg.

14 **CROSS-EXAMINATION**

15 **BY MR. INGRAM:**

16 Q. Good afternoon, Representative Bamberg. How are you?

17 A. Good afternoon.

18 Q. Do you remember sitting for a deposition with me on
19 August 11th, do you?

20 A. Yes, sir.

21 Q. Representative Bamberg, are you aware of the history of
22 discrimination against Black South Carolinians?

23 A. Yes. Yes, sir, I definitely am.

24 Q. And does that history still continue today?

25 A. In terms -- in terms of what?

JUSTIN BAMBERG- CROSS-EXAMINATION BY MR. INGRAM

1747

1 Q. Do Black South Carolinians still face discrimination?

2 A. Yes, sir.

3 Q. Do they face discrimination in voting?

4 A. I think that there is -- there's discrimination in
5 various areas. I think that discrimination voting does occur,
6 yes, sir.

7 Q. And, Representative Bamberg, you testified a few moments
8 ago that you attended the public hearings held by the Ad Hoc
9 Redistricting Committee, correct?

10 A. Yes, sir.

11 Q. And did you hear testimony about Black voters not wanting
12 to see their districts packed and cracked?

13 A. Yes, sir.

14 Q. And did you hear your colleagues provide feedback to them
15 about this testimony?

16 A. Yes, sir.

17 Q. And what was that feedback?

18 A. To the best of my memory, that was mentioned frequently,
19 the concept of packing and cracking. And I don't know that
20 there was a lot of feedback, because, generally, during the
21 committee hearings -- or meetings, rather, we were there to
22 receive information as opposed to go back and forth with any
23 members of the public or anything like that. But the
24 committee was receptive to the comments with regard to those
25 concerns.

JUSTIN BAMBERG- CROSS-EXAMINATION BY MR. INGRAM

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1 Q. And would you say from your experience in South Carolina,
2 Representative Bamberg, that there have been a consistent
3 theme of White officials disliking Black political candidates
4 and elected officials?

5 A. There are -- yes, there have been White officials who
6 don't like minorities. And as a House member, there are
7 people in my area who will not support or vote for me, some of
8 them, because I'm a Democrat, but for some of them, it is
9 because I'm a minority.

10 Q. And so, the individuals who dislike you because you're a
11 minority, that's not based on partisanship, correct?

12 A. Correct.

13 Q. That's based on race?

14 A. Correct.

15 Q. And, Representative Bamberg, in your deposition, do you
16 remember me asking you if in, in your opinion, Black voter
17 turnout may be lower because African Americans feel like their
18 voices don't matter?

19 A. Yes. I believe there was a question like that, yes, sir.

20 Q. And when presented with this question, you made some
21 negative assumptions about Black voters, correct?

22 A. No, sir.

23 Q. You said that some Black people don't vote because
24 they're lazy, correct?

25 A. I said that there are voters, including Black voters, who

JUSTIN BAMBERG- CROSS-EXAMINATION BY MR. INGRAM

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1 don't vote because they are too lazy to go vote. Yes, sir.

2 Q. But I had asked you about Black voters. So when you said
3 "voters," you were referring to black people, correct?

4 A. If that was the question, and that's how I answered it,
5 then yes. If we were talking about Black voters, then yes.

6 Q. And you said that some of these Black voters don't vote
7 because going to the mall is more important; correct?

8 A. Correct.

9 Q. You also testified at your deposition that you were not
10 very involved in the development of the congressional maps,
11 correct?

12 A. Correct.

13 Q. You testified that you maybe visited the map room once,
14 correct?

15 A. With regards to the congressional process, yes, I think
16 so.

17 Q. And you testified previously that you were not overly
18 active in the congressional redistricting process, correct?

19 A. Correct.

20 Q. Representative Bamberg, you were elected to the State
21 House in 2014, correct?

22 A. Yes, sir.

23 Q. And you would say that you are a Black preferred
24 candidate in your district, correct?

25 A. A?

JUSTIN BAMBERG- CROSS-EXAMINATION BY MR. INGRAM

1750

1 Q. A Black preferred candidate, that Black South Carolinians
2 prefer you as their candidate?

3 A. Yes, sir.

4 Q. And you would agree that the 2021 maps have been redrawn
5 to increase the BVAP in your district, correct?

6 A. They weren't drawn to increase the BVAP, that was just
7 how the numbers played out during the drawing process.

8 Q. And you would say that you now have a safer House seat
9 than you did before the redistricting process, correct?

10 A. I don't consider it a safer House district.

11 Q. But you would admit that there are a higher number of
12 Black voters in your district now, correct?

13 A. Yes. As to the BVAP, yes, sir.

14 Q. And, Representative Bamberg, you believe that the maps
15 reflect a partisan-based discrimination and not race-based
16 discrimination, correct?

17 A. No. I wouldn't call it partisan-based discrimination. I
18 would just say that it was hyper-partisan, like I said
19 earlier. Like, Republican versus Democrat, if that makes
20 sense.

21 Q. But you would say that there were partisan preferences
22 that went into how maps are drawn?

23 A. Yes.

24 Q. In a way that privileged certain parties over other
25 parties, in this case, Republican over Democrat?

JUSTIN BAMBERG- CROSS-EXAMINATION BY MR. INGRAM

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1 A. Yes.

2 Q. In your opinion, legislators can use partisanship to hurt
3 Black voters, correct?

4 A. Can you repeat that?

5 Q. Can legislators use partisanship to hurt Black voters?

6 A. They shouldn't.

7 Q. But, can they?

8 A. I would --

9 Q. Is it possible?

10 A. Yes, it's possible.

11 Q. And, Representative Bamberg, you previously stated during
12 your deposition when asked -- we talked about the role of
13 partisanship, and I asked you if you had ever heard any
14 comments in your work on the committee -- referring to the Ad
15 Hoc Redistricting Committee -- that mentioned drawing maps in
16 a way that provided partisan advantage to Republicans. And
17 you said no, correct?

18 A. I don't know. If that's what you have in the transcript
19 -- I don't remember that one, specifically. I'm sorry.

20 Q. Your opinions about the maps in question, the enacted
21 map, are not based on a racially polarized voting analysis,
22 correct?

23 A. No, not --

24 Q. And they're not based on any empirical data at all,
25 correct?

JUSTIN BAMBERG- CROSS-EXAMINATION BY MR. INGRAM

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1 A. Well, based on my understanding of certain data, I guess.

2 Q. Such as?

3 A. Well, just my understanding, in general, of numbers and
4 what other people are saying and things like this lawsuit.
5 So, for example, why were Black folks from this area put into
6 Congressman Clyburn's area, right? As I understand it, part
7 of the issue is what impact that has down here in Nancy Mace's
8 seat, for example. So, that stems from numbers. Now, as far
9 as the specific numbers, like a data printout, that, I don't
10 remember any of those specific numbers.

11 Q. And in your previous testimony, when asked about the maps
12 and the intent behind them, you invoked your relationships
13 with committee members, correct?

14 A. In part, yes, sir.

15 Q. And what is the remaining part you invoked?

16 A. I -- I don't remember all the depo. I know I talked
17 about my personal relationships, my personal view of the
18 individuals, and then my perception and experience in their
19 conduct over the course of time in terms of my working with
20 them. I know I talked about some of that.

21 Q. As a civil rights lawyer, you have talked about
22 intentional discrimination in your prior testimony with Mr.
23 Moore. Does intentional discrimination require animus to be
24 present?

25 A. I think that if you intentionally discriminate against

JUSTIN BAMBERG- CROSS-EXAMINATION BY MR. INGRAM

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1 somebody, that is animus, as I understand the term "animus."
2 Like hostility, you don't like them, etc.

3 Q. Right. But this is a lawsuit, correct?

4 A. Correct.

5 Q. So, we're referring to legal definitions, correct?

6 A. So -- correct.

7 Q. So, intentional discrimination and your understanding of
8 the law as a civil rights lawyer, does that require personal
9 and individual animus of a person passing law?

10 A. Oh, I'm sorry. I thought you were talking in general.

11 Q. No. We're talking about the lawsuit.

12 A. Okay. I'd have to look back at the legal part of that.
13 I don't remember it off the top of my head.

14 Q. So, when talking about intention in your testimony,
15 you're not talking about a legal definition then?

16 A. No. I'm here as a witness today. I'm not the lawyer.
17 I'm just talking about, in general, if you intentionally
18 discriminate against somebody, as I was using it, is things
19 that I physically do, decisions that I purposefully make with
20 the underlying state of mind to discriminate against somebody.
21 That's what I was referring to.

22 Q. And I also want to ask a few more questions about your
23 history in the legislative branch.

24 A. Yes, sir.

25 Q. You barely won your 2020 election, correct?

JUSTIN BAMBERG- CROSS-EXAMINATION BY MR. INGRAM

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1 A. Not correct.

2 Q. It was not by 59 votes?

3 A. By my -- that's not barely winning to me.

4 Q. Fifty-nine votes is not barely winning?

5 A. Did not require a runoff. I did not barely win. I won.

6 Q. And your old BVAP was around 40 percent in your previous
7 election?

8 A. I don't remember the BVAP. To be honest -- and this is
9 -- I don't think like a normal politician does, okay. And I
10 understand BVAPs and the concept of Black voters and things
11 like that and things like that, and numbers, okay. I
12 understand the makeup of a party. Justin Bamberg -- again,
13 only speaking for me as I sit up here, and when I walk out
14 that door, Justin Bamberg is not a politician who only thinks
15 about Black and White, okay? I've never been like that,
16 right? I consider myself an African-American male. To the
17 world I am an African-American male. My mom is White, from
18 Wisconsin. My dad is Black, from the south. In my house, we
19 were raised that you don't -- that stuff is not as important.
20 In the real world, there's a ton of emphasis on it, right?

21 And by example, I gave a speech from the well during the
22 critical race discussion. And the first 10 minutes of my
23 speech, I spoke as a White man. And I said: We, as White
24 people, yadda yadda. Me, as a White man, yadda yadda. And
25 some of them -- Bill Taylor -- looked up really confused. And

JUSTIN BAMBERG- CROSS-EXAMINATION BY MR. INGRAM

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1 I did that to prove a point about critical race theory, right.
2 And that point was, race is this social construct, and that
3 kids should be taught about this if we're going to make the
4 world better so more people stop paying as much attention to
5 race in life, politics, and every other facet of life, okay?
6 I run for everybody. What my BVAP was, I never even looked at
7 it before I ran, while I ran, or anything like that. This is
8 who I am. This is what you're going to get. I'm a Democrat.
9 Either like it and vote for me, or you don't like it, and
10 don't. That is me.

11 Q. So, are you aware that your new BVAP for the next race
12 will be 56 percent now?

13 A. I know it's higher, yes.

14 Q. And these new maps were drawn by Republican
15 supermajority, correct?

16 A. They were drawn through the process. And whether they
17 would pass or not, I would say, as with all bills, when the
18 Republican Party is in unison, in step with each other,
19 whatever they want is what will happen, at a vote.

20 Q. Ultimately you did not choose to vote for the enacted
21 map, correct?

22 A. I believe I voted against it, if I'm remembering
23 correctly.

24 Q. Thank you. That is all.

25 JUDGE GERGEL: Redirect, Mr. Moore?

JUSTIN BAMBERG- EXAMINATION BY JUDGE GERGEL

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1 MR. MOORE: No, sir, your Honor. I have no
2 questions.

3 JUDGE GERGEL: Mr. Bamberg, just a couple questions
4 for you, sir.

5 THE WITNESS: Yes, sir. Good to see you.

6 JUDGE GERGEL: You were not involved in the Senate
7 debate -- the bill that came over, you were not involved in
8 any way?

9 THE WITNESS: No, sir. I didn't pay any attention to
10 what the Senate was doing.

11 JUDGE GERGEL: And you weren't involved in the line
12 drawing that was done in the Senate to create the Senate
13 adopted plan; is that fair?

14 THE WITNESS: Yes, sir. I was not involved.

15 JUDGE GERGEL: I take it you didn't get into the
16 details about the moving of African-American or White voters
17 in Charleston County in the Senate plan.

18 THE WITNESS: Correct.

19 JUDGE GERGEL: To this day, you have no details about
20 that; is that fair?

21 THE WITNESS: No, I know nothing about that.

22 JUDGE GERGEL: No further questions.

23 Anything occasioned by the Court's questions?

24 MR. MOORE: No, your Honor.

25 MR. TRAYWICK: No, your Honor.

JUSTIN BAMBERG- EXAMINATION BY JUDGE GERGEL

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1 JUDGE GERGEL: Very good. Thank you, Mr. Bamberg.

2 THE WITNESS: Thank you.

3 JUDGE GERGEL: I think we're about at lunch break.

4 Let me tell you an idea by my colleague, Judge Heytens, has
5 about the findings of fact and conclusions of law, which I
6 think is a solid one. We want you to prepare the findings of
7 fact and conclusions of law once we conclude the testimony and
8 before final argument. And the reason we want that is, we
9 think we will be benefitted by having that during final
10 argument. We think it would be a better order of things.

11 So, when we finish, we'll figure out about the dates.
12 But we're going to want to have a time between the final
13 taking of testimony and closing argument to give the lawyers a
14 chance to do the proposed findings of fact and conclusions of
15 law. I like that order better. It makes a lot of sense to me
16 and to my other colleagues. So, that's what we're going to
17 do. We'll talk about more of that tomorrow. Very good.
18 We'll be back at 2 o'clock.

19 ***(Lunch Recess.)***

20 JUDGE GERGEL: Any matters counsel need to bring up
21 with the Court before we go to the next witness?

22 From the plaintiff?

23 MR. CHANEY: No, Your Honor. Thank you.

24 JUDGE GERGEL: From the defense?

25 MR. GORE: Not from the Senate.

JUSTIN BAMBERG- EXAMINATION BY JUDGE GERGEL

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1 MR. MATHIAS: Yes, Your Honor. On behalf of the
2 House, we are considering not calling Patrick Dennis and
3 Weston Newton. The Senate is onboard with that plan.

4 I will say the plaintiffs did not call some witnesses
5 because they were on our witness list. Mr. Dennis and Mr.
6 Newton may be among those. We let the plaintiffs know they
7 will be made available if they would like, your Honor.

8 MR. CHANEY: And, your Honor, we just got this
9 information. And I'm not suggesting it was hidden from us, I
10 think it was just proposed. We'd like to take the
11 mid-afternoon break to have that conversation. Certainly, if
12 they weren't called, we have deposed these witnesses and we
13 can provide the Court with designations for that. The Court
14 needs to see what Mr. Dennis and Mr. Newton have to say,
15 whether that's through live testimony or by designation.

16 JUDGE GERGEL: Just make sure it's relevant to the
17 issues in contest. I've had to focus at times that we go off
18 on points that don't matter. I know that's a surprising
19 observation for y'all, but, you know, you've got to be
20 focused. Here's a lesson that I'm telling everybody: You've
21 got to know your message, and then you got to -- every time
22 you open your mouth, those words should advance that message.

23 Mr. Gore, am I right about that?

24 MR. GORE: Very much so, your Honor.

25 JUDGE GERGEL: It's efficient. You don't want to

WALLACE JORDAN JR - DIRECT EXAMINATION BY MR. PARENTE 1759

1 just make points for the sake of making points. And I
2 appreciate Mr. Mathias's efforts. And I'm not quite --
3 because I don't know what Mr. Dennis and Mr. Newton have to
4 say, but right this moment, I'm not quite sure what would be
5 relevant to the bottom line here.

6 MR. MATHIAS: In fairness to plaintiffs, we did just
7 discuss a --

8 JUDGE GERGEL: Of course. I'm not faulting them for
9 not immediately falling on their sword over it. I think they
10 should have the right to evaluate it. But, Mr. Mathias, I
11 appreciate the spirit in which it is offered.

12 MR. MATHIAS: Yes, your Honor.

13 JUDGE GERGEL: Thank you.

14 Okay. Who's the next witness? You guys are keeping
15 me guessing.

16 MR. PARENTE: Your Honor, House Defendants call
17 Representative Jay Jordan as their next witness.

18 JUDGE GERGEL: Very good. Thank you.

19 **WALLACE HERBERT JORDAN, JR., having first been called**
20 **as a witness and duly sworn, testified as follows:**

21 DEPUTY CLERK: State your name for the record.

22 THE WITNESS: Wallace Herbert Jordan, Jr.

23 JUDGE GERGEL: Representative Jordan, good afternoon,
24 sir. Glad to have you with us. You may take off your mask
25 while testifying.

WALLACE JORDAN JR - DIRECT EXAMINATION BY MR. PARENTE 1760

1 THE WITNESS: Thank you, your Honor.

2 DIRECT EXAMINATION

3 BY MR. PARENTE:

4 Q. Good afternoon, Representative Jordan. Thank you for
5 being here. Just make sure you speak into the microphone so
6 the court reporter can hear you accurately.

7 Representative Jordan, what House District do you
8 represent?

9 A. Sixty-three.

10 Q. And what county is District 63 in?

11 A. Solely in Florence County.

12 Q. And what congressional district does that fall in?

13 A. The 7th Congressional District.

14 Q. And besides Florence County, have you lived anywhere else
15 in South Carolina?

16 A. I've lived in Charleston for purposes of education.

17 Q. And outside of your profession as a legislator, what else
18 do you do?

19 A. I practice law.

20 Q. And what type of law do you practice?

21 A. I consider it a general practice. Primarily civil and
22 criminal work.

23 Q. And does that include voting rights or civil rights
24 litigation?

25 A. It does not.

WALLACE JORDAN JR - DIRECT EXAMINATION BY MR. PARENTE 1761

1 Q. Representative Jordan, were you involved in the
2 congressional redistricting following the 2020 Census?

3 A. Yes.

4 Q. And what was your role in the congressional redistricting
5 this cycle?

6 A. I was the chairman of the House Ad Hoc Committee on
7 redistricting.

8 Q. And who appointed you to be chairman of that ad hoc
9 committee?

10 A. That would be the Speaker of the House.

11 Q. Who was that at the time?

12 A. House Speaker Jay Lucas.

13 Q. And do you know who made the decision to use an ad hoc
14 committee for redistricting this cycle?

15 A. That was primarily the Speaker, if I remember correctly.

16 Q. Can you briefly explain to the Court the role of the ad
17 hoc committee in redistricting?

18 A. The purpose of the ad hoc committee was multifold, I
19 guess you could say. We traveled around the state and took
20 testimony from all across South Carolina, giving South
21 Carolinians the opportunity to participate in redistricting.
22 And then the actual, I guess nuts and bolts of walking the
23 redistricting legislation through the process.

24 Q. Okay. And how many members were on the ad hoc committee?

25 A. Originally, I believe we had eight. Representative

WALLACE JORDAN JR - DIRECT EXAMINATION BY MR. PARENTE 1762

1 Brandon Newton had to withdraw at the very last minute. His
2 wife was expecting their first child, and he asked to be
3 relieved of his duties the very last minute. So, a total of
4 seven participated.

5 Q. Okay. And if you can recall, who were the other members
6 of the ad hoc committee?

7 A. Representative Collins and Elliott from the Upstate;
8 Representative Bernstein, from Columbia, the Midlands area;
9 Representative Bamberg; Representative Weston Newton, down
10 around the Lowcountry area; myself; and Representative
11 Henegan.

12 Q. And you mentioned where those representatives are from.
13 Do you believe that the composition of the ad hoc committee
14 provided adequate representation across the state of South
15 Carolina?

16 A. I did. It was originally designed so that it would have
17 seven members from each -- one member from each of the
18 congressional districts and then a chairman. Ultimately, as I
19 said, with Representative Brandon Newton, it became seven
20 members. I believe all but one congressional district had a
21 representative from that area.

22 Q. And since you mentioned Representative Brandon Newton, do
23 you know why Representative Brandon Newton was not replaced on
24 the ad hoc committee?

25 A. Primarily just due to the lateness of his withdrawal.

WALLACE JORDAN JR - DIRECT EXAMINATION BY MR. PARENTE 1763

1 The committee had a lot of logistical hurdles to get in place.
2 You know, we planned an extensive tour of the state, had to
3 make sure everyone was available as best they could be for
4 those dates, travel arrangements, all those kinds of things.
5 It was primarily necessity and lack of time.

6 Q. And if Representative Brandon Newton was to be replaced,
7 do you know who that might have been to replace him on the
8 committee?

9 A. If Representative Newton had to be replaced, it would
10 have been Representative Bruce Bryant.

11 Q. And is Representative Bryant a Republican or Democrat?

12 A. Republican.

13 Q. All right. And so, you listed off the numbers of the ad
14 hoc committee. Can you just generally state your opinion of
15 the composition of the ad hoc committee and their
16 representations in the House?

17 A. Sure. I've worked with all the individuals that were on
18 the committee prior to their service on the committee. Of
19 course, we were all on Judiciary. They're all folks I would
20 consider to be good folks that work hard, take their service
21 seriously. It was a diverse group, not just geographically
22 but, you know, Republican, Democrat, male, female, African
23 American, White. It was an attempt to give voice to the
24 entire House of Representatives in some sense.

25 Q. And do those members have a reputation for being

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1 cooperative and collegial in the House?

2 A. Yes. I'd say that's accurate.

3 Q. And do they have the reputation for being able to work
4 with both parties?

5 A. Yes, I'd say that's very fair.

6 Q. In your opinion, does Representative John King have that
7 same type of reputation?

8 A. I certainly have no qualms with Representative King on a
9 personal level, but I would say he does not have quite the --
10 a similar reputation in that respect.

11 Q. And do you believe that any members of the ad hoc
12 committee would engage in purposeful or intentional racial
13 discrimination?

14 A. No, I do not.

15 Q. Do you believe any members of the ad hoc committee would
16 intentionally dilute the vote of any racial minority group?

17 A. I do not.

18 Q. And I think you mentioned earlier it was a diverse
19 committee. How many Republicans and Democrats were on the ad
20 hoc committee respectively?

21 A. Four Republicans, and three Democrats.

22 Q. And how many African-American members were on the ad hoc
23 committee?

24 A. Two.

25 Q. And how many female members were on the committee?

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1 A. Two.

2 Q. Representative Jordan, what standing committees are you a
3 part of?

4 A. I am on the Judiciary Committee as well as the House
5 Ethics Committee.

6 Q. And are you a member of any other subcommittees?

7 A. I am chairman of the Election Law Subcommittee on
8 Judiciary.

9 Q. And do you know if that subcommittee had been previously
10 used for redistricting?

11 A. It's my understanding that, in the last iteration, that
12 subcommittee had been used for -- in lieu -- or as opposed to
13 the ad hoc committee process or style.

14 Q. And you're the chair of that subcommittee; is that right?

15 A. That's correct.

16 Q. And who else is on that subcommittee?

17 A. Representative King is on that committee, Representative
18 Bryant, and Representative Brandon Newton.

19 Q. Okay. And where geographically across the state are
20 those members from?

21 A. Other than me, from the Pee Dee region of South Carolina
22 from Florence County, all three of those individuals I believe
23 are from York County.

24 Q. And what is the Republican/Democrat split of that
25 subcommittee?

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1 A. Three-one, Republican to Democrat.

2 Q. And how many African-American members are on that
3 subcommittee?

4 A. One.

5 Q. So, do you believe that the ad hoc committee provided a
6 larger geographic representation across the state than the
7 Election Law Subcommittee?

8 A. Absolutely.

9 Q. And was the ad hoc committee a more diverse committee
10 than the Election Law Subcommittee?

11 A. Yes.

12 Q. All right.

13 MR. PARENTE: Denise, if we could pull Plaintiff's
14 Exhibit 175 please.

15 **BY MR. PARENTE:**

16 Q. Were there a set of rules or guiding principles that
17 guided the ad hoc committee throughout the redistricting
18 process?

19 A. Yes. We adopted a set of criteria, essentially to serve
20 in that role.

21 Q. And you're familiar with those criteria?

22 A. Yes. I've reviewed them on multiple occasions. I don't
23 think I have them memorized, but I'm familiar with them.

24 Q. Okay. And did you draft those guidelines and criteria?

25 A. I -- no. I believe that was counsel.

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1 Q. Okay. But these were voted on and adopted by the ad hoc
2 committee; is that right?

3 A. That's correct. We took them up I believe in our first
4 meeting, reviewed them, and I believe unanimously adopted
5 them.

6 Q. And are we looking at those same guidelines and criteria
7 that we were just talking about?

8 A. Yes. That is page one of, I believe, two pages.

9 Q. Okay.

10 MR. PARENTE: And, Denise, if we could flip to the
11 second page. Thank you.

12 **BY MR. PARENTE:**

13 Q. So, Representative Jordan, for the sake of time, I'm not
14 going to go through all of these criteria. But do you see
15 communities of interest at Roman Numeral VII there?

16 A. I do.

17 Q. Is there any one single definition of a community of
18 interest?

19 A. No. Communities of interest, as I learned traveling
20 around the state, it means a lot of different things to a lot
21 of different people. But this is a sort of collection of
22 terms that go together to create a concept of community of
23 interest, in my opinion.

24 Q. And people can disagree about what is a community of
25 interest; is that right?

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1 A. I think that's fair to say.

2 Q. Okay. Can you provide an example of what a disagreement
3 about a community of interest might be?

4 A. You can see -- you know, in my mind, Sumter stands out as
5 a potential for that. You know, depending on who you talk to
6 from Sumter, South Carolina, they might say they're part of
7 the Pee Dee. If I'm attending a Farm Bureau meeting or going
8 to an American Legion baseball game, they'd probably say Pee
9 Dee. If you to the Chamber of Commerce meeting, they'd
10 probably say we associate more with the Midlands. So, I think
11 those kind of examples are across the state. That's just one.

12 Q. And do you know if a county can be considered a community
13 of interest?

14 A. Sure. That's something that identifies residents of one
15 county, so I think that definitely could qualify as a
16 community of interest.

17 Q. And do county boundaries appear anywhere in this document
18 under communities of interest?

19 A. I don't believe so.

20 MR. PARENTE: Denise, if we could highlight the
21 fourth row from the bottom.

22 THE WITNESS: I'm sorry. You're right. I skipped
23 over that. Yes. Clearly. County boundaries, municipal
24 boundaries, precinct lines all demonstrate -- or illustrate
25 communities of interest, or examples.

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1 Q. And in your opinion would smaller counties or larger
2 counties be more likely to be a single community of interest?

3 A. Probably smaller counties. In a large county obviously
4 you're dealing with a much higher population. So, I'd say
5 more so smaller counties.

6 Q. And what about politics? How would politics play into a
7 community of interest?

8 A. Obviously, it's one of those things that go into -- I'd
9 say qualify on the list of an example as such.

10 Q. And is politics listed anywhere in the ad hoc committee's
11 criteria here?

12 A. I missed that last time. Let me read a little closer. I
13 don't believe so -- well, political beliefs.

14 Q. Political beliefs. And is voting behavior also listed on
15 there?

16 A. Yes. Those two are D and E.

17 Q. And is incumbency consideration also something that was
18 taken into account here?

19 A. Yes, it is. It's Section 8.

20 Q. Okay. All right. I'm going to fast forward a little bit
21 to the maps that were released by the ad hoc committee. Do
22 you recall those staff plans?

23 A. I do.

24 Q. Okay. And there were two different staff plans; is that
25 right?

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1 A. That's correct.

2 Q. And were those different plans?

3 A. Yes, they were.

4 Q. Okay. All right.

5 MR. PARENTE: Denise, can we pull up House Exhibit 5
6 please?

7 BY MR. PARENTE:

8 Q. Representative Jordan, do you recognize this map?

9 A. I do. That was the first House staff plan.

10 Q. And who drafted this map?

11 A. Staff. I believe it was primarily Mr. Dennis.

12 Q. Okay. And do you recall any of the feedback that was
13 received on this staff plan?

14 A. Yes. As I recall, we had a significant amount of
15 feedback from the Beaufort/Hilton Head area of the state that
16 was very negative towards this plan.

17 Q. Okay.

18 MR. PARENTE: Denise, I'd like to pull up Plaintiff's
19 Exhibit 667 please. And if you could go to the second page,
20 which is an attachment to this e-mail.

21 BY MR. PARENTE:

22 Q. And, Representative Jordan, do you recall seeing this
23 news article?

24 A. I do.

25 Q. And can you read the headline of this news article for me

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1 please?

2 A. "SC House Proposal Makes Nancy Mace's Congressional
3 District Less GOP Dominant."

4 Q. And what is the date of this news article?

5 A. December 15th of last year.

6 Q. And do you know what plan this is referring to?

7 A. This is referring to the plan you just pulled up a second
8 ago.

9 Q. And that's a picture of you on the cover, isn't it?

10 A. That's correct.

11 Q. And what were you doing politically at this time?

12 A. I was running for the recently vacated Senate seat in
13 Florence.

14 Q. So, you were in a Republican primary; is that right?

15 A. That's correct.

16 Q. And who was your opponent?

17 A. Now Senator Mike Reichenbach.

18 Q. And what were Senator Reichenbach's criticisms of your
19 political stance during that race?

20 A. Partially that I was establishment, too moderate in my
21 representation in the House.

22 Q. That you were too moderate and not conservative enough
23 for his liking; is that accurate?

24 A. That's correct.

25 Q. Okay. So with that background, how did you react to this

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1 article?

2 A. In that light, it did not help my standing in the
3 Republican community back home.

4 Q. Okay.

5 MR. PARENTE: Denise, if we could go to House
6 Exhibit 81.

7 And this has been introduced into evidence without
8 objection, your Honors.

9 **BY MR. PARENTE:**

10 Q. Representative Jordan, do you recall receiving this text
11 message?

12 A. I do.

13 Q. And starting at the top, do you know who the initials PD
14 and JJ are?

15 A. I believe that refers to Patrick Dennis. And I believe
16 I'm the JJ.

17 Q. Okay. Do you know if there was anyone else involved in
18 this text chain?

19 A. I believe Weston Newton.

20 Q. Okay. And his name may not appear there if it was on his
21 phone; is that accurate?

22 A. That's, I believe, correct.

23 Q. Okay. And what is the date of this first text message?

24 A. December 17.

25 Q. Okay. And so, is that two days after the article we just

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1 looked at?

2 A. Yes.

3 Q. And if you could, for the Court, just read this first
4 text message from Mr. Dennis into the record, please?

5 A. "After going through a dozen iterations, the truth is
6 when all of Beaufort County is put with a significant portion
7 or all of Charleston County, you get a 50/50 district because
8 there isn't room for the portions of Dorchester and Berkeley
9 that pull the first red. It is easy enough to do, but we need
10 to settle on what our priorities are. Just good food for
11 thought for both of you. No response --"

12 Q. Okay. And looking at this first page, can you explain
13 what Mr. Dennis is saying in this text message to you and
14 Representative Newton?

15 A. Yes. He's talking about the political realities of that
16 area of the state.

17 Q. So, when he makes a reference to 50/50 district, what did
18 you believe 50/50 to reference?

19 A. Republican/Democrat.

20 Q. So, nothing to do with race?

21 A. No.

22 Q. And the same with "pull the first red." What does that
23 mean to you?

24 A. Republican.

25 Q. All right.

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1 MR. PARENTE: And, Denise, if we could go to the
2 second page of this text.

3 BY MR. PARENTE:

4 Q. All right. So, in blue, do you know who sent that text
5 message?

6 A. That's Weston.

7 Q. And if you could please read that text message into the
8 record for the Court.

9 A. "All of Charleston not in 1st now. I am hearing Senate
10 will support their plan with 53 and a half CD 1. Can we tweak
11 the margins of the Senate plan?"

12 Q. Okay. And can you briefly explain what Representative
13 Newton is saying in this text message?

14 A. He's sort of amplifying what Mr. Dennis was saying, that
15 53 and a half percent -- is what I'm interpreting that CD 1 is
16 to be, 53 and a half percent Republican. I believe that's
17 pretty close to what Trump got in the last election. So,
18 Republican/Democrat statistical split.

19 Q. Okay. And Representative Newton also makes a comment
20 about Charleston not being in the 1st now. Is that your
21 understanding of how Charleston was split in the benchmark
22 plan?

23 A. Correct. It was split in the prior version. And he's
24 making the point that it wasn't whole in the last round.

25 Q. Okay. And you read that as 53 and a half CD 1. And I

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1 think you mentioned a minute ago that is the share of
2 Republican or Trump votes for that district; is that correct?

3 A. I believe so.

4 Q. So, 53 and a half has nothing to do with race?

5 A. No.

6 Q. It's all politics?

7 A. Correct.

8 Q. Is there any reference to race anywhere in this text
9 message?

10 A. No.

11 Q. Okay. And Representative Newton's comment about tweaking
12 the margins of the Senate plan, do you know what
13 Representative Newton was referring to with that comment?

14 A. I believe he's talking about ways to -- I guess I'd say
15 make the Senate plan better as far as looking at ways to --
16 maybe if there are any splits that we could alleviate, or
17 geographical bordering, things of that nature that might tweak
18 it in a positive way.

19 Q. Okay. And Mr. Dennis responds at the bottom there.
20 Could you please read his response?

21 A. "At this point, I'm ready to just adopt their plan."

22 Q. And what plan is Mr. Dennis referring to, in your
23 opinion?

24 A. The Senate plan.

25 Q. Okay. All right. Representative Jordan, did you hear

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1 from other House members about congressional redistricting?

2 A. Yes, I did, especially after the first plan. Not so much
3 leading up to that, but immediately after the first staff plan
4 was released, I heard from a significant number of folks.

5 Q. Okay. And did you receive text messages from other
6 members of the House?

7 A. I did.

8 Q. All right. And just briefly, I'd like to look at some of
9 those.

10 MR. PARENTE: Denise, if you could put House
11 Exhibit 90?

12 Which has also been entered into evidence without
13 objection, your Honors.

14 **BY MR. PARENTE:**

15 Q. Representative Jordan, do you recall receiving this text
16 message?

17 A. I do.

18 Q. And who is Phillip at the top there?

19 A. That would be Phillip Lowe. He's also a representative
20 from Florence and my seat mate.

21 Q. And what does Representative Lowe say to you in the
22 middle of this page?

23 A. "Wilson wants a more central district, not all the way to
24 Hilton Head." He's referencing Congressman Wilson. And,
25 again, this is in response to first staff plan that has the

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1 district he currently represents and represented at the time,
2 connecting Hilton Head with Aiken, Lexington, that area of the
3 state.

4 Q. Okay. All right.

5 MR. PARENTE: And, Denise, if we could go to House
6 Exhibit 94, please?

7 BY MR. PARENTE:

8 Q. Representative Jordan, do you recall receiving this text
9 message?

10 A. I do.

11 Q. And who is Jeff at the top?

12 A. That is Representative Jeff Bradley. He is a
13 representative from down in the Hilton Head area.

14 Q. And I won't have you read this whole text message, it's
15 fairly long. But what is -- briefly what is the gist of what
16 Representative Bradley is telling you here?

17 A. He's also making the case that Beaufort should stay in --
18 should have a congressional district much like the one they
19 were currently in at that time.

20 Q. Okay.

21 MR. PARENTE: And, Denise, can you please put up
22 House Exhibit 93, which has also been admitted into evidence
23 without objection, your Honors.

24 BY MR. PARENTE:

25 Q. Representative Jordan, who is Jeff Duncan at the top

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1 there?

2 A. Congressman Jeff Duncan.

3 Q. And do you recall receiving text messages from
4 Congressman Duncan?

5 A. I do.

6 Q. All right. Going to the middle of this page under
7 December 19th, can you read that first text message on the
8 left there?

9 A. "The SC Federal Delegation is unanimous in its support of
10 the Senate congressional map. It is better for the 1st, for
11 sure. Thanks for all you did on the maps. Jeff."

12 Q. Okay. And just timeline wise, is this after both the
13 House and Senate had released staff plans; is that right?

14 A. That's correct. This is in very close time, proximity
15 wise, to our release of our first staff plan.

16 Q. Okay. And what did you take Congressman Duncan to mean
17 when he sent this text message?

18 A. That he and others in the Congressional Delegation
19 preferred the Senate version.

20 Q. Okay. So, there were competing versions, and you're
21 hearing from House members and from members of Congress that
22 their preference is the Senate's version. Is that accurate?

23 A. That's -- yes, I think that is accurate.

24 Q. Okay. And Congressman Duncan says: "It is better for
25 the 1st, for sure." What did you take that to mean?

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1 A. Much like we've discussed, better for the 1st
2 Congressional District, Republican versus Democrat.

3 Q. All right. I just have one more on the same thread here.

4 MR. PARENTE: Denise, if you could show House
5 Exhibit 95 --

6 Which has been admitted without objection, your
7 Honors.

8 **BY MR. PARENTE:**

9 Q. Representative Jordan, do you recognize this e-mail?

10 A. I do.

11 Q. And who is Doug Gilliam there?

12 A. He's a member of the South Carolina House of
13 Representatives.

14 Q. And if you could briefly read the first sentence that he
15 writes at the bottom there, starting with "Jay, FYI"?

16 A. "Jay, FYI, Congressman Jeff Duncan sent me a message that
17 SC Federal Delegation unanimously supports the Senate
18 congressional maps."

19 Q. So, is this a similar message that you received directly
20 from Congressman Duncan?

21 A. Yes.

22 Q. And in these text messages and e-mails that you received
23 about the Congressional Delegation and from other members of
24 the House, was there any reference to race?

25 A. No.

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1 Q. All right. And in response to this feedback that you
2 received from the public, the media, members of the House and
3 members of Congress that we just briefly went through, what
4 did the ad hoc committee do with all of that information?

5 A. We -- well, I was one of the ones that requested staff
6 create another plan, and recommended that it more closely
7 resemble that of the Senate plan.

8 Q. And why did you ask staff to create second plan that more
9 closely resembled the Senate staff plan?

10 A. For a few reasons. First off, that's what we were
11 hearing obviously, and so it seemed to make sense to, at that
12 point, give the committee something else to consider, since
13 that was proving to be -- the second part of my concern,
14 proving to be very politically difficult to, at some point,
15 get the necessary votes to pass the plan, was my probably
16 chief concern.

17 Q. And you mentioned passing the plan. In your opinion, the
18 first House staff plan that we looked at a minute ago, would
19 that have passed the House of Representatives?

20 A. No, I do not believe it would have passed.

21 Q. And why would it not have passed the House of
22 Representatives, in your opinion?

23 A. Well, at this point, it's clear that there are multiple
24 members of the House that are going to have problems with the
25 plan, and therefore, you know, speak on behalf of those issues

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1 to the rest of the body. And then it's also been my
2 experience when you have multiple folks in Congress that are
3 going to have an issue with the plan, they're going to be
4 vocal about that as well and create a situation that it's
5 going to be very difficult to get necessary votes to pass the
6 plan.

7 Q. And you mentioned the folks in Congress. Those are the
8 incumbents in those congressional districts; is that correct?

9 A. That's correct.

10 Q. And when we looked at the guidelines earlier, part of the
11 guidelines is considering incumbency; is that correct?

12 A. Correct.

13 Q. Okay. And when you instructed staff or asked staff for
14 this second alternative plan, did you instruct staff to do
15 anything with race in terms of hitting a certain number of
16 BVAP, or was there any mention of race in those directions to
17 staff?

18 A. No.

19 Q. All right. Representative Jordan, I'm going to fast
20 forward a little bit to the January 10th judiciary meeting.
21 Do you recall that meeting?

22 A. Yes.

23 Q. And were you in attendance that that meeting?

24 A. I was.

25 Q. And who is the chairman of the Judiciary Committee in the

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1 House?

2 A. Representative Chris Murphy.

3 Q. And do you know if Representative Murphy was present at
4 that January 10th meeting?

5 A. He was unable to attend that meeting that day.

6 Q. And do you know why?

7 A. Health issues.

8 Q. In your experience, what generally happens when the
9 chairman of judiciary has to be absent for the entire duration
10 of a meeting?

11 A. Well, generally speaking, we just won't have a meeting.
12 We'll reschedule the meeting to a time the chairman can be
13 present. I don't recall, in my experience, ever having a
14 meeting that the chairman just could not be there and,
15 therefore, we had to have someone else chair the meeting.

16 Q. So, you don't recall any judiciary meetings where the
17 first vice chair chaired the entire meeting?

18 A. No.

19 Q. And why could this judiciary meeting not be canceled?

20 A. Well, we were under significant time constraints. We
21 were, from a practical standpoint, you know, facing getting
22 the maps put in place so that we could have elections on time.
23 We were under -- my understanding was we were under
24 instructions from the Court to move at a quicker pace, and
25 there were deadlines associated with that as well. So, there

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1 were several reasons.

2 Q. And what is your opinion of Representative Newton's
3 ability to chair a committee meeting?

4 A. He was the person I felt like that was best prepared to
5 chair that meeting for several reasons. Number one, he was on
6 the ad hoc committee, so he was intimately familiar with the
7 process of redistricting. He is the -- on judiciary, he's the
8 chairman of the Constitutional Laws Subcommittee, which
9 handles what I would consider to be very significant pieces of
10 legislation on a regular basis. He's also the chairman of the
11 House Oversight Committee. So, he has experience on multiple
12 fronts, both with the specifics of what I would describe as
13 unusual legislation in that we don't deal with redistricting
14 on a regular basis. So, he's experienced in that aspect of
15 it. And he's experienced with running meetings as chairman of
16 common law as well as chairman of oversight.

17 Q. And so, those things you mentioned, having experience
18 being on the ad hoc committee, chairing other committees, do
19 you know if Representative King had any of those
20 qualifications that Representative Newton had?

21 A. I don't believe any of those.

22 Q. And in your opinion, the fact that Representative King
23 did not chair that meeting, did that at all limit his ability
24 to voice his opinions or offer amendments at the judiciary
25 meeting?

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1 A. No, certainly not. He certainly could have been
2 recognized to speak and deal with whatever issues he felt
3 appropriate, or put up one or many amendments if he so chose.

4 Q. And any member of the Judiciary Committee could have put
5 up amendments at that meeting; is that correct?

6 A. That's correct.

7 Q. And do you recall if there were any amendments offered at
8 that meeting?

9 A. I do not believe there were any amendments at that
10 meeting.

11 Q. And do you think the decision that was made to have
12 Representative Newton chair that meeting was appropriate, in
13 your opinion?

14 A. Yes, I do.

15 Q. And do you recall what the vote was at that judiciary
16 meeting?

17 A. I don't remember it specifically, but I believe it was
18 along party lines.

19 Q. A party-line vote?

20 A. Correct, partisan vote.

21 Q. And the Republicans have the majority in that committee,
22 and so the Alternative Plan 1 passed through the Judiciary
23 Committee; is that correct?

24 A. That's correct.

25 Q. Okay. Moving to the January 12th, second reading on the

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1 House floor. Do you recall that meeting?

2 A. Yes.

3 Q. And you were in attendance at that floor debate?

4 A. I was.

5 Q. And just briefly, what was the purpose of that meeting on
6 January 12th?

7 A. The floor debate?

8 Q. Yes.

9 A. That's the next step in the process of legislation. It
10 goes before the entire House of Representatives to be
11 considered at that point. It can be amended. Ultimately, the
12 goal is to get it to a point where you have more yeas than
13 nays and it passes.

14 Q. And do you recall a series of questions that were posed
15 to you by Representative Cobb-Hunter on the floor?

16 A. I don't remember every single question, but
17 Representative Cobb-Hunter is a very capable -- she's not an
18 attorney, but she can cross-examine with the best of them.
19 And so, I remember specifically her questions, yes.

20 Q. And do you recall a specific question about a Section 2
21 analysis?

22 A. Yes, I do remember. I believe during the end of her
23 questions, she asked questions about a Section 2 analysis.

24 Q. And up until that point, had you ever heard of a
25 Section 2 analysis?

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1 A. No. I think if you looked at the video, you could tell
2 that was not a topic I had dealt with previously.

3 Q. So, you had never spoken with Representative Cobb-Hunter
4 about a Section 2 analysis prior to that; is that right?

5 A. I don't think so, no.

6 Q. And had Representative Cobb-Hunter ever asked you or the
7 committee to perform a Section 2 analysis prior to that
8 exchange on the House floor?

9 A. Not that I recall.

10 Q. Okay. If Representative Cobb-Hunter, or anyone else, had
11 asked you or the committee to perform such an analysis, what
12 would you have done in response to that?

13 MR. CEPEDA DERIEUX: Objection. Calls for
14 speculation.

15 MR. PARENTE: Your Honor, he's the chairman.

16 JUDGE GERGEL: I think he can say what he thinks. I
17 overrule that objection.

18 **BY MR. PARENTE:**

19 Q. Do you need me to repeat the question?

20 A. No. I would have gone to staff and found out what's the
21 feasibility. And certainly if it's a reasonable request,
22 let's do everything we can to accommodate that request.

23 Q. Okay. So, on January 12th, do you recall what the
24 outcome of the vote on the House floor was?

25 A. We passed the legislation, I believe, along party lines.

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1 Q. And that was a vote on House Staff Plan Alternative 1; is
2 that correct?

3 A. Correct.

4 Q. And that map -- so, if it passes the vote, it moves to
5 the Senate; is that right?

6 A. That's right.

7 Q. And do you know if that map, House Staff Alternative 1,
8 passed the Senate?

9 A. No. The Senate sent back over essentially their plan
10 that we eventually -- or that we adopted. So, we took their
11 plan at the end of the day.

12 Q. And so, which plan was enacted into law, the House
13 version or the Senate version?

14 A. The Senate version.

15 Q. Okay.

16 MR. PARENTE: One moment, your Honor.

17 JUDGE GERGEL: Take your time, Mr. Parente.

18 MR. PARENTE: Thank you, Representative Jordan. I
19 have no further questions.

20 I'll pass the witness, your Honors.

21 JUDGE GERGEL: Does the Senate have any questions,
22 first of all?

23 MR. TYSON: No, your Honor.

24 JUDGE GERGEL: Very good. Thank you, Mr. Tyson.
25 Plaintiff, please proceed.

WALLACE JORDAN JR - CROSS-EXAMINATION BY MR. CEPEDA

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1 MR. CEPEDA DERIEUX: Good afternoon. Cepeda Derieux,
2 for the plaintiffs. I've not had the pleasure of being up
3 these past few days.

4 JUDGE GERGEL: We're glad to have you.

5 And good afternoon, Representative Jordan.

6 **CROSS-EXAMINATION**

7 **BY MR. CEPEDA DERIEUX:**

8 Q. Representative Jordan, the House has an obligation to
9 pass the congressional map, right?

10 A. Yes.

11 Q. And that obligation is independent from the Senate's,
12 correct?

13 A. Yes.

14 Q. And any map the House passes has to comply with the
15 Constitution, correct?

16 A. Yes.

17 Q. And you spoke about the maps that the ad hoc committee
18 came up with. There were two. One was around December 13th
19 of last year, right?

20 A. That's correct.

21 Q. And the second, the alternative map, was later in
22 December, around December 23rd; is that right?

23 A. That sounds about right.

24 Q. Okay. Mr. Parente spoke to you about House Exhibit 93, I
25 believe. Do you remember speaking about this document?

WALLACE JORDAN JR - CROSS-EXAMINATION BY MR. CEPEDA

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1 A. Yes.

2 Q. And by the way, Congressman Duncan says the South
3 Carolina Federal Delegation is unanimous in support of the
4 Senate congressional map. I just wanted to ask: Did you
5 think he was speaking for all seven members, or just the
6 Republicans?

7 A. I believe -- I don't remember really thinking about it.
8 When he said unanimous and congressional map, I just took that
9 to mean that there was overwhelming favor for the Senate plan.

10 Q. And did you have any reason to believe that
11 Representative Clyburn was also included in this group?

12 A. I have no reason to believe he was either -- if you take
13 it on its face value, it would indicate he was. But there was
14 no mention of Congressman Clyburn in that text.

15 Q. And the six Republican members of the Federal Delegation
16 are all White, correct?

17 A. Correct.

18 Q. Okay. So, just a few questions about the second map,
19 Alternative 1. You spoke about how you were involved in
20 drafting that second map, correct?

21 A. How I was involved?

22 Q. How you set out to put together another plan.

23 A. Yes.

24 Q. Was Mr. Patrick Dennis involved in drafting that plan as
25 well?

WALLACE JORDAN JR - CROSS-EXAMINATION BY MR. CEPEDA

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1 A. He was.

2 Q. Was Mr. Thomas Halger (*phonetic*) involved in that plan as
3 well?

4 A. Yes, he was. He would have been the -- he provided,
5 essentially, the technical support -- computer skill, I guess
6 you'd say, putting it on paper.

7 Q. Thank you. And was Emma Dean involved in that plan as
8 well?

9 A. Ms. Dean, I don't know that she would have been in the
10 creation specifically of the second one. I can't say for sure
11 if she was or was not.

12 Q. Okay. And then you spoke with Mr. Parente about how the
13 plan went to the Senate, the Senate changed the map. Am I
14 getting that right?

15 A. The Senate essentially, to my understanding, took what we
16 did -- when I said tweaking pieces of what they, you know, had
17 already presented, and changed ours back to pretty much a
18 mirror image of what they had already presented, is my
19 understanding.

20 Q. So, that plan became Senate Amendment 1 and was passed as
21 S.865, correct?

22 A. That sounds correct, but I'm not intrinsically familiar
23 with -- I didn't go over to the Senate and watch them
24 accomplish the task.

25 Q. Of course. But then it came back to the House, correct?

WALLACE JORDAN JR - CROSS-EXAMINATION BY MR. CEPEDA

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1 A. Correct.

2 Q. And once it came back to the House for a vote, you didn't
3 ask for any analysis on the Senate's plan, right?

4 A. Did not.

5 Q. You didn't spend much time considering S.865, right?

6 A. I considered it primarily from a political standpoint in
7 that I felt like that was the only plan we were going to get
8 the necessary votes to institute a plan.

9 Q. Okay. But you didn't set about to see if it met the
10 House guidelines, did you?

11 A. I did not do an independent evaluation comparing the
12 guidelines at that point.

13 Q. Okay. Representative Jordan, you would agree that
14 getting input in the public is helpful to redistricting,
15 right?

16 A. Absolutely.

17 Q. And you'd agree it wouldn't be fair to rely on criteria
18 that's not shared with the public, right?

19 A. I think it's very helpful to be transparent with the
20 public when it comes to explaining to them the process by
21 which we go through to draw these lines.

22 Q. Yeah, of course. In fact, do you remember being deposed
23 earlier this year, right?

24 A. Yes. Twice, I believe.

25 Q. That's right. And I think you testified it's important

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1 to be as transparent as possible in the process --

2 A. Absolutely.

3 Q. Does that sound right to you?

4 A. Absolutely.

5 Q. Apart from the House guidelines, the ad hoc committee
6 didn't rely on any other redistricting criteria, did it?

7 A. I would say that the guidelines are an attempt to
8 summarize how we go about and view the process of
9 redistricting.

10 Q. Okay. Let me ask it this way: Did the House have secret
11 or hidden criteria?

12 A. No.

13 Q. So, you had spoke with Mr. Parente about politics and
14 political beliefs; do you recall that?

15 A. Yes.

16 Q. Do you recall at your deposition testifying that -- well,
17 let me ask it this way: Increasing partisan gain wasn't one
18 of the criteria for congressional redistricting, right?

19 A. No. I don't believe I saw that.

20 Q. And you'd agree that maximizing Republican advantage
21 wasn't a redistricting criteria, right?

22 A. Well, there are elements of it contained in the
23 incumbency protection. So, I guess you could note that aspect
24 of it.

25 Q. Let me ask it this way: Would you be a fan of criteria

WALLACE JORDAN JR - CROSS-EXAMINATION BY MR. CEPEDA

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1 of maximizing Republican advantage in congressional
2 districting?

3 A. A fan of it?

4 Q. Yeah.

5 A. How do you define fan in that context?

6 Q. Would you promote a criteria like that?

7 A. I would say I did everything I could, and I believe the
8 members of the ad hoc committee did as well, to make sure we
9 had a transparent process that engaged with the people of
10 South Carolina and produced a product that we can say is
11 reasonable.

12 Q. Do you believe that maximizing Republican advantage
13 correlates to the goal of what redistricting is about?

14 A. There's incumbency protection -- again, aspects of it --
15 that are part of that.

16 Q. So, are you saying that you agree that it's part of the
17 goal of what redistricting is about, or not?

18 A. Well, I think you're talking about two different things
19 in some sense. There's the process of redistricting, but then
20 there's, the end of the day, what we can get enough votes to
21 actually pass to become law. So, I guess no, specifically
22 there's not a bright-line partisanship aspect, other than the
23 pieces that are in the incumbency protection. But there is
24 the fact that we have to pass through the normal legislative
25 process, the plan.

WALLACE JORDAN JR - CROSS-EXAMINATION BY MR. CEPEDA

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1 Q. Okay. Was maintaining a six-to-one Republican advantage
2 in Congress a criteria for the ad hoc committee?

3 A. I don't believe it was a criteria. Again, that was one
4 of the things that I found was going to be probably necessary
5 in order to, again, get enough votes to pass the bill.

6 Q. But it wasn't part of a criteria for the ad hoc
7 committee, right?

8 A. No.

9 Q. In fact, at the time you worked on the alternative plan,
10 you were unaware how competitive District 1 would be on the
11 House maps, right?

12 A. I knew that District 1 -- when you say "how competitive,"
13 that's sort of hard to gauge. I knew that District 1 had a
14 background of being a very tight race on multiple occasions in
15 the recent past.

16 Q. District 1 is pretty unpredictable, correct?

17 A. Correct.

18 Q. So, at the time, you didn't have a fixed idea on how it
19 would perform under the House plans?

20 A. Again, I had a broad idea that it would be a close race
21 most likely.

22 Q. In your view, the preferences of Congress members
23 shouldn't be given elevated priority over the preferences of
24 other members of the public, correct?

25 A. No. I mean, I think that you have to give it fair

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1 consideration. I mean, these are people that have been
2 elected by thousands and thousands of people in South
3 Carolina. So, in that sense, they do have a special place in
4 the eyes of their constituents. They've been selected to go
5 to Washington and represent their parts of the state and, in
6 that sense, speak for their part of the state. So, when they
7 speak up, you take notice.

8 Q. Okay. I understand all that. But in your mind, would
9 you elevate their views over the redistricting criteria?

10 A. No. It's one of the things -- again, criteria, in my
11 mind, is a bunch of different things that go into the process
12 of creating the plan.

13 Q. I don't believe you answered my question. My question is
14 whether you'd elevate the views of members of Congress over
15 the redistricting criteria.

16 A. My answer would be: It's part of that criteria.

17 Q. At your deposition you testified that you only had a
18 layman's opinion on the term "core retention." Do you
19 remember that?

20 A. I remember the question coming up. I don't remember
21 specifically my exact answer to the question.

22 Q. Does that sound right to you, though?

23 A. It does. When you say "core retention," I think of -- of
24 -- it sounds like a technical term.

25 Q. And you're not an expert on core retention, for example?

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1 A. That'd be correct.

2 Q. And you'd agree that core retention isn't mentioned in
3 the House's criteria, right?

4 A. Again, my layman's understanding, you could say it's
5 contained within the incumbency aspect of it, the lines and
6 the incumbency. But I would agree or concede that it's
7 certainly not in black and white on the paper.

8 Q. And you said you remember the deposition you sat for in
9 July?

10 A. I remember approximately six hours or so of a deposition.
11 I definitely remember being there, yes.

12 Q. Do you remember my colleague, Mr. John Cusick, asking
13 you: Is the term core retention mentioned at all in the
14 redistricting criteria?

15 A. I don't remember the specific question. I'm sure it was
16 asked.

17 Q. Do you recall saying: "I don't believe so"?

18 A. And, again, I don't believe it's listed. In fact, it's
19 not listed specifically. I think you could argue that the
20 concept is contained in the incumbency protection aspect of
21 the criteria. But beyond that, it's not listed.

22 Q. But that's not what you said at the time when you were
23 asked the question in July, did you?

24 A. It sounds like I didn't elaborate beyond that, no.

25 Q. Okay. There's nothing in the redistricting criteria that

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1 expressly prioritizes a least-changed map from the previous
2 one, is there?

3 A. I don't believe so. That was -- you know, the core
4 retention or least-changed aspect of this was primarily borne
5 of the idea that we were running behind schedule, and that the
6 census data was extremely delayed due to COVID. And that we
7 were trying to complete the process thoroughly, but complete
8 the process quickly, and knowing that the prior map had passed
9 legal mustard, so to speak, and had been lived under for a
10 10-year period, made that a practical solution going forward,
11 but not necessarily --

12 Q. But there was nothing in the guidelines that tied you to
13 that old map, was there?

14 A. No.

15 Q. In fact, you spoke about the two maps. The first map,
16 the ad hoc committee came up with, that wasn't the
17 least-changed map, was it?

18 A. That's correct. Again, I would say that the least-change
19 concept was sort of born of necessity more connected to timing
20 than anything else.

21 Q. And Mr. Parente asked you about a conversation you had on
22 the floor with Representative Cobb-Hunter over Section 2?

23 A. Yes.

24 Q. Representative Jordan, you said you've studied the House
25 guidelines, didn't you?

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1 A. I've reviewed them on several occasions.

2 Q. You've reviewed them. Representative Jordan, complying
3 with the federal Voting Rights Act is one of the House
4 criteria for redistricting, right?

5 A. Yes. I believe it starts with the Constitution and
6 federal law, state law. So, yes, it's considered in there,
7 for sure.

8 Q. And you understand that you might have to consider racial
9 data to comply with the Voting Rights Act, don't you?

10 A. I'd say we're getting a little bit into -- on the
11 surface, I'd say yes, only we're getting a little technical as
12 far as my comfort level of answering legal, technical
13 questions.

14 Q. I'll take the yes. How about that?

15 But you, yourself, didn't analyze that kind of data,
16 right?

17 A. No.

18 Q. Outside counsel did that, right?

19 A. I believe -- I would say I have faith in outside counsel
20 to do everything that was necessary for them to do. And if
21 it's on that list, I believe they did it.

22 Q. You had outside counsel evaluate the maps for compliance
23 with legal requirements, right?

24 A. Yes. Assist in the process, yes.

25 Q. Lawyers at Nexsen Pruet did that, right?

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1 MR. PARENTE: Your Honor, I object. This is getting
2 into attorney/client privileged information and attorney work
3 product.

4 MR. CEPEDA DERIEUX: I'm not asking about --

5 JUDGE GERGEL: He's not asking about communications.
6 Overruled. Please proceed.

7 THE WITNESS: Again, on the technical side of things,
8 I would trust counsel, including those at Nexsen Pruet to do
9 what is necessary under the law to fully advise me in my role
10 as well as the ad hoc and other members of the House.

11 Q. Understood, Representative. But the lawyers at Nexsen
12 Pruet advised you in your role in this past redistricting
13 cycle.

14 A. That's correct, yes.

15 Q. Including -- I'll stop there.

16 So, staying on this Section 2 topic, you'd agree, would
17 you not, that in South Carolina it's general knowledge that
18 race and party are correlated?

19 A. I'd say there's some history connected to that. Not
20 to -- as Mr. Parente brought up, not to bring up past
21 political losses on my part, but there was more
22 African-American turnout than ever in the Senate race that I
23 just ran earlier this year. So, again, I'd say there's
24 history there, for sure, but I'm not so sure it's a north star
25 as far as a constant goes.

WALLACE JORDAN JR - CROSS-EXAMINATION BY MR. CEPEDA

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1 Q. At your deposition this summer, you called that
2 correlation between race and party a pretty well-known and
3 documented concept. Does that sound right to you?

4 A. Yes. I would agree that it's historical in nature in
5 that sense.

6 Q. Okay. Historical and well-known concept, correct, at
7 present?

8 A. I would -- again, same answer. I would agree that
9 there's a historical -- yes, is the short answer -- historical
10 evidence to support that theory in the past. Again, I can
11 give you at least one example where it wasn't true in the
12 recent past.

13 Q. Okay. During the redistricting, the ad hoc committee was
14 aware of reports or assertions that there's racially polarized
15 voting in South Carolina, right?

16 A. Repeat that please?

17 Q. During redistricting, the ad hoc committee was aware of
18 reports or public assertions that there's racially polarized
19 voting in South Carolina?

20 A. Again, I can only speak for myself, but I believe there
21 was probably testimony to that effect during the course of our
22 11 or so hearings.

23 Q. Yeah. In fact, you testified that this came up at every
24 public opportunity, didn't you?

25 A. Yes. We heard from many folks across the state. And I

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1801

1 believe that sort of warning did come up on more than a few
2 occasions.

3 Q. But you didn't ask committee staff to do a racially
4 polarized voting analysis, did you?

5 A. Again, I would have relied on staff to do everything they
6 needed to do, technical wise, to make sure we created a
7 product that was legally sound.

8 Q. Does that include doing a racially polarized voting
9 analysis?

10 A. I would rely on counsel to determine -- again, this is
11 kind of -- I do remember this part of the discussion with
12 Representative Cobb-Hunter. I would rely on counsel for them
13 to tell me everything legally necessary to be accomplished and
14 then to do it.

15 Q. And I understand what you would rely on them for. But
16 did you ask them to do a racially polarized voting analysis?

17 A. No, I did not.

18 Q. So, just working through the maps. After the first House
19 map was released, the committee got public feedback on that
20 the, correct?

21 A. Yes, that's correct.

22 Q. And some of that feedback was about keeping Beaufort
23 County whole, right?

24 A. Overwhelmingly, that feedback was about keeping -- I'm
25 sorry. Did you say keeping Beaufort whole?

WALLACE JORDAN JR - CROSS-EXAMINATION BY MR. CEPEDA

1802

1 Q. That's right?

2 A. Or keeping Beaufort in the prior congressional district
3 it was in?

4 Q. About making Beaufort whole.

5 A. I seem to remember -- I guess, in my mind, a better way
6 to say would be: Keeping Beaufort connected to the 1st
7 Congressional District.

8 Q. Okay. That's fine. Keeping Beaufort in the 1st
9 Congressional District.

10 A. Correct. Connected to the 1st Congressional District.

11 Q. What do you mean by "connected"?

12 A. Or moving it out -- not -- you know, the first plan moved
13 it out of the 1st Congressional District as it had been, and
14 the complaints were to not do that, to keep it as it had been.

15 Q. Beaufort was split in the previous plan, correct?

16 A. I believe in a very minor way.

17 Q. And were you aware of Senator Chip Campsen playing a role
18 instigating that feedback you heard about Beaufort County?

19 A. I don't recall having any communication with Senator
20 Campsen in that respect or his name being referenced. He
21 certainly could have been, but I just don't recall that being
22 the case.

23 Q. You also heard public testimony from Charleston County
24 residents that wanted to keep Charleston County whole,
25 correct?

WALLACE JORDAN JR - CROSS-EXAMINATION BY MR. CEPEDA

1803

1 A. So, we had a second hearing in Columbia and we did hear
2 from some Charleston folks in that respect, yes. I would say
3 it was much smaller in number than the prior complaints we
4 just spoke of.

5 Q. But there was some testimony about keeping Charleston
6 County whole?

7 A. Yes.

8 Q. And in July, you testified that you agreed that there was
9 some value in keeping Beaufort and Charleston together in
10 District 1. Do you remember that?

11 A. I don't remember the specifics. I've always felt like
12 there -- you know, as I look at and evaluate the pros and cons
13 for each idea or each concept, I've always felt -- or I do
14 feel like that there is -- you know, they share some common
15 interests in that they're coastal communities and deal with
16 things like hurricanes and evacuations, and floodings, and
17 erosions and things like that, that necessarily other parts of
18 the state don't deal with at all or to the same degree. So, I
19 understand and believe there's continuity there.

20 Q. So those common interests, that could lead to some value
21 in keeping Beaufort and Charleston together in the same
22 district, right?

23 A. When I look at the pros and cons, yes, that would be one
24 of the things I would say is a pro towards keeping it the
25 same, just as if I would say it makes sense to keep it the

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1 same because people are the constituents of those areas. It
2 doesn't seem to be a good idea to -- you're in two, now you're
3 in one, now you're back to two, now you're back to one, to
4 sort of yo-yo that effect. I think there's value in a
5 constituent being able to be in the congressional district
6 they were previously in.

7 Q. Okay. And around that time when you were having these
8 debates, several of your colleagues voiced concerns about the
9 alternative map, right?

10 A. I believe -- I think that's fair, yes.

11 Q. And about Charleston County in particular, correct?

12 A. I don't remember the specifics, but I believe that's
13 fair.

14 Q. Representative Cobb-Hunter asked you questions about
15 keeping Charleston whole during the House debate, right?

16 A. I don't remember that exchange as clearly as I remember
17 the Section 2 we discussed. But that sounds familiar.

18 Q. And Representative Garvin also asked you questions about
19 keeping Charleston whole? Do you remember that?

20 A. I believe that's correct.

21 Q. But no changes were made to the alternative map in
22 response to concerns expressed regarding Charleston County,
23 right?

24 A. I don't believe so. I don't believe there were any
25 amendments put forward to deal with that particular issue,

WALLACE JORDAN JR - CROSS-EXAMINATION BY MR. CEPEDA 1805

1 because, at that point, you know, unlike as was testified to
2 earlier, deviation with five percent or 10 percent, those kind
3 of things, we don't have that luxury to even discuss deviation
4 when it comes to congressional population. And so, for every
5 -- you know, if you're going to move one part, you have to
6 equally move another part, population wise, of the map. And
7 so, what you're talking about could have been done, but it
8 would have had to come by way of an amendment that
9 accomplished that population equalization.

10 Q. But you never tried to propose a plan that would
11 accommodate that?

12 A. I don't -- no. I don't believe I did, nor did anyone
13 else, to my recollection.

14 Q. And in speaking with Mr. Parente, you said you couldn't
15 remember a judiciary meeting when the vice chair presided for
16 the chair, correct?

17 A. Up until that time, I don't remember being in a meeting
18 where the chairman couldn't be there, where the vice chair
19 essentially took over and ran the meeting. Now, that's not to
20 say it's never happened. It's just, in my experience, that
21 had not happened to that point. If the chairman was
22 unavailable, we would simply reschedule the meeting. Now, I
23 have been in Judiciary Committee meetings before -- I can
24 think of a couple of occasions -- where the chairman would
25 have to step out and take a phone call or have a quick

WALLACE JORDAN JR - REDIRECT EXAMINATION BY MR. PARENTE 1806

1 conference in another room. And in my experience, the
2 chairman would simply designate who they so chose to take over
3 the meeting and run the meeting in their stead for that
4 limited period of time.

5 And, again, this is my -- completing my fourth term in
6 the House. So, I don't have an infinite background in this
7 process. That's just my experience up to that time. Now,
8 since Chairman Murphy had to be out and did have health issues
9 that precluded him from being present, I believe we did have a
10 couple of meetings. And I think at one of those meetings,
11 Representative King chaired the meeting for at least a period
12 of time, and then handed the meeting to over to, I believe,
13 Representative Newton, who then concluded the meeting. Again,
14 I'm basing that on my memory, which is, by no means, perfect.

15 Q. And that meeting you just mentioned at the end there,
16 would that have been in March of this year?

17 A. That sounds about right, yes.

18 Q. Just a couple more questions, Representative.

19 We spoke about a racially polarization voting analysis.
20 Did you ever receive such an analysis, whether you asked for
21 it or not?

22 A. I don't believe so, no.

23 MR. CEPEDA DERIEUX: If you'll allow me a second,
24 your Honor?

25 JUDGE GERGEL: Yes, sir.

WALLACE JORDAN JR - REDIRECT EXAMINATION BY MR. PARENTE 1807

1 MR. CEPEDA DERIEUX: I don't have anymore questions.

2 JUDGE GERGEL: Mr. Parente, anything on redirect?

3 MR. PARENTE: Briefly, your Honor.

4 **REDIRECT EXAMINATION**

5 **BY MR. PARENTE:**

6 Q. Representative Jordan, you were just asked about the
7 transparency of the process. Do you believe the ad hoc
8 committee's process was transparent?

9 A. Oh, very much so.

10 Q. And you discussed the volume of feedback received from
11 Beaufort County; do you recall that?

12 A. Yes. I think I referenced it in terms of we received a
13 significant amount of feedback from that area, yes.

14 Q. And did that feedback greatly outweigh the feedback from
15 any other areas in response to the first staff plan?

16 A. I don't have the exact statistical analysis, but I
17 believe significantly so.

18 Q. Okay. And you were also asked about being a fan of
19 maximizing Republican advantage. Do you recall that question?

20 A. Yes.

21 Q. And you ran as a Republican; is that correct?

22 A. That's correct.

23 Q. And how many congressional districts are there in South
24 Carolina?

25 A. Seven.

WALLACE JORDAN JR - REDIRECT EXAMINATION BY MR. PARENTE 1808

1 Q. And how many lean Republican?

2 A. Five and a half.

3 Q. How many Republican incumbents are there currently in
4 Congress?

5 A. Six, I believe.

6 Q. And could more Republicans have been put in Congressional
7 District 1?

8 A. In theory, yes.

9 Q. And redistricting is a political process; is that right?

10 A. Correct.

11 Q. Was there any need for you to say that it was a political
12 process on the House floor?

13 A. I operate under the idea that any time you step on the
14 House floor, it's a political endeavor or process.

15 Q. And you were also asked about the feedback received from
16 the Congressional Delegation. Do you recall that?

17 A. Yes.

18 Q. So, practically speaking, if six Republican Congressmen
19 voiced a preference for the Senate's plan, the House staff
20 plan wouldn't have passed; is that your understanding?

21 A. In my opinion, it would have been virtually impossible.

22 Q. So, it was a practical concern of yours and the House
23 what the Congressional Delegation preferred; is that correct?

24 A. Correct. As I said earlier, you know, in my mind, they
25 speak for a significant number of people who chose to elect

WALLACE JORDAN JR - REDIRECT EXAMINATION BY MR. PARENTE 1809

1 them.

2 Q. And it's not any sort of secret that partisan politics
3 play a role in redistricting; is that right?

4 A. I believe that's fair.

5 Q. You mentioned earlier that South Carolina has seven
6 congressional districts; is that correct?

7 A. That's right.

8 Q. Do you recall if the criteria states that there should be
9 seven congressional districts?

10 A. I don't believe it addresses that specifically.

11 Q. So, is there any need to state the obvious on the floor
12 any of those criteria?

13 A. No.

14 Q. And I believe you were asked a few questions about core
15 retention. Do you recall that?

16 A. Yes.

17 Q. You called that a technical term; is that right?

18 A. Yes.

19 Q. Do you recall anywhere in the ad hoc criteria talking
20 about current districts?

21 A. No. It was not a -- the purpose of the criteria in my
22 mind is not delving into that specifically, but just to give a
23 broad understanding of what we're doing.

24 Q. Sure.

25 MR. PARENTE: And, Denise, can we show Plaintiffs'

WALLACE JORDAN JR - REDIRECT EXAMINATION BY MR. PARENTE 1810

1 175 on the third page please?

2 **BY MR. PARENTE:**

3 Q. Under incumbency consideration, if you look in the second
4 sentence there, do you see the term "current districts"?

5 A. Yes. It's talking about the lines that were currently in
6 place where the incumbents represent, yes.

7 Q. And you say core retention is a technical term. Is this
8 just layman's terms for the same concept?

9 A. Yes. That's what I was meaning earlier when talking
10 about there are seeds of core retention within incumbency
11 protection, the provisions of incumbency protection.

12 Q. Okay. You were also asked again about the exchanges with
13 Representative Cobb-Hunter on the floor about the Section 2
14 analysis. Do you recall that?

15 A. Yes.

16 Q. Are you aware that this is not a Section-2 case?

17 A. Again, we're getting into the technical terms. And my
18 general practice of law wouldn't reach such.

19 Q. Understood. You were also asked a series of questions
20 about race, and party, and affiliation between those two. Do
21 you recall that?

22 A. Yes.

23 Q. And in your Senate race -- and I apologize for having to
24 the bring this up again -- you were running against Senator
25 Reichenbach; is that correct?

WALLACE JORDAN JR - REDIRECT EXAMINATION BY MR. PARENTE 1811

1 A. That's correct.

2 Q. And that was in a Republican Primary; is that right?

3 A. That's correct.

4 Q. And Senator Reichenbach is an African-American; is that
5 correct?

6 A. Yes.

7 Q. And you said there was high African-American turnout in
8 that Republican primary; is that correct?

9 A. Yes.

10 Q. All right. You were also asked about colleagues of yours
11 that voiced concerns about Charleston. Do you recall that
12 question?

13 A. Yes.

14 Q. And were all of those colleagues that voiced concerns
15 about Charleston, Democrats?

16 A. I believe so.

17 Q. Did any of your Republican colleagues complain about the
18 second map or the Senate map?

19 A. Not that I recall.

20 Q. And does it say anywhere in the guidelines for the ad hoc
21 committee that Charleston County's interests should be
22 elevated over that of other counties?

23 A. No.

24 MR. PARENTE: One moment, your Honor.

25 Thank you, Representative Jordan. Those are all my

WALLACE JORDAN JR - EXAMINATION BY JUDGE GERGEL

1812

1 questions.

2 JUDGE GERGEL: Thank you, Mr. Parente.

3 Just a couple questions. As I understand your
4 testimony, the Senate was kind of driving the process here.
5 Its map became the map, correct?

6 THE WITNESS: Yes, sir. I think that's fair. And if
7 you go back to -- you know, my staff was to go take the Senate
8 plan and operate off of that.

9 JUDGE GERGEL: So, basically, as they would say in
10 politics, the juice was all in the Senate. Is that fair?

11 THE WITNESS: Well, I don't want to answer it like
12 that, Judge. But we definitely took the nuts and bolts of
13 their plan.

14 JUDGE GERGEL: Right. And how they got there -- I
15 saw the very interesting e-mail about when you put Beaufort
16 and Charleston together, it created certain partisanship
17 problems, correct?

18 THE WITNESS: Yes.

19 JUDGE GERGEL: And then you had to tweak Charleston
20 somehow, correct?

21 THE WITNESS: Yes, sir.

22 JUDGE GERGEL: And the details of how they tweaked
23 Charleston was not something you were involved in?

24 THE WITNESS: No. Again, we relied on -- how they
25 got to where they got to was in reliance on them.

WALLACE JORDAN JR - EXAMINATION BY JUDGE GERGEL

1813

1 JUDGE GERGEL: And how they did it, you didn't really
2 know?

3 THE WITNESS: No, sir.

4 JUDGE GERGEL: Thank you, sir.

5 Any questions occasioned by the Court's questions,
6 Mr. Parente?

7 MR. PARENTE: Nothing from the House, your Honor.

8 MR. CEPEDA DERIEUX: Nothing from plaintiffs, your
9 Honor.

10 JUDGE GERGEL: Not to leave out the Senate. Any
11 questions?

12 MR. TYSON: No, your Honor.

13 JUDGE GERGEL: Okay. Thank you, Mr. Jordan.

14 THE WITNESS: Thank you.

15 JUDGE GERGEL: Okay. Call your next witness.

16 MR. GORE: Your Honor, Defendants call Senator Chip
17 Campsen to the stand.

18 JUDGE GERGEL: Well, you know, it's 3:15 right now.
19 We've been -- why don't we break right now for our
20 midafternoon break before we have Senator Campsen.

21 MR. GORE: Thank you, your Honor.

22 **(Recess.)**

23 JUDGE GERGEL: Defense, call your next witness.

24 MR. GORE: Your Honor, we are retrieving the witness
25 right now.

WALLACE JORDAN JR - EXAMINATION BY JUDGE GERGEL

1814

1 JUDGE GERGEL: I'm sorry?

2 MR. GORE: We are retrieving the witness.

3 JUDGE GERGEL: Good for you. Thank you.

4 MR. MATHIAS: Your Honor, I think I can fill the
5 silence. I was just told by the plaintiffs that they will not
6 be calling Patrick Dennis or Weston Newton. We are down to
7 two.

8 JUDGE GERGEL: Good.

9 MR. MOORE: So, it'll just be an issue of deposition
10 designations back and forth. But I think we will shorten the
11 evidentiary portion of this tomorrow and we'll finish --
12 depending on how long Senator Campsen takes, we'll do Dr. Imai
13 and be done tomorrow.

14 JUDGE GERGEL: Well, I know Senator Campsen will be
15 happy if you don't keep him on the stand too long.

16 MR. MOORE: We don't intend to be asking any
17 questions on this side.

18 JUDGE GERGEL: And let me make sure. Because, we
19 need to get from Mr. Rainwater the data.

20 Mr. Rainwater, where are we on all that?

21 MR. RAINWATER: Yes. Thank you, your Honor.

22 We have a draft we submitted to both parties. We've
23 heard from the plaintiffs. We had just a minor problem on one
24 of the counts we're fixing. We're waiting to hear back from
25 the defendants. I don't know if we got all the precincts

WALLACE JORDAN JR - EXAMINATION BY JUDGE GERGEL

1815

1 aligned. We had some split precincts, but they have a
2 spreadsheet. And we're just waiting to hear back to make sure
3 everything is aligned.

4 JUDGE GERGEL: Okay. And once we do that, I want to
5 stipulate that in, or we can make it a court exhibit, whatever
6 y'all want to do. But I want the underlying data in the
7 record, okay? So, y'all work on that. If we need to tweak
8 anything, we'll let -- because I'd love to put it in tomorrow.
9 Okay? Does that make sense to everybody?

10 MR. FREEDMAN: Yes. We're planning to get our tweaks
11 this afternoon.

12 JUDGE GERGEL: Very good. Okay. Let's call the next
13 witness.

14 MR. TRAYWICK: Thank you, your Honor. Senate
15 Defendants call Senator Chip Campsen.

16 ***GEORGE EARL CAMPSSEN, III, having first been called as***
17 ***a witness, was duly sworn and testified as follows:***

18 JUDGE GERGEL: Senator, you don't need to wear a mask
19 while testifying. It's good to have you here with us, sir.

20 THE WITNESS: Thank you.

21 MR. TRAYWICK: Thank you, your Honor.

22 JUDGE GERGEL: Mr. Traywick has the reputation,
23 everybody, of being direct and brief. We were encouraged, Mr.
24 Traywick, when you came to the --

25 MR. TRAYWICK: And I hope to continue that, my

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1816

1 examination of Dr. Bagley, notwithstanding.

2 **DIRECT EXAMINATION**

3 **BY MR. TRAYWICK:**

4 Q. Good afternoon, Senator. Can you please state your full
5 name for the record.

6 A. George Earl Campsen, III.

7 Q. Would you give us the benefit of your educational
8 background, please?

9 A. Graduate of Wando High School. Attended the Citadel for
10 two years; Furman, for two years. Graduated with a degree in
11 biology. Then a law and MBA degree from the University of
12 South Carolina.

13 Q. And what city do you reside, Senator Campsen?

14 A. Isle of Palms.

15 Q. And how long have you lived in the Charleston area?

16 A. My entire life.

17 Q. And what is your current occupation?

18 A. I am a -- I own several businesses and also I'm a lawyer.

19 Q. And how long have you served in the South Carolina
20 General Assembly?

21 A. I served in the House from '97 through 2002, and in the
22 Senate from 2004 till the current.

23 Q. Okay. And what Senate district do you represent
24 currently?

25 A. Senate District 43.

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1817

1 Q. And what area of the state does that cover?

2 A. It is a long coastal district that's about half of South
3 Carolina's coast. It runs from Bulls Bay in northern
4 Charleston County to Port Royal Sound in Beaufort County. It
5 includes Charleston, Beaufort and Colleton County, parts of
6 them.

7 Q. And I think Senator Rankin jokes that it's from Maine to
8 Key West, right?

9 A. The most beautiful district in the nation.

10 Q. That's right. Do you hold any leadership positions in
11 the Senate?

12 A. I'm the chairman of the Fish, Game, and Forestry
13 Committee.

14 Q. Okay. Are you a member of the Senate Judiciary
15 Committee?

16 A. I am.

17 Q. Were you involved in the Senate redistricting process
18 this cycle?

19 A. I was.

20 Q. Are you a member of the Senate Redistricting
21 Subcommittee?

22 A. I was.

23 Q. With whom did you serve on that committee?

24 A. With Senator Rankin; Senator Young was there briefly;
25 Senator Talley; Senator Harpootlian; Senator Bright-Matthews;

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1818

1 Senator Sabb.

2 Q. And Senator Young, at some point, left the committee; is
3 that right?

4 A. Yes, because he took a position on the Finance Committee
5 and, therefore, was no longer on judiciary.

6 Q. So, it was an even split on the subcommittee --

7 A. It was even.

8 Q. -- from a partisan standpoint?

9 A. From a partisan standpoint, yes.

10 Q. Did you have occasion to work with a staff on the
11 redistricting process?

12 A. Yes.

13 Q. With whom did you primarily work?

14 A. Andy Fiffick, Breeden John, Will Roberts, Charlie
15 Terrine.

16 Q. Did you occasionally work with Paula Benson?

17 A. Yes, with Paula Benson.

18 Q. Okay. Senator, do you recall during your deposition
19 being asked if you have worked on a legislation that helps
20 Black people?

21 A. Could you restate that, please?

22 Q. Sure. Do you recall being asked in your deposition if
23 you've worked on any legislation that's helped Black people?

24 A. Yes.

25 Q. Okay. Could you give some examples of that for the

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1819

1 Court, please?

2 A. Well, I've worked extensively over the years with Senator
3 Malloy, who's an African-American Democrat from Darlington and
4 one of my best friends in the Senate, on sentencing reform.
5 And we passed a sentencing reform bill in 2010 that reduced
6 recidivism, alternatives to incarceration for nonviolent
7 offenders. Ended up closing three prisons, saving hundreds of
8 millions of dollars in taxpayer dollars.

9 Q. How about any specific legislation that relates to the
10 Gullah Geechee people?

11 A. Yes. I was instrumental in protecting Bay Point Island
12 in Port Royal Sound, which is right just seaward of St. Helena
13 Island, which is kind of the home base of the Gullah Geechee
14 Nation. I secured \$2 million -- almost \$2 million in the
15 state budget just this year for the Penn Center. And the Penn
16 Center is where the first -- one of the first schools for
17 freed slaves was established in 1862. And it is now the
18 location of the Reconstruction Era National Park in the
19 national park system. And they have a nonprofit that runs the
20 Penn Center. I was at their 160th anniversary two Saturdays
21 ago. And we obtained \$2 million. I worked with Michael
22 Rivers, an African-American House member, on getting those
23 funds for the Penn Center to preserve their history and --
24 they still have a school there -- and also to fund their
25 school.

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1820

1 Q. Any other conservation issues or offshore drilling in --

2 A. Well, I led the charge to stop offshore drilling
3 successfully in the east coast. And you can -- there's a Wall
4 Street Journal article written about me. Tim Puko's the
5 author, if you want to look that up. And we successfully
6 stopped offshore drilling, and I got legislation passed. I
7 worked closely with Senator Harpootlian on that bill, as a
8 matter of fact. He was a big supporter. Worked bipartisan on
9 that, getting that through the Senate. And worked the Gullah
10 Geechee Nation down on St. Helena Island. I was very
11 interested in that because they have a heritage and a culture
12 of being watermen, of crabbers, fisherman, shrimpers, and very
13 concerned about the impact that oil could have upon their
14 ecosystem. They rely upon a very clean ecosystem for their
15 subsistence.

16 Q. Senator Campsen, do you know who Queen Quet is?

17 A. I do. She's the queen of the Gullah Geechee Nation. The
18 unofficial queen, but the queen.

19 Q. Have you worked with her or other members of the Gullah
20 Geechee community?

21 A. Yeah. Well, I worked with her on offshore drilling, very
22 closely.

23 Q. In fact, do you remember her calling you her buddy during
24 the Charleston public night hearing?

25 A. She did.

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1821

1 Q. Okay. All right, Senator. I now want to --

2 A. Also working right now, when I was down at St. Helena at
3 their 160th anniversary for the Penn Center, when York Glover,
4 who's an African-American member of Beaufort County Council,
5 grabbed me as I was walking out. And he has another
6 conservation deal. I can't disclose it because it would
7 probably ruin the opportunity of making it work. But it's
8 very important to their culture, to their community. And now
9 I've engaged with him on helping to preserve that.

10 Q. Okay. Senator, how about voting rights? Have you been
11 involved in any voting rights legislation?

12 A. Well, I authored an election reform bill that passed the
13 General Assembly in May of this year with a unanimous vote.
14 And it did significant reform to the structure of the election
15 commission. It created an early voting period that we did not
16 have in South Carolina -- without excuse, anyway. And it also
17 implemented ballot integrity measures. And I'm very proud of
18 that because it's unprecedented in this political environment,
19 particularly when it comes to election law, to have a
20 bipartisan vote on a major election reform bill. No other
21 state in the country has had that, what we did in South
22 Carolina.

23 Q. Thank you for that background. I now want to go to the
24 redistricting process. Senator, did the Senate Redistricting
25 Subcommittee hold 10 public night hearings this cycle?

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1822

1 A. It did.

2 Q. Was the testimony offered at those 10 public night
3 hearings the only manner in which the Senate received feedback
4 about communities of interest, or guidelines, or the plans?

5 A. No. We received multiple -- information from multiple
6 sources: E-mail, telephone, talking to people in the
7 community.

8 Q. So, lots of different ways to communicate with
9 constituents?

10 A. Right.

11 Q. All right. Senator, we've heard some complaints in this
12 trial that folks had no idea how the Senate would use their
13 input and that the input was ignored. So, I'd like to show
14 you what's been premarked Senate 231.

15 MR. TRAYWICK: And, your Honors, I'll give you the
16 timestamp for this video. It's 10:28 through 10:49. And this
17 is from the Charleston public night hearing.

18 Mr. Gore, can you play that video?

19 *(Video played.)*

20 BY MR. TRAYWICK:

21 Q. Do you feel like the Senate hid the ball on that?

22 A. Yes. You can't accommodate what everyone desires, by any
23 means. But, yes, they --

24 Q. But that was made known, correct?

25 A. Correct.

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1823

1 Q. So, the Senate did not hide the ball on that, correct?

2 A. No. I thought you said "hit the ball," like out of the
3 park --

4 Q. H-i-d.

5 A. Oh, hide the ball. No, I don't think it hid the ball,
6 no, sir.

7 Q. Okay. Did you hear testimony from members of the
8 community who wanted to "keep Charleston whole"?

9 A. I did.

10 Q. And what did you think about that?

11 A. I thought that was really a subterfuge for making the 1st
12 District a Democratic District.

13 Q. Okay. Did you hear testimony from members of the
14 community who wanted to keep Beaufort County whole?

15 A. Yes.

16 Q. Did you hear testimony from members of the community who
17 wanted Beaufort County in Congressional District 1?

18 A. Yes.

19 Q. Did you hear --

20 A. Very strong sentiment in Beaufort for that.

21 Q. And as a corollary to not being in Congressional District
22 2, correct?

23 A. Correct.

24 Q. Did you hear testimony from members of the community who
25 wanted Berkeley County whole?

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1824

1 A. Yes. But Berkeley County is part of the Tri-County Area.
2 It's part of the economic engine of the Charleston
3 metropolitan area.

4 Q. So, to that end, did you hear testimony from members of
5 the community who wanted Charleston, Dorchester and Berkeley
6 Counties together in a congressional district?

7 A. Yes. There is a long history of -- this is even referred
8 to as the Tri-County Area. It's integrated culturally,
9 economically, and it has been for decades. So, those three
10 counties wanted to remain in a congressional district
11 together, is the input I received.

12 Q. All right. Senator, do you recall any members of the
13 public accusing the subcommittee of engaging in partisan
14 gerrymandering?

15 A. Yes.

16 Q. To which district did that primarily refer?

17 A. The 1st.

18 Q. And I believe you mentioned this earlier. You recall
19 that folks kept saying they wanted to see Congressional
20 District 1, quote, "competitive"?

21 A. Yes.

22 Q. What did you understand competitive to mean?

23 A. Well, everyone that said that, either 50/50 -- but most
24 of the actual things they proposed were turning it into a
25 Democratic district.

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1825

1 Q. Okay. Senator, I next want to move in -- counsel asked
2 earlier about some outreach efforts you made to folks in
3 Beaufort. Why did you reach out to constituents about the
4 congressional plan?

5 A. Well, because I saw clear evidence that the Democratic
6 Party was very active in providing talking points, getting
7 people to come out and make comments, and the Republican Party
8 was doing nothing, the state party on that front. So, I
9 didn't want to have nothing. I knew that there were
10 constituents that were people who wanted to keep the 1st a
11 Republican District. It's been Republican for 30 years.
12 There's been one Democrat who held the first congressional
13 seat in about 30 years. And so, I reached out to people who I
14 knew who really would care about that and took the initiative
15 to do that.

16 Q. Okay. Thank you.

17 MR. TRAYWICK: Mr. Gore, will you pull up S-116?
18 This has been marked into evidence and un-objected to.

19 **BY MR. TRAYWICK:**

20 Q. Do you recognize this document, Senator Campsen?

21 A. Yes.

22 Q. And what is it?

23 A. It's an e-mail from Xiaodan Li, who is a Beaufort -- one
24 of my constituents -- well, she's just barely out of my
25 district in Beaufort County. But she's from Beaufort County.

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1826

1 Q. Okay. And what is she conveying to you there?

2 A. She's conveying to me -- sharing with me the e-mail that
3 the Democratic Party is sending out to encourage people to
4 make specific comments, give specific input to the
5 redistricting committee.

6 Q. Okay.

7 MR. TRAYWICK: And will you scroll down, Mr. Gore?

8 BY MR. TRAYWICK:

9 Q. Is that the e-mail you were referring to, Senator
10 Campsen?

11 A. Yes.

12 Q. Okay. And what was the goal -- what was your
13 understanding of the goal in that e-mail that was forwarded to
14 you?

15 A. Well, I don't know if we can make an analogy to a rugby
16 scrum, but I mean, when it comes to this input in these public
17 hearings, it's almost kind of like a rugby scrum, where one
18 group is trying to get more people who are pushing one
19 direction. And we didn't have anyone pushing in the other
20 direction. When I say me, as far as arguing for a plan that
21 would keep the 1st District a Republican District. And so, I
22 knew that there were Republicans out there who cared about
23 that. They had expressed that to me, so I let them know: If
24 you want to be heard, now's the time to be heard.

25 Q. And Senate Amendment 2, what did you understand that to

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1827

1 relate to?

2 A. That was the Senate Democrat Caucus Plan.

3 Q. Okay. And here, it's referred to as the whole county
4 map; is that right?

5 A. Yes.

6 MR. TRAYWICK: Mr. Gore, will you also pull up S-106
7 please?

8 BY MR. TRAYWICK:

9 Q. Senator, do you recall sending this e-mail?

10 A. I'm not seeing it at the moment on my screen. Oh, yes.
11 Okay. I do see it. Sorry. Yes.

12 Q. Okay. And how did you describe the two competing plans
13 there?

14 A. Well, first of all, in this instance, I know that
15 Beaufort constituents had shown up in the House hearing and
16 made some comments. And I knew that they probably were not
17 aware that the Senate's on a parallel tract, they needed to
18 give input to the Senate as well. So, this is why I actually
19 sent the e-mail, to say: Y'all feel like you made your
20 points? Well, they need to be made -- you made it to the
21 House, you need to make your points to the Senate as well.
22 And that's really the main reason I sent this. And then I
23 provided some potential points that they may want to make.

24 Q. Sure. What did you call Plan 1?

25 A. The Republican Plan.

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1828

1 Q. And what was Plan 2?

2 A. The Democrat Plan.

3 Q. Does Ms. Xiaodan Li identify as White?

4 A. She is Chinese. She is an immigrant from China, escaped
5 Communist China, and actually an investment banker. A very
6 confident person.

7 Q. Thank you.

8 MR. TRAYWICK: Mr. Gore, will you pull up S-3 please.

9 **BY MR. TRAYWICK:**

10 Q. Senator, do you recognize this document?

11 A. Yes. These are the redistricting guidelines that we
12 adopted.

13 Q. Okay.

14 MR. TRAYWICK: Okay. Will you scroll down to
15 Section 3(a), Mr. Gore?

16 JUDGE GERGEL: Mr. Traywick, we've seen this over and
17 over.

18 MR. TRAYWICK: Okay. The only reason I wanted to
19 bring it in, if I might, was the differing interpretations of
20 the word "political."

21 JUDGE GERGEL: We've heard you loud and clear.

22 MR. TRAYWICK: Okay. All right.

23 **BY MR. TRAYWICK:**

24 Q. Politics are in the guidelines, correct?

25 A. Yes, sir.

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1829

1 Q. Okay. Thank you. That streamlined that whole line of
2 questions.

3 Senator, did you attend all the Senate Redistricting
4 Subcommittee hearings?

5 A. I believe I did. I may have missed one. We are all
6 part-time lawmakers. We have real jobs in the real world.
7 Sometimes we miss meetings.

8 Q. Sure.

9 A. But I think I did.

10 Q. And during some of those hearings, did you hear from
11 members of the public who submitted various plans for the
12 subcommittee's consideration?

13 A. Yes.

14 Q. Was the public given a voice in this process?

15 A. Yes.

16 Q. Okay. Senator, did the census data come out at a normal
17 time this redistricting cycle?

18 A. No. It was many months later. I think it was October
19 that it came out, as I recall. Late September or October, I
20 think.

21 Q. And then there was also a lawsuit filed in October,
22 correct?

23 A. Correct.

24 Q. Okay. So, the General Assembly was sort of under the
25 gun?

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1830

1 A. We were under the gun, and we didn't have the data from
2 the federal government that we needed to actually produce a
3 plan.

4 Q. You've been in the General Assembly for over a decade,
5 right?

6 A. Yes.

7 Q. Did any other piece of legislation receive as much
8 process as redistricting?

9 A. No.

10 Q. Were you involved in the redistricting process at every
11 step?

12 A. Yes.

13 Q. Did you have full and complete access to staff?

14 A. Yes.

15 Q. Did other members?

16 A. Yes.

17 Q. Of both the subcommittee and the Senate in general?

18 A. They did.

19 Q. Senator, did testimony received at a public hearing
20 receive any greater weight than other forms of feedback you
21 received from constituents?

22 A. No.

23 Q. So, if, for instance, you had a constituent from Isle of
24 Palms go to the Charleston public night hearing and offer
25 testimony, but you saw someone in Venice Point come give you

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1831

1 testimony orally, one isn't entitled to any greater weight
2 than the other, correct?

3 A. No.

4 Q. It's all public input, right?

5 A. Correct.

6 Q. Is that how the legislative process works, you receive
7 all sorts of input?

8 A. In every instance. We don't get this much input in other
9 legislation, but it's like that in every instance.

10 Q. Senator, we've heard a lot about racially polarized
11 voting. Do you recall in the process ever being presented
12 with a case that required the Senate to use that on the front
13 end in drawing maps?

14 A. No.

15 Q. And did you vote against Senator Harpootlian's amendment
16 to inject that into the process?

17 A. Yes.

18 Q. Why?

19 A. Well, his -- his motion with regards to the guidelines,
20 is that what you're referring to?

21 Q. Yes, sir.

22 A. Yes. Because I really didn't understand the full extent
23 of that motion. It seemed to be almost unlimited, because I
24 had not had the research done as to actually the case law that
25 he was referring to and the implications of that. And so, I

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1832

1 always err on the side of caution in that regard. And that's
2 really the main reason I voted against that.

3 Q. Okay. All right. Senator, let's move on to --

4 A. I wouldn't know what I'm incorporating into the
5 guidelines. I wouldn't know.

6 Q. Fair. All right. Let's move on to the staff plan.

7 With regard to the initial staff congressional plan, did
8 you ever see the map before it was posted and released to the
9 public on November 23rd, 2021?

10 A. No.

11 Q. To your knowledge, did any senator?

12 A. No.

13 Q. Republican or Democrat?

14 A. No.

15 Q. Generally speaking, were senators as engaged in
16 congressional districting as they were for Senate plan
17 redistricting?

18 A. No.

19 Q. Why is that?

20 A. Because their seat is not in play, but on the Senate
21 Plan, it is. I suppose that's human nature.

22 Q. But to your knowledge, who drafted this plan shown on the
23 screen marked as S-32a?

24 A. The staff did.

25 Q. Did the National Republican Redistricting Trust draft

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1833

1 this map?

2 A. No. The staff repudiated their recommendations,
3 according to their testimony to me, their statements to me.
4 They told me their plan wasn't worth looking at because it
5 wasn't defensible. And I never looked at it. I said, okay.
6 I trust -- I was relying on them for that type of judgment and
7 legal advice.

8 Q. Okay. So, you never saw any NRRT maps?

9 A. No.

10 Q. Did you ever speak with anyone from the National --

11 A. No. Didn't even know the name of the organization. I
12 don't --

13 Q. Okay.

14 A. No, I never spoke with anyone.

15 Q. Did you ever come to learn of any other senator reviewing
16 any of the NRRT maps?

17 A. All I know is that staff looked at it and rejected it
18 basically out of hand.

19 Q. Okay.

20 A. That's all I know. Maybe another senator did, but I
21 don't think so. When the staff told me that, I said, fine, I
22 don't need to look at it. I'm trusting your judgment, your
23 legal advice.

24 Q. Do you recall some subcommittee members complaining about
25 when they saw the staff plan for first time?

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1 A. Yes.

2 Q. Do you recall that the subcommittee meeting was on
3 November 29th, 2021?

4 A. I can't -- there were so many meetings, I can't remember
5 the date. But that sounds like it might be.

6 Q. If I represent that to you, will you accept it?

7 A. I will accept that.

8 Q. Okay. And if I represent to you that the plan was posted
9 on November 23rd, will you accept that too?

10 A. My understanding, it was posted previously, yes. So,
11 about a week.

12 Q. When did the enacted plan ultimately pass the Senate?
13 Does January 20th sound right?

14 A. That sounds right.

15 Q. Okay. So, from November 23rd, when the staff plan was
16 initially released, to January 20th, when the final plan
17 passed the Senate, roughly 60 days passed, correct?

18 A. Yes.

19 Q. Did the public have ample opportunity to provide input
20 during that period?

21 A. They did.

22 Q. But is the staff plan the plan that ultimately passed?

23 A. No.

24 Q. At some point, did you have to make tweaks to the plan or
25 have staff make tweaks to the plan for you?

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1 A. Yes.

2 Q. Let's go to S-68a. Do you recall receiving and reviewing
3 a map submitted by the League of Women Voters, Senator
4 Campsen?

5 A. Yes.

6 Q. Okay. If I represented to you that CD 1 had a Biden vote
7 share of 51.75 percent, and a Trump vote share of
8 48.25 percent, would you have any reason to disagree with
9 that?

10 A. That sounds about right.

11 Q. Okay. Was that ever going to pass the
12 Republican-controlled General Assembly?

13 A. No.

14 Q. Did these districts look like the benchmark plan?

15 A. No.

16 Q. And is Congressional District 7 changed from the
17 benchmark plan in this plan?

18 A. Yes. It has Berkeley County in the 7th. And Berkeley
19 has really no community of interest with Dillon County and
20 Orange County. Berkeley is an integral part of the Charleston
21 economic engine of the state, which largely revolves around
22 the port.

23 Q. And is Beaufort and Jasper County down there in CD 2?

24 A. Yes, it is.

25 Q. Would you have had an issue with that?

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1 A. Yes. And I represent a large part of Beaufort. And I
2 knew that they used to be in the 2nd. And they felt like they
3 didn't have much of a community of interest with Lexington
4 County, but they have a significant community of interest with
5 Charleston County, because they're coastal. And, in fact, the
6 League of Women Voters' lawyer, who I respect a lot, Mr.
7 Ruoff, testified that my Senate District, which is basically
8 the spine of this congressional district, was probably the
9 greatest example of a community of interest congealing in any
10 district he's ever seen. That's the testimony that he
11 presented. Because, it's coastal. Coastal issues are very
12 different than -- you don't deal with beach re-nourishment and
13 erosion issues and OCRM regulations and all these things that
14 you deal with along the coast up in Lexington County. So,
15 Beaufort very much wanted to stay in the 1st.

16 Q. Thank you, Senator. Do you recall seeing the House's
17 first staff plan?

18 A. Yes.

19 Q. Okay. What was your reaction to that plan?

20 A. I was befuddled why the House would have proposed that,
21 because it made the 1st a Democratic district.

22 Q. What action, if any, did you take after looking at the
23 House initial staff plan?

24 A. I talked to Gary Simrill and I think I talked to Weston
25 Newton -- I'm not sure, but I think I did -- from Beaufort.

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1 Gary Simrill is the majority leader. And I asked him: Do
2 y'all really plan to do that? Because, you know, we don't
3 think that's going to pass the Senate. I'd be surprised if it
4 actually passed your Republican-controlled House. But are
5 y'all open to something different? And the answer was yes.

6 Q. Okay. So, at some point, did the House propose an
7 alternative staff plan?

8 A. They did.

9 Q. And did that more closely mirror the Senate's initial
10 staff plan?

11 A. Yes.

12 Q. Can you sort of walk us through the legislative process
13 of how things went from the House to the Senate to where we
14 got to your amendment? To the best of your recollection.

15 A. Well, the House passed -- they amended that bill in the
16 form you just stated and sent it to the Senate. And then we
17 worked on, I think, perfecting that. And as far as the
18 amendment that I offered -- is that what you want me to talk
19 about?

20 Q. Yes, sir.

21 A. Yes. So, I took that plan, and with staff work and input
22 from other members, but worked on kind of perfecting that the
23 plan. And I think we did a lot better job of following the
24 redistricting guidelines than the House had, in that we
25 followed geographic boundaries. Rivers, the Stono River,

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1 Wadmalaw Sound. Kept the barrier islands together. And
2 there's a lot of instances along the way where I could have
3 made it a more Republican District, but it would have violated
4 some of these other redistricting principles, like following
5 geographic boundaries.

6 And so, we end up with something that's really just
7 barely a Republican district. It moved the needle one
8 digit -- one point on the Cook Political Report. We
9 increased, by just a few percentage points, the Republican
10 vote in the 1st. And I could have made it a lot more
11 Republican, but we would've started violating these other
12 principles. And I wanted to draw a district that would be
13 Republican, because it had been Republican, I am a Republican,
14 and I don't support the party so much as I support the
15 principles that it generally stands on. It's kind of getting
16 away from some of them, I'm afraid. But I wanted to do that
17 while honoring redistricting principles as best as I could,
18 and also be in compliance with applicable law. And I was
19 relying upon attorneys representing us to let me know when we
20 might be running afoul of that applicable law. And so, it
21 produced a district that was much less Republican than it
22 otherwise could have been.

23 Q. And, in fact, from House plan to Senate Amendment 1, did
24 the Trump vote share decrease?

25 A. Yes, it did. Yes.

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1 Q. Okay. Is amending legislation on the floor normal?

2 A. Yes, it is. Any major legislation not amending on the
3 floor would be very abnormal.

4 Q. Sure. Did this plan go through subcommittee, full
5 committee, and then make it to the floor?

6 A. Yes.

7 Q. Okay. Democrats were able to offer and discuss
8 amendments?

9 A. Yes.

10 Q. And, in fact, they did, correct?

11 A. They did, yes.

12 Q. All right. Senator, I'm going to pull up S-29b, please.

13 MR. TRAYWICK: I beg the Court's indulgence.

14 JUDGE GERGEL: Take your time.

15 MR. TRAYWICK: This is the map, if that helps.

16 **BY MR. TRAYWICK:**

17 Q. Senator, do you recognize this map?

18 A. Yes.

19 Q. Is that your amendment?

20 A. Yes.

21 Q. Is that the Senate Amendment 1 we've been discussing?

22 A. Yes.

23 Q. Were you the primary author of this amendment or sponsor?

24 A. Yes.

25 Q. Okay. When did you author it?

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1 A. Well, I actually offered it on the floor, as I recall --
2 although it had been -- I think some other members had seen it
3 before it actually got to the floor. But as I recall, I
4 offered it on the floor.

5 Q. Okay. Was the draft of this plan published before the
6 January 13th subcommittee meeting?

7 A. Yes.

8 Q. Did Senator Harpootlian also publish a plan before that
9 subcommittee?

10 A. Yes. That's why I'm saying others viewed it. But I
11 didn't offer till the floor.

12 Q. Was this a minimal-changed plan, Senator Campsen?

13 A. Yes, it was. And I thought that was important, because
14 this minimal change from the existing benchmark -- and I
15 thought that was important because the benchmark had
16 significant pedigree to it, if you want to use that term. The
17 Obama Administration had pre-cleared it. It had survived a
18 Section 2 challenge, it had survived a racial gerrymander
19 challenge, and the U.S. Supreme Court affirmed it as recently
20 as 2012. And since redistricting is done every 10 years --
21 that's like yesterday in redistricting time, you can't get any
22 closer than that.

23 And so, I felt like that plan was a pretty good starting
24 point. And we just made very minimal -- you had to make
25 changes in the 1st and the 6th because the 1st had to shed

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1 88,000 people, and the 6th had to pick up 85,000 people. And
2 the rest of the state had grown consistent with the statewide
3 rate of growth, and so they could largely remain the same.
4 And that's really largely what the plan does.

5 Q. Senator, why did the Senate not barely touch CD 7?

6 A. Well, last time we did reapportionment, there was big
7 issue about whether the 1st is going to go up north or it's
8 going to go down south. And it used to go north, and there
9 was a lot of consternation in the General Assembly about that,
10 but we ended up having the 1st go south. And we didn't want
11 to have that fight again, number one. And number two, the
12 growth rate was about right on par with the growth rate
13 statewide. And so, you have constituent consistency,
14 continuity of representation issues, and we also had the
15 chairman of the committee trump Horry County, and he was not
16 very interested in changing the 7th very much.

17 Q. Let's zoom in on CD 1, if we might. Senator, did CD 1
18 keep all the sea islands together?

19 A. Yes.

20 Q. And did you hear public testimony to that effect?

21 A. Yes. And that that is a very unique community of
22 interest. I represent many of those sea islands, at least the
23 ones heading south from Charleston.

24 Q. Speaking of Charleston, did you ever consider making
25 Charleston whole?

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1 A. Yes. But making Charleston whole would have -- number
2 one, Charleston hadn't been whole since 1992, I think it is.
3 Sometime in the 90s. I think it's '92. So, "keeping it
4 whole" is a misnomer. It wasn't whole. It hasn't been whole
5 since '92. And it's not unusual -- in fact, it's typical for
6 large metropolitan areas to not be wholly, or the counties
7 that have large metropolitans not wholly be in one district.
8 That's not true in Richland County, it's not true in
9 Greenville, Spartanburg. But if you did make Charleston
10 whole, then you would end up with Charleston being a
11 Democratic-controlled district, majority Democratic district,
12 based upon the political data we had.

13 Q. Just so we hit all areas of the state, does Florence
14 County have two congressmen?

15 A. Yes.

16 Q. Do you remember articulating as a justification that you
17 felt having two congressmen represent the Charleston area was
18 better than one?

19 A. Yes.

20 Q. Can you elaborate on that, please?

21 A. Yes. I'll be happy to. It's just common sense. In a
22 body that is where the majority vote controls -- and
23 individual influence is important, meaning the U.S. House of
24 Representatives in leadership positions are important -- it's
25 better to have two advocates than one. I've heard some people

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1 say, well, I don't want -- a Republican say, I don't want
2 Representative Clyburn representing me because he votes this
3 way or that way on taxes or whatever the issue they disagree
4 with him on. Well, if he's not in Charleston, he's still
5 going to be voting that way in Congress on the policy issue
6 you don't like. So, having two congressmen represent you is
7 really about the local community and the benefit to the local
8 community. It's really bread-and-butter things. Like, when
9 we get with a hurricane, are we going to get FEMA down here
10 quickly or not? Are we going to get extra special treatment?
11 Do we have influence with the incumbent administration?

12 And so, I'd rather have two congressmen in one any day.
13 In fact, if you're going to have a Democrat and Republican mix
14 in your delegation, I'd rather it be a Republican and a
15 Democrat, like Charleston has. Because, I don't suspect Nancy
16 Mace has near as much influence with the Biden Administration
17 as Jim Clyburn does. I know that's not true. Jim Clyburn has
18 more influence with the Biden Administration perhaps than
19 anyone in the nation, because he probably wouldn't be
20 president if it weren't for Jim Clyburn.

21 And we had an example of that yesterday. I read in the
22 paper that the secretary of transportation was down here
23 meeting with the director of the port's authority, Barbara
24 Melvin, meeting and talking about the road system, talking
25 about electric vehicles and BMW and Volvo producing electric

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1 vehicles and policy with regards to that. All that was right
2 there in the news yesterday, how beneficial it is to have Jim
3 Clyburn representing Charleston County. And I'll take that
4 any day. And he has helped this county in innumerable ways
5 over the years, and he still is. And yesterday is just one
6 example.

7 Q. Senator, would you agree then that the enacted plan, the
8 three largest population centers of the state, all have county
9 splits?

10 A. Yes.

11 Q. Greenville, Charleston, and Richland --

12 A. Yes. It's hard not to split them, because you have the
13 one-man-one-vote requirement. When it comes to congressional
14 reapportionment, the deviation is one-half of a person -- or
15 one person, is what the deviation is. You've got to have it
16 exactly right. So, it's really hard not to split these big
17 population centers.

18 Q. At some point before your presentation in the floor
19 debate on January 20th, do you recall receiving talking points
20 from Breeden John?

21 A. Yes.

22 Q. Okay. Let's pull up S-62. Did you use some of these
23 points on the floor?

24 A. It's going pretty fast for me to read.

25 Q. We're going down to your neck of the woods.

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1 A. Okay. Yes. This was the basic introductory remarks that
2 kind of just gave the general contours of the district that
3 the staff had prepared. I hadn't requested it, but they just
4 took the initiative to do this, which is beneficial, of
5 course, to the members, to just -- the general contours data
6 general overview, the 20,000-foot look is what this was about.

7 Q. And is that normal in the legislative process, for staff
8 to give you talking points on legislation?

9 A. Yes. That's completely normal.

10 Q. That's not just confined to redistricting, correct?

11 A. Not at all.

12 Q. Are staff permitted to share information about one
13 member's amendment with another member without the offering
14 member's permission?

15 A. No.

16 Q. Is that normal procedure and well known in the Senate?

17 A. Yes.

18 Q. All right. Let's move on to the actual floor debate. Do
19 you recall speaking about the enacted plan on January 20th,
20 during the floor debate?

21 A. Yes.

22 Q. Do you recall what features of the plan you might have
23 highlighted?

24 A. I think I led off saying this is a minimal-change plan,
25 like I had already discussed briefly today, and talked about

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1 how most of the state, most of the districts, had grown
2 generally at the same rate of growth of the entire state. And
3 so, major changes had to happen in Charleston in the 1st and
4 the 6th. And, in fact, as I recall, I described how the
5 district, as far as constituent consistency, which is a
6 measurement of how much change occurred in our plan, in the
7 plan that passed, everything but the 1st and the 6th -- they
8 were in the 90s, 98 percent, 96 percent. And I can remember
9 Senator Harpootlian's Plan being -- the best it ever got was
10 70 percent. It was 50 -- so, they were redrawing the whole
11 state just to get -- they were redrawing the whole state
12 dramatically to get two Democratic districts in one swing.

13 Q. Okay.

14 MR. TRAYWICK: Mr. Gore, if you'll pull up S-242.
15 The timestamps here are 2:22:10 through 2:23:11. And this is
16 from the January 20th Senate floor debate.

17 *(Video played.)*

18 BY MR. TRAYWICK:

19 Q. Senator, why did you deny that this was a partisan
20 gerrymander?

21 MR. CUSICK: Objection, your Honor, to the extent
22 that this is going to be offered as a justification of his
23 contemporaneously offered --

24 JUDGE GERGEL: Overruled. He can explain what he
25 meant.

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1 Please proceed.

2 MR. TRAYWICK: Would you like me to repeat the
3 question?

4 THE WITNESS: Yes.

5 **BY MR. TRAYWICK:**

6 Q. Okay. Why did you deny that this plan was a partisan
7 gerrymander?

8 A. Because, in my mind, a partisan gerrymander is when you
9 subordinate everything else to drawing partisan lines -- or
10 almost everything else. And that is not what I did. There
11 were many instances in drawing this map in which I could have
12 gone and picked up a precinct here or a precinct there that
13 would have dramatically increased. I can remember one
14 precinct was 65-plus percent Republican, a big precinct off of
15 Wadmalaw Sound that I could have picked up but didn't do it
16 because I wasn't making the partisan numbers -- I wasn't
17 subordinating everything else to the partisan numbers. I was
18 honoring other redistricting principles.

19 And so, when they said this is a partisan gerrymander,
20 and I'm losing Republican votes because I'm sticking with the
21 geographic boundaries, I had to refute that. And so, a
22 partisan gerrymander in my mind is when you subordinate
23 everything else to the partisan numbers, and I did not do
24 that. There's nothing further from the truth than that. I
25 would have loved to have kept the tip of the peninsula in

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1 Charleston, below -- you know, the battery area in Charleston.
2 Would've helped the numbers, but if I had done that, that
3 would have been a partisan gerrymander, and I didn't do it.

4 Q. So, does that mean politics were involved at all?

5 A. No, it doesn't mean politics weren't involved. Politics
6 are always involved. And even the first Congress, Patrick
7 Henry tried to gerrymander James Madison out of the first
8 Virginia House of Representatives seat. I mean, it's happened
9 from the beginning. But partisan numbers are taken into
10 account.

11 You don't have Illinois drafting Republican districts
12 when they could draft Democrat districts. You don't have
13 California and you don't have Republican states doing that
14 either, as long as you can honor redistricting principles.
15 And my goal was to produce a Republican plan while honoring
16 the principles as best you can -- which you can't honor all
17 the principles in any map all the time -- as best you can and
18 comply with the applicable law.

19 Q. Is partisan gerrymandering, in your view, a legal term of
20 art?

21 A. Well, it is. But I think most people don't know that
22 definition. So, when that statement is made before the
23 general public, there is all kinds of different wild ideas of
24 what they're envisioning. But it is a term of art. I mean,
25 there is even some case law on it. But it's when you

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1 subordinate other redistricting principles to the partisan
2 numbers as you're drawing a district. And I did not do that.
3 And specifically, I made the district less Republican in order
4 to the honor that principle.

5 Q. Let's go through some of those. Did your Senate
6 Amendment 1, by not making it more Republican, better adhere
7 to geographical boundaries?

8 A. Yes, it did.

9 Q. How about communities of interest?

10 A. Yes.

11 Q. How about core preservation?

12 A. In some instances, yes; in some instances, perhaps, no,
13 because we had to do a lot of change in Charleston County,
14 because that's where the growth was. In the 1st, that's where
15 the growth was.

16 Q. Did Berkeley County experience pretty significant growth
17 too?

18 A. They did.

19 Q. Okay. And was that made whole in CD 1?

20 A. No. There's still some of Berkeley that is out, as I
21 recall. I may be wrong on that, but I think that's right.

22 Q. Did it say anywhere in the guidelines that you had to
23 subordinate the interests of all other counties to the
24 interests of Charleston County?

25 A. No. But, again, I have a great interest in Charleston

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1 County. I'm born and raised here. But it's very difficult to
2 maintain -- keep the big counties that have the big
3 metropolitan areas whole. And, in fact, it's not happening
4 really anywhere else in the state.

5 Q. Okay. And doing so here would have ensured it was a
6 Democratic district?

7 A. It would have, yes.

8 Q. All right. Do you recall any other senators referencing
9 political line drawing with respect to Senate Amendment 1?

10 A. Yes. I think it's very clear that Amendment 2 was drawn
11 using a particular political outcome in mind, which is
12 understandable. It's expected, actually.

13 Q. Okay. Let's look at --

14 A. That's Senator Harpootlian's amendment -- is what I'm
15 referring to.

16 Q. Sure.

17 MR. TRAYWICK: Let's pull up S-241. Timestamps here
18 are 56:22 through 56:57.

19 **BY MR. TRAYWICK:**

20 Q. Is that Senator Rankin?

21 A. Yes.

22 Q. Okay. Was he referring to the West Ashley area?

23 A. I believe so.

24 Q. Okay.

25 A. And the 1st District actually -- I didn't keep track of

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1 the racial numbers as we were drawing maps, but after it was
2 produced, the staff provided that. And the Black voting age
3 population in the 1st actually went up a little bit, and it
4 went down in the 6th. Yet, we were accused of packing and
5 things like that on the floor and in the committee. But that
6 actually did not happen.

7 Q. Did you look at any racial data during the map-drawing
8 process?

9 A. No.

10 Q. Did the staff draw the map for you?

11 A. Yes.

12 Q. What data did you look at when tweaking CD 1 and CD 6?

13 A. Well, I looked at the Trump/Biden numbers and the
14 Graham/Harris numbers. I was looking at political numbers.

15 Q. Did you have any racial targets in having Senate
16 Amendment 1 drafted for you?

17 A. No.

18 Q. Did staff ever mention racial targets in drafting Senate
19 Amendment 1 for you?

20 A. No. The staff knew, because I communicated to them, I
21 don't want to know the racial numbers. Y'all tell me if we're
22 running into any kind of legal problem when it comes to race,
23 but other than that, I don't want to know while I'm drawing
24 this map. But I do want to the know political numbers.

25 Q. You almost said it. There's no Section 2 claim here,

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1 right?

2 A. Excuse me?

3 Q. There's no Section 2 claim here, right?

4 A. Right.

5 Q. Did you have any discussions with other senators about
6 politics?

7 A. Yes.

8 Q. With whom did you speak about the politics of Senate
9 Amendment 1?

10 A. Well, I probably talked to several. I can't recall them
11 all. But they wanted to know what are the political numbers.
12 And many of them were disappointed that they weren't higher
13 Republican. And why did you do it that low? Why'd you only
14 change it 1.36 percent? That's because I honored other
15 redistricting principles. That's why.

16 MR. TRAYWICK: Mr. Gore, can we pull up S-101 please?

17 BY MR. TRAYWICK:

18 Q. Senator Campsen, do you recognize this document?

19 A. Yes.

20 Q. Who is Sean Bennett?

21 A. He is a senator who represents Dorchester County and some
22 of Berkeley County, but mostly Dorchester.

23 Q. In this e-mail you said: "We want House Plan 2, Senate
24 Amendment 1." Who did you mean by "we"?

25 A. I meant the Republicans in the -- certainly in the

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1 Lowcountry, really is what I'm talking about.

2 Q. What's the date of this e-mail?

3 A. January 12th.

4 Q. Okay. And then how'd you describe the other proposal?

5 A. Has all of Dorchester County in the 7th with Georgetown
6 and Horry and Dillon and Florence Counties, they have no
7 community of interest whatsoever there.

8 Q. How about the sentence before that? What did you call
9 the other plan?

10 A. The Democrat proposal, the Alternative Democrat Proposal.

11 Q. Senator, what's the partisan makeup of the Senate,
12 currently?

13 A. Thirty Republicans, 16 Democrats.

14 Q. Are all the Republicans White?

15 A. No.

16 Q. Are all the Democrats Black?

17 A. No.

18 Q. Can you tell the Court and the plaintiffs' counsel over
19 here maybe a little bit about the collegiality of the Senate
20 in South Carolina?

21 A. Well, the Senate prides itself with being collegial and
22 bipartisan and working across the aisle on issues. Our rules
23 force us to work together often. But also there's a real
24 ethic to do that. And those of us who've been there a long
25 time, we all -- Republican and Democrat, Black and White, we

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1 all feel a sense of trying to maintain -- well, some people
2 don't have that sense as great as others, but the majority of
3 us do, to maintain that collegiality.

4 And I've worked with Democrats on the Election Reform
5 Bill. John Scott came over. He wanted to cosponsor it,
6 because he's been trying to get early voting in forever. He's
7 an African-American Democrat from Richland County. And, yeah,
8 come on, cosponsor it with me. All my conservation work, I
9 probably have more Democrats than Republicans actually working
10 with me. I've protected 350,000 acres with the Conservation
11 Bank Act that I passed in the law in South Carolina, and a lot
12 more than that through other means.

13 So, there's a lot of bipartisan -- Gerald Malloy and I
14 and Tom Davis, we meet every other week after session and we
15 sit around in the office and talk about how to keep the Senate
16 what the Senate is supposed to be, collegial, bipartisan.
17 We'll fight over things if we disagree. That's what we do.
18 But we'll go out and we'll sit down and talk about it and
19 maintain friendships in the process. And that's the way the
20 Senate is. While I was doing this, Ronnie Sabb, who served on
21 the committee with me, he was voting against all these bills.
22 I helped Senator Sabb help protect a big part of Williamsburg
23 County on the Black River. We're looking at protecting
24 11 miles of the Black River right in his backyard. And I'm
25 the one who really got him involved in that process, and he's

GEORGE CAMPSSEN, III - DIRECT EXAMINATION BY MR. TRAYWICK 1855

1 taking the lead. And so, we disagree on the floor, but we
2 have great working relationships and personal affinity for one
3 another.

4 Q. But on some issues, do votes clearly come down on
5 partisan lines in the Senate?

6 A. They do. But that doesn't mean that we don't -- in fact,
7 I tell young senators all the time that, in my years of
8 experience, there's a passage in Romans 12 that is the key to
9 being an effective and successful senator, and the passage
10 where Paul says: "As best as you are able, remain at peace
11 with all men." Because the person that you're fighting on one
12 bill, tooth and nail, they're going to be your ally on the
13 next bill. And you don't ever let it get personal. And even
14 if someone offends you, don't reciprocate in kind. And that
15 is what the Senate's supposed to be, and we largely obtain
16 that. But when it comes to redistricting, you just have --
17 it's hard to find agreement, common ground.

18 MR. TRAYWICK: Let's go to S-242. Timestamps,
19 3:55:19 to 3:55:56. This is from the January 20th floor
20 debate.

21 **BY MR. TRAYWICK:**

22 Q. Senator Campsen, was congressional redistricting clearly
23 political?

24 A. Yes. And I totally disagree with that analysis, too.

25 And I think the record will demonstrate that that's incorrect.

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1 Q. Was it clear early on in the process for congressional
2 redistricting that it was going to be different than Senate
3 redistricting for the Senate district plans?

4 A. Well, you wouldn't have as much input from members,
5 because when it comes to the Senate redistricting, the members
6 are actually giving input to the map drawers. And so, it was
7 going to be different in that way. And also, it's clear it
8 was going to be different because there would be a fight over
9 this Republican 1st District into a Democratic district. It
10 was pretty clear that was going to be a fight.

11 Q. Is that because national implications are at play?

12 A. It has natural implications --

13 MR. CUSICK: Objection, your Honor. Just the
14 relevancy of this line of questioning.

15 JUDGE GERGEL: I think it goes to motive. Overruled.

16 THE WITNESS: Yes, it has national implications.

17 **BY MR. TRAYWICK:**

18 Q. Can you explain that?

19 A. Well, if we -- if Republicans who have control of the
20 legislature, the House and the Senate, and the governor's
21 office passes a reapportionment plan that created another
22 Democratic district when you really didn't need to -- need to,
23 meaning there is no law or guidelines that really dictated
24 that you do that -- and then if after this election you fail
25 to retake the House Republicans by one vote, that would be on

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1 us. And the framers gave us the authority to do this in the
2 elections clause. And we shouldn't just disregard it. And I
3 think the Democrats would have the same opinion. If they were
4 the majority, I'd expect them to do the same thing. But I,
5 for one, don't think you disregard that, that the framers gave
6 to us. They did it in classic frame of fashion. They
7 diffused the power and didn't concentrate it in the elections
8 clause. States can pass a law. Ultimately, Congress can pass
9 a law, too, that all the states have to comply with, like the
10 Voting Rights Act is an example of that.

11 **BY MR. TRAYWICK:**

12 Q. All right. Not to beat a dead horse, but let's wrap this
13 up. Was there a Republican Caucus Plan?

14 A. Yes. It was my plan.

15 Q. Did Senator Harpootlian identify his plan as the
16 Democratic Caucus Plan?

17 A. Yes, he did.

18 Q. Did the Republican plan maintain a 6-1 makeup,
19 partisan-wise, of the Congressional Delegation for South
20 Carolina?

21 A. It did.

22 Q. What did Senator Harpootlian's Democratic Caucus Plan do
23 to that makeup?

24 A. It made it a 5-2 and it radically redrew the whole state
25 in order to get there.

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1 Q. And one tossup even, right?

2 A. And a tossup, yeah.

3 Q. Okay. Was that ever going to pass the
4 Republican-controlled Senate?

5 A. No.

6 Q. Did that have anything to do with race?

7 A. No.

8 Q. Were the votes divided among party lines?

9 A. They were.

10 Q. So, given the political forces at play here, was there
11 any need for you to spike the football in the endzone on
12 politics.

13 A. I never do that. That's how you maintain collegiality,
14 by not doing that.

15 Q. And is that consistent with the nature of the Senate?

16 A. That's consistent with the nature of the Senate.

17 Q. But politics wasn't a secret, correct?

18 A. No.

19 Q. All right. Last few questions. Senator, was race a
20 motivating factor in enacting S.865?

21 A. No.

22 Q. Was race the predominant factor in enacting S.865?

23 A. No.

24 Q. Were your decisions based on politics and traditional
25 districting principles?

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1 A. They were.

2 MR. TRAYWICK: Thank you, your Honor. No further
3 questions.

4 JUDGE GERGEL: Does the House have any questions?

5 MR. MATHIAS: Just one brief line of questioning,
6 your Honor.

7 JUDGE GERGEL: Just keep it not duplicative.

8 MR. MATHIAS: There will be no duplications.

9 JUDGE GERGEL: Thank you.

10 MR. MATHIAS: Yes, sir.

11 Denise, can you pull up HX-86?

12 **DIRECT EXAMINATION**

13 **BY MR. MATHIAS:**

14 Q. Senator, my name's Andrew Mathias. I'm one of the
15 lawyers for the House.

16 A. Yes.

17 Q. Do you see House Exhibit 86 there in front of you?

18 A. Yes.

19 Q. All right. I'm going to represent to you that this is a
20 text message that you sent to Representative Weston Newton.

21 MR. CUSICK: Sorry. One second, your Honor.

22 What was the exhibit number on that?

23 MR. MATHIAS: Eighty-six.

24 MR. CUSICK: House Exhibit?

25 MR. MATHIAS: Yes. I believe it's in evidence.

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1 MR. CUSICK: This wasn't disclosed within your
2 exhibit. Do you intend to introduce and ask Senator Campsen
3 about the disclosures?

4 MR. MOORE: As I understood it, your Honor said if
5 it's in, you can ask them about it.

6 JUDGE GERGEL: Is it in?

7 MR. MATHIAS: It is in.

8 JUDGE GERGEL: You can ask him. Overruled.

9 MR. MATHIAS: All right. Thank you.

10 **BY MR. MATHIAS:**

11 Q. Senator Campsen, as I was saying, this is a text message
12 conversation -- well, you are sending Representative Weston
13 Newton several text messages between Monday, December 13,
14 2021, and Tuesday, December 14, 2021. If you'll review that
15 and let me know if I'm correct.

16 A. Yes. It appears that's correct.

17 Q. And I'll direct your attention real quick to the text
18 message on the second page that you sent on Tuesday,
19 December 14th. You were telling Representative Newton that
20 Beaufort and Berkeley Counties were important for you to
21 remain in the 1st Congressional District, right?

22 A. Well, I knew it was important for the counties. Not just
23 me, but I knew it was important for the counties.

24 Q. Well, and part of that importance was because Beaufort
25 and Berkeley Counties are solid Republican counties, correct?

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1 A. Yes.

2 Q. And the communities of interest, too, that they have with
3 Charleston?

4 A. Correct.

5 Q. And keeping counties whole is one of the traditional
6 redistricting principles stated in the criteria adopted by the
7 Senate committee, correct?

8 A. Yes.

9 Q. And I don't think you'll remember these numbers, but tell
10 me if you think I'm about right. Berkeley County's total
11 population in the 2020 census is 229,861. Does that sounds
12 about right?

13 A. I don't know. I can't remember.

14 Q. But it sounds close, correct?

15 A. I don't know.

16 JUDGE GERGEL: He says he doesn't know.

17 MR. MATHIAS: Okay.

18 BY MR. MATHIAS:

19 Q. Well, I'll represent to you that that's the population.
20 I'll also represent --

21 JUDGE GERGEL: Unless you take the oath, you're not
22 getting to testify, Mr. Mathias. Just ask the witness
23 something he knows.

24 MR. MATHIAS: Okay.

25 BY MR. MATHIAS:

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1 Q. If Berkeley County, and Beaufort County, and Charleston
2 County were all made whole in CD 1, that would exceed the
3 population that was the ideal population for a congressional
4 district, correct?

5 A. I believe that's correct. I did do that evaluation.

6 Q. And in this text message you were sending to
7 Representative Newton, you're stating that it is a primary
8 goal of yours to have Beaufort County and Berkeley County in
9 Congressional District 1, correct?

10 A. Yes.

11 Q. And so, Charleston had to be split, correct?

12 A. Yes. And Charleston was currently split. It had been
13 since the early '90s.

14 Q. And so, your primary concern was keeping Berkeley County
15 whole and Beaufort County whole in the congressional district,
16 correct?

17 A. No. No. My primary goal was to draw a Republican
18 district while honoring redistricting principles as best as I
19 could, because some of them are incongruent, you can't always
20 honor all of them in every instance, and just to comply with
21 applicable law. That was my goal.

22 Q. All right. And once Berkeley County and Beaufort County
23 were made whole in the plan, you did not care where the line
24 was drawn in Charleston County -- you cared more about the
25 line being drawn in Charleston County in a way that benefitted

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1863

1 Republicans than you did looking at race, correct?

2 A. I did not look at race while I was drawing the map.

3 Q. All right. Thank you.

4 A. I left it up to the staff and legal counsel to let me
5 know if we're getting into some trouble. And they raised
6 them. They did along the way. At every process, they'd say,
7 well, you probably don't want to do that.

8 Q. Thank you, Senator.

9 JUDGE GERGEL: Cross-examination.

10 **CROSS-EXAMINATION**

11 **BY MR. CUSICK:**

12 Q. Good afternoon, Senator Campsen.

13 A. Good afternoon.

14 Q. We first met a couple months when I took your deposition
15 virtually. Do you recall that?

16 A. I do, yes.

17 Q. Mr. Traywick started his questions asking about whether
18 you support legislation on behalf of Black communities. Do
19 you recall that question?

20 A. Yes.

21 Q. And you don't think in terms like that, right?

22 A. Well, yeah. Like, when I got \$2 million for the Penn
23 Center, I know that that's very important to the
24 African-American community on St. Helena Island. So I do
25 understand that. I do understand when I cosponsored -- one of

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1 the only two Republicans that cosponsored Senator Jackson's
2 Juneteenth bill to make it a state holiday. I knew that was
3 important to the African-American community in particular.
4 So, I am cognizant of that.

5 Q. But that's not a goal. You don't think in terms of
6 whether bills that you're looking at support Black or White
7 communities, you just look at them if they're good policy,
8 right?

9 A. No. I -- I -- I genuinely do want to support the Penn
10 Center. And that's why I made an effort to go to their 160th
11 anniversary a few weeks ago. I genuinely do want to support
12 them. I have a desire to do that.

13 Q. Yeah. During this redistricting process, you wanted to
14 be colorblind and not see race, right?

15 A. I didn't want to see race when it comes to drawing lines,
16 because I only wanted to look at the political numbers,
17 because I knew that was the safest way to draw districts.

18 Q. Mr. Traywick had a number of questions about the timeline
19 for when S.865 passed. Do you recall those questions?

20 A. Yes.

21 Q. And he represented it was about 60 days, right, between
22 when it was first passed and now?

23 A. Which bill are you referring to -- or which amendment?

24 Q. Let me walk you through. Do you recall that the Senate
25 first published a plan on November 23rd, 2021?

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1 A. The staff plan, you're referring to?

2 Q. Correct.

3 A. I don't remember the date, but I remember the staff plan
4 being published.

5 Q. And there was a single hearing a week later on
6 November 29th on that plan, correct?

7 A. I think that's correct.

8 Q. And then the next hearing the Senate held was in 2022 on
9 January 13th, correct?

10 A. I -- I can't confirm that.

11 Q. No reason to dispute that?

12 A. No reason to dispute it, but --

13 Q. And that was the only --

14 A. -- I have all these dates in my mind.

15 Q. That was the only hearing in which the Senate sought
16 public input on Senate Amendment 1, correct?

17 A. I'm not -- I'm not sure about that either.

18 Q. It was published publicly on January 11th, less than
19 48 hours before that hearing, right?

20 A. I don't know. I don't recall.

21 Q. Earlier you talked about plans being motivated in the
22 public record about Democratic ends. Do you recall that
23 testimony?

24 A. Yes. Like, you mean with regards to Senator
25 Harpootlian's Plan, for example?

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1866

1 Q. In the public record, did you understand when people were
2 commenting on congressional maps that there was some sort of
3 Democratic script --

4 A. Well, I had someone share a copy of the script from the
5 Democratic Party in an e-mail. I think we saw it earlier
6 today. So, yeah, I knew that.

7 Q. And that was the Exhibit -- it was Senate Exhibit 116.

8 MR. CUSICK: Can you pull that up?

9 **BY MR. CUSICK:**

10 Q. And the date on that is January 17th, right?

11 A. Yes.

12 Q. That was after the public hearing. You didn't see the
13 script before it, right?

14 A. I don't recall when the public hearing was in relation to
15 this.

16 Q. The State Conference of the NAACP, the South Carolina
17 State Conference, is nonpartisan; true?

18 A. Yes.

19 Q. So is the League of Women Voters of South Carolina,
20 right?

21 A. Well, they're technically nonpartisan, yes.

22 Q. What do you mean by "technically"?

23 A. Well, they tend to support more liberal policy positions.

24 Q. Are you aware of their mission statement and what they
25 are affiliated as?

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1 MR. TRAYWICK: Objection. Relevance.

2 JUDGE GERGEL: Overruled.

3 THE WITNESS: I didn't read their mission statement.
4 I actually work very closely and cordially with them. But I
5 know that they generally are -- I've never read their mission
6 statement.

7 BY MR. CUSICK:

8 Q. But they're nonpartisan, right?

9 A. They are nonpartisan, yes.

10 Q. I'll let the record speak for itself. But you're not
11 aware of members of the public during their testimony saying,
12 I'm here as a Democrat voter, when they were supporting Senate
13 Amendment 1 or Senate Amendment 2, right?

14 A. Well, the amendment's even referred to as "the Democrat
15 amendment," so when they're supporting it, I'm assuming that
16 they're a Democrat supporting a Democrat amendment. I don't
17 think -- and my amendment was referred to as the Republican
18 amendment, too -- the Republican caucus amendment. So, that's
19 just -- it's easy to discern that, that when you have people
20 supporting the Democratic amendment that Senator Harpootlian
21 offers, those are probably Democrats.

22 Q. You called Senate Amendment 2 a Democrat plan, correct?

23 A. Yes.

24 Q. And the conversation that you referenced with Mr.
25 Traywick, that wasn't a public conversation with the caucus

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1 about what Senator Harpootlian envisioned his plan was,
2 correct?

3 A. Yes.

4 Q. And so, the only thing in the public record is your
5 e-mails calling his plan a Democratic map; true?

6 A. Yes. Senator Harpootlian is a Democratic Senator. He's
7 been involved in litigation over the congressional plans last
8 time around, numerous times. For anyone to think he's
9 offering a Republican plan, you check in your discretion and
10 judgment at the door. Senator Harpootlian had a Democratic
11 plan. Yes, I believe that. That's pretty obvious.

12 Q. Not in the record, though, anywhere that he said it was a
13 Democratic plan, right?

14 A. He's a Democratic Senator, offered a plan that the
15 Democrats coalesced around. He's sued Republican-passed plans
16 in the past. So, I think it's fair to draw the conclusion
17 that Senator Harpootlian's Plan -- a Democrat Senator for
18 Richland County, who's been involved in election litigation --
19 is producing a Democratic plan. That's a reasonable
20 conclusion, and I drew that conclusion.

21 Q. So, you assume that people who supported Senate Amendment
22 1 were Democrats, true?

23 A. Senate Amendment 1?

24 Q. Two, his plan.

25 A. Well, not everyone. But I know that that was the -- I

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1 knew that the members of the Senate Democratic Caucus were
2 coalescing around that plan. And so, for me to draw the
3 conclusion that's a Democratic plan is eminently reasonable.
4 I know what's going on in the inner workings of the Senate
5 floor. I know what they're doing. I'm on the committee. I
6 know who's supporting it and who isn't; who's advocating for
7 it and who's not. That's a simple and reasonable conclusion
8 to draw.

9 Q. And you recall Black voters supporting that plan because
10 it kept Charleston whole, correct?

11 A. There were Black voters that supported it, and there were
12 White voters that supported it, yes.

13 Q. And you assumed those Black voters who supported it were
14 Democrat, based on your assumption; true?

15 A. If they're supporting Senator Harpootlian's plan, they
16 probably are Democrats. Whatever your race is, that's
17 probably the case.

18 Q. Even if they're supporting and sharing testimony in a
19 nonpartisan role, you made that assumption; true?

20 A. It really is irrelevant whether they identify as a
21 Democrat or not. What is relevant is they're supporting a
22 plan that produces an additional Democratic congressional seat
23 that is offered by a Democrat Senator and supported by the
24 Democratic Caucus.

25 And so, for me to conclude that -- they may be

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1 independent, they may be a Republican but still support that
2 plan for some reason. But the main point is they are
3 supporting the Democrat plan. They may not identify as a
4 Democrat, that's their prerogative.

5 Q. I only have to ask you these questions because they're in
6 response to Mr. Traywick's. But you invoked the benchmark
7 plan as support for it because it was pre-cleared by the U.S.
8 Department of Justice in the *Backus* court. Do you recall that
9 testimony?

10 A. Yes.

11 Q. You understand that the preclearance standard was
12 different from the claims at issue in this case?

13 A. Yes, I do. Yeah.

14 Q. And a map could still be pre-cleared, but operate as a
15 racial gerrymander?

16 A. It could. Yes.

17 Q. There's no requirement in the Senate guidelines that you
18 have to begin with the benchmark plan?

19 A. But I think that benchmark survived a racial gerrymander
20 cause of action as well.

21 Q. Do you know what district was challenged and survived in
22 that case?

23 A. I don't recall. I probably did at one point, but I don't
24 recall.

25 Q. So, you don't know what district was actually challenged

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1 and plaintiffs had standing in that case?

2 A. No.

3 Q. You were involved in 2011 in redistricting, correct?

4 A. Just a member tangentially. Maybe a little bit more than
5 others, because -- on the Senate side, but on the
6 congressional side, I was just tangentially -- not much more
7 than any rank-and-file member, actually, on the congressional
8 plan.

9 Q. Your Senate district that was at issue had to be
10 pre-cleared.

11 A. Excuse me?

12 Q. Your Senate District at that time --

13 A. Yes.

14 Q. -- had to be pre-cleared?

15 A. Yes, yes.

16 Q. And so, you're aware of the discussions at that time
17 about racially polarized voting?

18 A. Not -- not really. I was -- I wasn't on the
19 redistricting subcommittee at that time. I was too junior to
20 be on that subcommittee at that time.

21 Q. You've testified that you did not ask for a racially
22 polarized voting analysis, right?

23 A. That's correct. I relied on legal counsel. And I
24 instructed them: We need to do anything? We getting into any
25 trouble as far as when it comes to compliance with applicable

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1 laws, you let me know. And I never received that advice from
2 them, that we needed to do that.

3 Q. I won't go over all the background with the enactment of
4 the plan. But just to confirm, you were not at all involved
5 in the initial creation of a staff plan, right?

6 A. No. But -- except that everyone -- I mean, every member
7 of the subcommittee spent some time in the map room, and no
8 conclusions were drawn. They were just kind of getting input,
9 and then they ended up drawing the plan. So, the answer is
10 no, except that I and other members of the subcommittee, and
11 even outside the subcommittee, did spend some time in the map
12 room, giving, you know, what about this, what about that. And
13 that was really the beauty of the staff plan. Then the staff
14 kind of gets that input and draws a plan just to kick the ball
15 off, just like kicking the football off at the beginning of
16 the game, just to put the ball in play.

17 Q. For Senate Amendment 1, you only provided input in
18 relation to districts involving Congressional Districts 1 and
19 6, right?

20 A. Because that's where all the change was. The change
21 elsewhere -- now, other senators provided description of what
22 happened in every district. That's what we did at the
23 beginning of the debate. And it wasn't a debate, it was just
24 descriptive. But when it came to the 1st and the 6th, that's
25 where the change was. And not because we only wanted to

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1 change there, but because the Fourteenth Amendment required us
2 to make those changes. Because, basically the 1st had to give
3 up the same number of people that the 6th had to pick up, in
4 rough numbers. And everyone else was largely in line with the
5 population growth statewide, so they really didn't need to
6 change the other districts. Not significantly.

7 Q. And the guidelines that you've been discussing today, you
8 voted in favor of those because it would lay out the factors
9 that would be considered during the redistricting process,
10 right?

11 A. Yes.

12 Q. That was the purpose?

13 A. Yes.

14 Q. It was voted on by you to help prevent the Senate from
15 violating law, correct?

16 A. I'm not sure all -- I'm not sure every violation of any
17 particular guideline is always a violation of law, but it is a
18 guideline. In fact, you really can't comply with all the
19 guidelines. That's why they're calls "guidelines" and not
20 "requirements."

21 Q. But some are mandatory, right?

22 A. Yes, some are. Yes.

23 Q. And you agree that those should be public so there would
24 be transparency throughout the process, right?

25 A. Yes.

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1 Q. It would help members know what factors the Senate was
2 considering and relying on when they were drawing maps, right?

3 A. Yes.

4 Q. In fact, it aided meaningful participation by members of
5 the public, right?

6 A. Yes.

7 Q. It was the basis that you and other subcommittee members
8 would use when you were assessing plans, right?

9 A. And -- yes.

10 Q. And Senate staff also relied on those guidelines based on
11 your conversations?

12 A. Yes. But that's not the only thing you relied on, but,
13 yes, you're trying to comply with them.

14 Q. I won't go through all of the factors, because I've heard
15 the Court on this. But they're not ranked in any order. You
16 remember the additional considerations in Roman Numeral III?

17 A. I know there's a category of additional considerations,
18 yes.

19 Q. And you would agree with me that racial demographics
20 factor into communities of interest?

21 A. Yes.

22 Q. And it's not unreasonable for a place like Charleston
23 County to be a single community of interest?

24 A. Well, it's a very diverse county. I look at community of
25 interest probably smaller than that. And it's more granular

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1 than that. But, I mean, a political subdivision does have
2 aspects of a community of interest, but they also are very --
3 I mean, North Charleston is very different than Kiawah. So,
4 just as an example.

5 Q. But that's true in Beaufort County as well, correct?

6 A. It's true in every county, yeah. So, that's why I'm not,
7 you know, sure that -- there are communities of interest
8 within counties that are different communities of interest, is
9 all I'm saying.

10 Q. But not all county lines are treated equally, right?

11 A. I'm not sure in what context you're -- what's the context
12 of that question?

13 MR. CUSICK: Can we pull up PX-722?

14 **BY MR. CUSICK:**

15 Q. Do you see this document, Senator Campsen? It was sent
16 on January 20th, 2022.

17 A. Yes.

18 Q. And do you see your e-mail there, your personal e-mail?

19 A. Yes.

20 Q. And these were sent to you by Mr. Fiffick, right?

21 A. Yes.

22 Q. And you relied on these for floor debate in the Senate
23 and you presented the map, correct?

24 A. I'm not sure I can even say yes. I mean, the staff gave
25 me so much, more than I could digest and then use. So, I'm

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1 not sure I could even say that.

2 Q. We'll look at the actual document here right now. And if
3 you look at number three, you say: "Shouldn't a plan split as
4 few counties as possible?" And then you see under C: "County
5 lines are more important in some places." Right?

6 A. Well, that's not my statement, that's the staff's
7 statement.

8 Q. But this was a document and talking points that were sent
9 to you to explain why the map was drawn the way it was; true?

10 A. Yes, but that's not my thought.

11 Q. But it was represented by staff members on why they drew
12 lines in certain ways, right?

13 A. These are suggested points that a Senator may or may not
14 use. We always reserve discretion to use or not use. This is
15 the staff's thoughts. That doesn't mean it's my thought. In
16 fact, usually I just speak more off the cuff than go through
17 talking points.

18 Q. Do you recall your testimony that Charleston County being
19 made whole would violate the core constituency guidelines?

20 A. Well, it would violate constituent consistency, is what I
21 said -- or I meant to say anyway, because you'd be moving --
22 Charleston isn't whole, hasn't been whole since 1992, I think
23 it is, the early '90s. And so, you would be violating that
24 one guideline. And, again, every other big county is split as
25 well in the state. It's hard to keep them whole.

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1 Q. But you didn't elevate that criteria compared to other
2 ones, like minimizing county splits, right?

3 A. No. In fact, we met -- no, we didn't. No.

4 Q. Equal weight, right?

5 A. Sometimes you give different weight to the guidelines.
6 They don't necessarily have to be equal, because sometimes one
7 is more prominent or in a particular geographic location than
8 another.

9 Q. So, core constituency mattered when making Charleston
10 whole, but not when making Beaufort whole, right?

11 A. Beaufort -- I'm not sure of what your question is.
12 Keeping core constituency was important in Beaufort County.
13 And they're in the 1st District and they remain in the 1st
14 District.

15 Q. But keeping core constituencies in Charleston whole?

16 A. Charleston wasn't in the 1st. A lot of it was in the
17 6th. And so, you're not keeping it whole. That's a misnomer.
18 That's a false narrative. It hasn't been whole since 1992.
19 Now, that was a good political statement to make, but it is
20 not a factual statement, "keeping it whole."

21 Q. People testified saying keeping Charleston whole as a
22 community of interest, right? Independent of the borders,
23 right?

24 A. I heard that testimony, yeah. I heard some of that
25 testimony.

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1 Q. So, keeping it as a community of interest is irrelevant?

2 A. But I disagreed with doing that. In fact, I stick with
3 what I said. I am tickled to death that Jim Clyburn
4 represents Charleston County. We benefitted from it
5 yesterday. And I'm tickled to death to have two congressmen
6 instead of one. I want two advocates in a body that's a
7 delivery body that most votes win. I'd rather have two than
8 one. And I'd rather have a Democrat and a Republican, because
9 no matter who's in power, you've got access to the executive
10 branch, which is really important.

11 We just got a beach re-nourishment -- Edisto Beach.
12 Fifty years the federal government is going to pay for beach
13 re-nourishment. We had to deepen the harbor. We've got the
14 -- what's now called -- I forget what they changed the name
15 to, but a huge military joint base in Charleston that we've
16 got to keep. It's great to have Jim Clyburn and Nancy Mace
17 advocating for that. I can't understand anyone thinking it's
18 not good to have that be the case. It's benefitted us over
19 the years.

20 Q. That's your representation, right?

21 A. That's my belief. I stated it on the floor. And I think
22 it makes perfect sense.

23 Q. But you didn't hear that from members of the public
24 during that January 13th hearing, right?

25 A. I heard some members of the public got that. I did hear

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1 some of them.

2 Q. Prioritizing assuring of the 6-1 Republican congressional
3 split in South Carolina isn't in the guidelines, right?

4 A. No. We've got -- politics is referenced in the
5 guidelines.

6 Q. You didn't elevate any of the views of congressional
7 members over other redistricting criteria, correct?

8 A. Elevate what?

9 Q. The preferences or views of Congress members over other
10 traditional redistricting principles, right?

11 A. I really had --

12 Q. You gave them little weight, right?

13 A. I had very little communication from members of the
14 Congress.

15 Q. But you would've given anything you heard little weight,
16 right?

17 A. I wouldn't characterize it that way. I'd give it weight.
18 How much depends on what they requested. I never sacrificed
19 my independent judgment. I'm not just a conduit for whatever
20 they want or even what everyone in the public states wants. I
21 exercise independent judgment. That's what a representative
22 -- well, what a republic is about.

23 Q. Do you recall your deposition, right?

24 A. Yes.

25 Q. Did you have a chance to review that deposition for

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1880

1 accuracy?

2 A. I did, yes.

3 MR. CUSICK: Can I pull up the deposition, PDF 39,
4 page 151, lines 11 through 21?

5 **BY MR. CUSICK:**

6 Q. Senator Campsen, I asked you: "Did you at all elevate,
7 to the extent you were aware of it, any Congress members'
8 preferences or views for how they wanted a congressional
9 district drawn?" Did I read that correctly?

10 A. Yeah.

11 Q. You responded: "No, I didn't. When you say 'when you
12 elevate,' can you state that again?" Did I read that
13 correctly?

14 A. Yeah.

15 Q. I asked as a follow up: "Sure. Did -- how did you weigh
16 any instructions or views for how congressional members were
17 hoping congressional districts would be drawn?" Did I read
18 that correctly?

19 A. Yeah.

20 Q. And then you responded: "I -- well, I gave little weight
21 to it or no weight at all." Did I read that correctly?

22 A. Yes. And I think that's what I just said. And, in fact,
23 I really received no input from him, hardly. One phone call
24 from Nancy Mace just concerned about the political numbers of
25 what was being considered -- I think it was the House

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1 amendment -- and that's it.

2 Q. Do you remember during that deposition -- and I've heard
3 you today say that partisanship did not predominate in the
4 redistricting process, correct?

5 A. No. I didn't say -- it didn't -- everything wasn't
6 subordinated to partisanship. And that's why I state it's not
7 a racial gerrymander, because it didn't subordinate all other
8 factors to the political outcome. I could have drawn a much
9 stronger Republican district, but I would have violated -- I'd
10 be going down to Wadmalaw Sound and the Stono River and
11 Wadmalaw Sound, and then jump in and grab some precinct just
12 because it had a bunch of Republicans. I could have done
13 that. It would have made a big difference, but I didn't do it
14 because I'm not subordinating everything else trying to comply
15 with other principles.

16 Q. I want to now talk about the drawing of the map. You
17 instructed staff members not to give you BVAP numbers for any
18 precincts that you reviewed, right?

19 A. Yes.

20 Q. You thought that if you looked at BVAP, somebody might
21 accuse you of drawing lines based on race, right?

22 A. Yes. And I didn't want race to be predominant, for sure.
23 I left it up to them and legal counsel to let me know if we
24 were getting into any problem areas.

25 Q. You left it up to them because you understood that race

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1882

1 is central to the redistricting process, you have to look at
2 it, right?

3 A. Yes. But I left it to them to look at it, not because --
4 because I'm the policy maker making the judgment, they're the
5 lawyers that do reapportionment and election law full time. I
6 do it every 10 years. And so, I relied upon them for their
7 legal expertise on that front. I knew it was an issue; it's
8 very important. In fact, I knew it was a very important
9 issue, that's why I asked them to advise me on that. But I
10 wanted them to blow the whistle when there was something that
11 was problematic.

12 Q. And you received legal assessments on whether maps might
13 violate federal law?

14 A. Yes. Throughout the process, yes.

15 Q. Even as you were looking at precincts, you didn't look at
16 race, you certainly were looking at BVAP numbers when you were
17 comparing maps, right?

18 A. No.

19 Q. So, in the talking points that you referenced and looked
20 at earlier with Mr. Traywick, you don't recall seeing a slide
21 that had the BVAPs for each congressional district plan?

22 A. That's because that was for the floor debate. They had
23 to describe it on the floor. And I've been accused of taking
24 race into account when I hadn't. So, I'm defending myself.
25 The reason I didn't defend myself in the committee when

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1883

1 Harpootlian started saying that and Margie Bright Matthews
2 started saying it is because I hadn't even looked a BVAP
3 numbers. I couldn't respond. And so, I did that because they
4 made those charges in the committee, and I addressed it on the
5 floor. And that's when I knew what the numbers were, after it
6 got out on the floor. And I addressed it then in order to
7 rebut the statements they were making. So, I didn't look at
8 it until then.

9 Q. Just so I'm clear, the first time you saw BVAP numbers
10 for the congressional plan was on January 20th, when you were
11 on the floor?

12 A. No. I got those before we went to the floor. But that's
13 when I asked, I need to know when it comes to the floor, just
14 to the describe the districts, first of all. And second of
15 all, they accused of us of packing, and we didn't pack. We
16 actually reduced the BVAP numbers in the 6th and increased it
17 in the 1st. Slightly increased it. But I didn't know those
18 numbers until it actually was ready for floor debate.

19 Q. Even if you don't have racial data in front of you, as an
20 elected official, you know the racial makeup of certain
21 communities and cities that you represent?

22 A. Yeah. Ones I represent, I do, yes.

23 Q. You've used the --

24 A. But I don't know specifically like, you know, what is the
25 percentage. But I do know St. Helena Island is a large

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1884

1 African-American community -- I know that -- down in Beaufort.
2 I generally know.

3 Q. And you know where the concentrations of Black voters are
4 in those areas without looking at the data?

5 A. Yes. I can't help but know that. I can't help but know
6 that, having been born and raised here.

7 Q. So, you know race data without it looking at numbers in
8 areas that you are familiar with, right?

9 A. Well, I don't know the specifics. I can't -- I can't
10 state a percentage. It'd be a guess, any particular
11 community.

12 Q. And based on your observations and experience as an
13 elected official in the Senate, you're aware that most
14 senators are aware of the racial makeup in their districts,
15 right?

16 MR. TRAYWICK: Objection. Calls for speculation.

17 JUDGE GERGEL: If he knows.

18 THE WITNESS: I don't know the racial makeup in my
19 Senate district.

20 **BY MR. CUSICK:**

21 Q. Do you know, or have a sense, whether Senators know the
22 racial makeup of their districts?

23 A. I don't know. I don't talk to the senators about that.
24 I know I couldn't state what the Black voting age population
25 in my district is. I know that. I don't know about other

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1885

1 members. I can't speak for them.

2 Q. And just before I ask -- I'm just asking just generally
3 the racial makeup, not the specific numbers of your districts.

4 A. Yeah. I mean, if you don't know that, you haven't spent
5 any time in your district. You have some general feel, yes.

6 Q. All senators know that, right?

7 MR. TRAYWICK: Objection. Asked and answered, and
8 still speculation.

9 JUDGE GERGEL: Only if he knows.

10 THE WITNESS: I can't speak for other senators about
11 that.

12 MR. CUSICK: Can you pull up PDF page 88, lines 22 to
13 25?

14 **BY MR. CUSICK:**

15 Q. This is your deposition again, Senator Campsen. And here
16 I ask: "Is it fair to say that most senators know the racial
17 demographics of the districts that they represent?"

18 You answered: "Probably. Close -- I mean a general
19 sense." Did I read that correctly?

20 A. I think that's what I just said, we have a general sense.
21 But I don't know the percentage. Maybe some do. Maybe some
22 research that monthly and want to know, want to carry it
23 around with them. But I think that's what I just said, you
24 know in a general sense. If you don't, you haven't spent any
25 time in your district.

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1886

1 Q. You've talked about relying on attorneys to make
2 assessments of the maps that you were considering, right?

3 A. Yes.

4 Q. That would be Mr. Terrine; true?

5 A. Yes.

6 Q. Also Mr. Gore?

7 A. Yes.

8 Q. And they were making assessments at every turn, whether
9 the maps complied with the Senate's criteria and Voting Rights
10 law, right?

11 MR. TRAYWICK: Your Honor, I'm going to object.
12 We're getting into attorney/client privilege matters.

13 JUDGE GERGEL: He asked what he relied on.
14 Overruled.

15 THE WITNESS: I relied upon them to not just look at
16 the Voting Rights Act, but also the case law, everything
17 surrounding reapportionment. All the case law, all the
18 statutory law, I was relying upon them, as my attorneys, to
19 advise me when we were considering anything problematic.
20 That's what I was relying upon.

21 Q. And that was ongoing throughout every iteration of the
22 map?

23 A. That was ongoing, yes.

24 Q. Mr. Fiffick was not part of the legal team giving you
25 evaluations and assessments; true?

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1887

1 A. Well, he's a lawyer. And under our Senate rules, if I
2 ever talk to him about something that's an attorney/client
3 privilege -- but I understand that the Court has ruled
4 otherwise on that, so I really thought I had attorney/client
5 privilege with him. We do in the Senate. In any Senate
6 matter, if I worked on a bill or an amendment with him, it
7 would be an attorney/client privilege. But that is not what
8 the Court has stipulated, is my understanding.

9 Q. I'm not trying to get into the convos, I'm just trying to
10 determine: He was not part of the legal team that were giving
11 you evaluations and assessments on the plan, right?

12 A. Well, he would give some assessment, but I wouldn't give
13 it the weight that I would Charlie Terrine, who's an expert in
14 this area -- I mean, Andy Fiffick is a fine lawyer, but he's a
15 generalist, because he's the lead counsel in the Senate
16 Judiciary Committee. You have to be a generalist. So, I
17 would give him some weight. And if I really thought it was an
18 issue, I might turn to Charlie Terrine or call John Gore, and
19 we may hash that out.

20 Q. You said you would call John Gore?

21 A. Yes. I mean, I was on the phone with John Gore a few
22 times, not many. But it was mainly Charlie Terrine talking to
23 John Gore.

24 Q. And the attorneys and the staff are the ones who were
25 looking at BVAP, not you?

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1888

1 A. Yes.

2 Q. You would agree with me, Senator Campsen, that race and
3 party are correlated in South Carolina, right?

4 A. Yes -- well, yes and no. I guess that's fluid. It is
5 fluid, but yes.

6 Q. I'm not trying to ask it again, but you said: Yes and
7 no?

8 A. Well, it's not in every instance, but generally African
9 Americans tend to vote higher, you know, more -- you can look
10 at the polls -- when you look at the numbers after the fact --
11 I didn't look at them drawing the map -- but you see that in
12 the numbers.

13 Q. And you know who Joe Cunningham is, right?

14 A. Yes.

15 Q. You understood that he was the Black preferred candidate
16 in Congressional District 1 in 2018, right?

17 A. As far as the vote returns?

18 Q. Yes.

19 A. That is correct, I believe.

20 Q. And he won that election in 2018 for Congressional
21 District 1?

22 A. He did, yes.

23 Q. He was also the Black preferred candidate in the 2020
24 congressional election results, right?

25 A. I don't -- I -- I don't know. I didn't see -- look at

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1889

1 those returns, but I wouldn't be surprised if that's what I
2 found if I did.

3 Q. And he lost that race?

4 A. He lost that race, yes.

5 Q. And so, the map in CD 1 that you were looking at, you
6 understood that it would hurt Black preferred candidates,
7 right?

8 A. No. I -- I was interested in making it a bit more
9 Republican. And a bit more is a tiny bit more. It's 1.36
10 percentage points more.

11 Q. You talked on direct about racial gerrymandering claims;
12 do you recall that?

13 A. Yes.

14 Q. And I think I heard you talk about population shifts, CD
15 1 and CD 6; do you recall that?

16 A. Yeah. The 1st had to give up close to the same amount of
17 people that the 6th had to pick up.

18 Q. And I heard you say Congressional District 1 was becoming
19 -- or is a competitive district generally, right?

20 A. Yes. Although, frankly, I don't think 2016 is kind of an
21 accurate read. I think what was happening at the top of the
22 ticket influenced that race. That probably won't happen
23 again.

24 Q. And you agree that if Congressional District 1 was
25 becoming a district that was more competitive, Black voters

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1890

1 would have a greater opportunity to elect a candidate of their
2 choice, right?

3 A. That's not what I was thinking. I was thinking we've
4 been -- we have been -- we have, under the federal
5 constitution, the duty and the opportunity to draw lines. And
6 we're a Republican-controlled body, and the Supreme Court has
7 ruled that drawing lines on the basis of political reasons is
8 a nonjusticiable political question. And I was going to draw
9 a district that would favor a Republican. And I did, and we
10 did that. And it's just barely -- again, the political report
11 moved it from an R6 to an R7, hardly moved the needle. But it
12 moved it a little bit. And it could have moved it a lot more
13 if I had been dead-set on just nothing but moving the needle.

14 Q. You would agree with me that if you don't look at race
15 and just focus on partisan numbers, there's a risk that you
16 might disproportionately impact Black voters in drawing lines,
17 right?

18 A. No, I'm not going to agree with that.

19 MR. CUSICK: Can you pull up PDF page 40, and page
20 155, lines 12 through 17?

21 MR. TRAYWICK: Your Honors, I objected then, I'm
22 going to object now.

23 JUDGE GERGEL: Well, you're at least consistent, Mr.
24 Traywick.

25 MR. TRAYWICK: That's right. Exactly.

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1891

1 JUDGE GERGEL: That's a fine question. Overruled.

2 BY MR. CUSICK:

3 Q. I asked you under oath, Senator Campsen: "So if you were
4 looking at it from a pure partisan lens, not looking at race,
5 is there a concern that you might disproportionately impact
6 Black voters then based on that?" Did I read that correctly?

7 A. Yes.

8 Q. You heard Mr. Traywick's objection. And then you
9 answered: "Well, yes. And that's why I had staff." Did I
10 read that correctly?

11 A. Well, I was relying on staff to blow the whistle if that
12 was ever happening.

13 Q. The first portion of your answer on line 17, you said:
14 "Well, yes." Did I read that correctly?

15 A. Yes.

16 Q. You understood that Mr. Roberts --

17 A. And when I said that, I'm just agreeing with Justice
18 Kagan even has -- I forget the name of the case; I think it
19 was the *Shaw* case maybe, where she said: These patterns are
20 very similar. Whether you're doing partisan numbers or
21 looking at racial numbers, they often turn out similar. And
22 that's --

23 Q. And you understood that Mr. Roberts had access to BVAP
24 numbers, correct?

25 A. Yes. He's the cartographer, he has access to that.

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1892

1 Q. I'll close the line on this question. When you were in
2 the map room and lines were being moved around, you were not
3 looking at BVAP, correct?

4 A. Right.

5 Q. After iterations of plans were created, staff or counsel
6 were looking at and having discussions about BVAP, correct?

7 A. I assume.

8 Q. You didn't join any of those discussions?

9 A. I wanted it for the -- after we were -- I was accused of
10 drawing it on racial -- on a racial basis, I needed the
11 numbers to defend the plan and defend myself against those
12 allegations.

13 Q. And that accusation occurred during the January 13th,
14 2017, meeting?

15 A. I can't remember the dates. They just all blend
16 together.

17 Q. But if that was the meeting, that's when you first
18 started asking for BVAP data, whenever that first accusation
19 was made in public, right?

20 A. Well, no. Not when it was made, but for dealing with it
21 subsequently, the next time it would come up.

22 Q. And then you had access to it and shared it on the Senate
23 floor on January 19th and January 20th, 2022; is that right?

24 A. Correct. And the reason I did that is because they had
25 made an allegation.

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1893

1 Q. Mr. Traywick asked --

2 A. I took it very personally, actually. I took very
3 personally that allegation, and it was unfounded.

4 Q. Mr. Traywick asked you and showed you a number of
5 e-mails. Do you recall those discussions?

6 A. Today?

7 Q. Yes.

8 A. Well, he showed me a lot of e-mails. Which ones are you
9 referring to?

10 Q. Fair. Poor question on my part. Do you remember looking
11 at talking points that you created and sent out?

12 A. That I sent to like constituents? Yes, I do remember --
13 I remember him showing some e-mails to that effect.

14 Q. And you testified about doing affirmative outreach to
15 make people aware about Beaufort County being whole and
16 remaining in CD 1, correct?

17 A. Yes.

18 Q. In your words, the Republican Party at the state level
19 was doing nothing, and that's what prompted you to begin that
20 outreach?

21 A. That's correct.

22 Q. You initiated calls, you created scripts, right?

23 A. I created probably just two scripts and maybe 10 calls or
24 something. I mean, I didn't have time to -- I called people
25 who I knew would go do something. Like, Xiaohan Li, I knew

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1894

1 that she was very energetic and would take the ball and run
2 with it, and she did. I didn't have time to have any kind of
3 campaign. I just let them know the ball's in play, y'all may
4 want to show up -- show up for the game.

5 Q. Those e-mails started the day or to two before that
6 January 13th hearing, right?

7 A. I don't know. I don't know. I mean, I guess. The
8 e-mail date would -- I'll defer to whatever the date is.

9 Q. You were aware that Senate Amendment --

10 A. But I want to say, the main reason -- really my
11 connection with Xiaohan Li was she and other folks from
12 Beaufort testified at the House, and I know that they felt
13 like they had a good showing. And I was pretty confident that
14 they didn't realize they needed to go make their case at the
15 Senate as well. So, that's really the main thing I was
16 telling them: You need to go make the case to the Senate.
17 Because the Senate doesn't listen to the House testimony, and
18 the House doesn't listen to the Senate testimony. So, you
19 need to do it twice. Just, inside baseball procedure. I let
20 them know that. And I knew that she'd take the ball and do
21 something with it.

22 Q. You were aware that Senate Amendment 2 had Beaufort and
23 Charleston Counties whole in Congressional District 1, right?

24 A. Yes.

25 Q. And in your outreach, you didn't disclose that fact to

GEORGE CAMPSER, III - CROSS-EXAMINATION BY MR. CUSICK 1895

1 people who were concerned about Beaufort County being whole
2 and kept in Congressional District 1?

3 A. I was talking to Republicans in Beaufort, and I knew that
4 they wanted -- in the 1st District, they wanted their district
5 to remain a Republican district.

6 Q. Do you represent Charleston County constituents?

7 A. Yes.

8 Q. You didn't reach out to anyone in Charleston County?

9 A. Yes, I did.

10 Q. You have e-mails that you sent to folks in Dorchester
11 County, right?

12 A. Yes.

13 Q. Berkeley County?

14 A. Yes. Because, if you kept Berkeley and Beaufort whole,
15 you couldn't draw a -- if you kept it in the 1st, you couldn't
16 draw a Democratic district. And I did talk to people in
17 Charleston County.

18 Q. You're aware that your Charleston residents, some of them
19 supported it being whole in Congressional District 1, right?

20 A. Yes. I'm aware that my constituents are very diverse
21 opinions, polar opposite opinions among my constituents on
22 this issue. I'm aware of that. And so, some support that,
23 some didn't support it.

24 Q. And from a representational standpoint, you would have
25 served those constituents and your Beaufort County

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1896

1 constituents for keeping them whole?

2 A. This is a -- we are a Republican form of government,
3 where members of the -- you elect people to go represent you.
4 And you can't -- it's -- it's -- these are mutually exclusive
5 propositions, to have Charleston not split and totally in the
6 1st or have it split. They're mutually exclusive. You can't
7 do both. So, you've got to choose one or the other, and
8 that's what elected officials are there for.

9 Q. You agree that the oral testimony in the January 13th
10 hearing was predominantly from people who wanted Charleston
11 whole and in CD 1?

12 A. Yes. And it was from Joe Cunningham's website, that he
13 was jamming people up to do that. That's what I'm aware of.
14 And it was partisan, because if you did what Joe Cunningham
15 wanted, you would have a Democrat 1st District. That's what
16 I'm aware of. He had the website. The Democratic Party had
17 the e-mail talking points sent out. It's crystal clear that
18 that's what was going on.

19 Q. You testified earlier that the script you saw was on
20 January 17th, after that hearing, right?

21 A. Which script?

22 Q. The Democratic talking points one that was forwarded to
23 you on January 17th.

24 A. I got an e-mail from somebody, yeah.

25 Q. Wasn't before that hearing; true?

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1897

1 A. Joe Cunningham showed up at a hearing and made all kinds
2 of statements, you know, about this in the Senate subcommittee
3 hearing. I didn't have to wait for an e-mail from someone out
4 -- you know, from someone in the district. I didn't have to
5 wait on that.

6 Q. Did you think the State Conference of the NAACP, on
7 behalf of 13,000 Black members when they testified at that
8 hearing, were doing that in a partisan role?

9 MR. TRAYWICK: Objection. Asked and answered. And
10 this whole line of questioning is --

11 JUDGE GERGEL: Overruled. He can answer.

12 THE WITNESS: Well, they're not officially associated
13 with the Democratic Party, that's for sure.

14 **BY MR. CUSICK:**

15 Q. What do you mean by "not official"?

16 A. I mean, they're not a -- they're not an organization that
17 is a subset or officially affiliated with the Democratic
18 Party.

19 Q. You think, informally, they're associated with the
20 Democratic Party?

21 A. Informally? I don't even know if there's any
22 association, but they seem to me to support more Democratic
23 candidates.

24 Q. Did they identify as Democrats when they were giving
25 their testimony?

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1898

1 A. No. No.

2 Q. You know county chapters also testified during
3 that January --

4 MR. TRAYWICK: Objection, your Honor. We've
5 plowed this ground.

6 JUDGE GERGEL: Cross-examination. Overruled.

7 **BY MR. CUSICK:**

8 Q. You're aware that chapters of the State Conference also
9 provided testimony during those hearings --

10 A. Well, obviously --

11 Q. -- on behalf of the members?

12 JUDGE GERGEL: Mr. Cusick, are we going to be much
13 longer? I mean, we're going to kill my staff here.

14 MR. CUSICK: Yes. Well, I certainly don't want to do
15 that, your Honor.

16 JUDGE GERGEL: How much longer are we going to be?
17 Because, we've been going almost two and a half hours.

18 MR. CUSICK: I see it's 5:30. It definitely will not
19 be 10 minutes.

20 JUDGE GERGEL: All right. Keep going.

21 MR. CUSICK: Thank you.

22 THE WITNESS: I was aware that when the NAACP
23 provided a map, it was flipping one, if not two congressional
24 districts to Democrat. I did know that.

25 **BY MR. CUSICK:**

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1899

1 Q. My question was: Did any of the State Conference
2 chapters that testified on January 13th, to your recollection,
3 identify themselves as Democrats?

4 A. No. But their map showed that they wanted more -- you
5 know, even two more Democratic districts.

6 Q. You made that assumption?

7 A. The staff did that analysis of the numbers -- the
8 political numbers. I think even the political numbers might
9 have been presented with the map, I don't know. But I did see
10 the political numbers associated with that.

11 Q. My question was just whether you made the assumption they
12 were Democrats.

13 A. It's not an assumption if I look at that data and they're
14 presenting a map that produces two more Democratic districts.

15 Q. Did you assume that other Black voters at that hearing
16 who supported either that plan or Senate Amendment 2 were also
17 Democrats?

18 A. No.

19 Q. It was just the State Conference, you assumed?

20 A. No. They didn't present maps that were favorable to
21 Democrats, but the Conference did. But the individual voters
22 did not.

23 Q. You talked about all the public hearings that you
24 attended before congressional maps were drawn. Do you recall
25 that testimony?

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1900

1 A. I didn't -- in person, I didn't, in person, attend that
2 many, because I had a lot going on in my business world.
3 Ronnie Sabb won the -- Senator Sabb won the award for
4 attending all of them in person, but I attended all of them by
5 Zoom. There might have been one I missed, but I think I
6 attended all of them by Zoom. Not in person, but by Zoom.

7 Q. Mr. Traywick represented there were about nine or ten of
8 those hearings; do you recall that?

9 A. There were 10.

10 Q. And you attended at least more than half of them?

11 A. Oh, yes.

12 Q. And they were intended to seek input on communities of
13 interest, right?

14 A. No, not limited to that, just input. You weren't limited
15 to a community of interest, but you were limited to addressing
16 the plan.

17 Q. But this was before any plans were drawn, right? This
18 was over the summer?

19 A. Yes. I mean, you're getting input in order to help
20 develop the guidelines, and we didn't adopt the guidelines
21 till after those hearings.

22 Q. And those hearings were important to you because they
23 would help as you were considering and drawing maps, right?

24 A. Yes.

25 Q. You didn't take any notes from those hearings, all 10 of

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1901

1 them, right?

2 A. Well, I would take notes that I may want to ask this
3 person at the hearing -- I may want to remember his name and
4 ask him something at the hearing.

5 Q. But just a scrap piece of paper here or there, right?

6 A. No. I had a notebook, but it was all about -- I mean,
7 just a legal pad, is what I'm saying. It's not a scratch
8 sheet of paper, but a legal pad when I would ask them.

9 Q. You had a notebook from all the hearings?

10 A. No. I had a legal pad that I would -- may write
11 someone's name if I wanted to ask them a question.

12 Q. You didn't review any of the summaries or the transcripts
13 from those hearings when you were drawing Senate Amendment 1,
14 right?

15 JUDGE GERGEL: Mr. Cusick, I think he's indicated he
16 didn't draw the districts.

17 **BY MR. CUSICK:**

18 Q. Senator Campsen, as you were assessing changes that were
19 being made in Senate Amendment 1, which you were the sponsor
20 of, did you review any public hearing transcripts from over
21 the summer?

22 A. No.

23 Q. And you didn't look at any documents that synthesized the
24 public hearing comments; true?

25 A. No. I was at the public hearing.

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1902

1 Q. During the deposition, we talked about whether a district
2 might perform for a Black preferred candidate. Do you recall
3 that?

4 A. Generally. I'll take your word for it.

5 Q. And if you saw a map or analysis where a district outside
6 of CD 1 performed for a Black preferred candidate, you would
7 reject that plan, right?

8 MR. TRAYWICK: Objection. Calls for speculation.

9 JUDGE GERGEL: Overruled. It's cross-examination.

10 THE WITNESS: Could you restate that?

11 **BY MR. CUSICK:**

12 Q. If you saw an analysis, or a plan, for a district outside
13 of CD 6 also performed for a Black preferred candidate, you
14 would have rejected that plan, right?

15 A. No. Rejected a plan because it performed for a Black
16 preferred candidate?

17 Q. Outside of Congressional District 6.

18 A. No. That'd be a race-based decision, unless I'm
19 misunderstanding your question. Maybe I am.

20 Q. Mr. Traywick asked you questions about Exhibit S-62.

21 MR. CUSICK: If you could pull you that up for a
22 moment?

23 **BY MR. CUSICK:**

24 Q. This was an e-mail that you received from Breeden John.
25 Do you recall that?

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1903

1 A. Yes.

2 Q. Do you recall receiving a similar e-mail a few days
3 before this one about these same topics?

4 A. No.

5 MR. CUSICK: Could you pull up PX-651.

6 BY MR. CUSICK:

7 Q. Do you at all recall reviewing these talking points
8 before the e-mail you received on January 20th?

9 A. No. I have multiple jobs in the real world. It's not
10 full time. I don't believe I reviewed that, as I recall. I
11 recall getting it as I'm hurrying out on the floor actually,
12 which would be the later one.

13 MR. CUSICK: If you could pull up PX-335.

14 BY MR. CUSICK:

15 Q. This is an e-mail from Mr. Fiffick to Senator Rankin
16 entitled: House Questions Distilled and Clarified. Do you
17 see that?

18 A. Yes.

19 MR. CUSICK: And then if you could go to the second
20 page.

21 MR. TRAYWICK: Your Honor, he's not even on this
22 e-mail --

23 MR. CUSICK: I'll establish foundation.

24 MR. TRAYWICK: -- or the last one.

25 JUDGE GERGEL: Hold up. Establish foundation.

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1904

1 BY MR. CUSICK:

2 Q. Senator Campsen, you recall reviewing this document,
3 correct?

4 A. Yes.

5 Q. Even though you were not on the e-mail, right?

6 A. Yeah. I saw it at some point in time, but I can't
7 remember when.

8 Q. And you reviewed this during the redistricting cycle,
9 right?

10 A. Yes, I looked at that document at some point.

11 Q. And at the top it says: "House Questions Clarified and
12 Distilled With Senate Answers." Did I read that correctly?

13 A. Yes.

14 Q. And in the second -- or the third line, underlined and
15 bolded, it states that: "The Campsen Amendment is a 1, and
16 the Harpootlian is H2A." Do you see that?

17 A. Yes.

18 Q. And then midway down, do you see that committee criteria,
19 how was it ranked and how was it applied equally across the
20 boards?

21 A. Yes.

22 Q. And this was an explanation by the Senate staff,
23 describing Senate Amendment 1 and how the criteria was
24 applied, right?

25 A. I think it's -- I'm not sure it's about Senate Amendment

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1905

1 1. I think it is. I mean, I'll take your word for it if --
2 but...

3 Q. And the last two lines at the end, I won't have you read
4 it all, but it says: "We're all given consideration in no
5 particular order of preference and applied equally across all
6 seven districts." Did I read that correctly?

7 A. Yes.

8 Q. I now want to talk just briefly -- and I won't go into
9 the videos of the floor debates. But I want to just talk
10 about January 19th and the Judiciary Committee hearing from
11 the Senate; do you recall that?

12 A. Full Judiciary?

13 Q. Yeah.

14 A. Okay.

15 Q. During that hearing, you did not disclose that CD 1
16 sought to improve or shore up a Republican advantage, right?

17 A. I can't remember. I believe that I may not have. I
18 would expect every member to think that Republicans would
19 offer an amendment that did that, just like Senator
20 Harpootlian offered a Democratic amendment that did it.

21 Q. Would it surprise you partisanship was not mentioned at
22 all during that hearing?

23 A. There's not a single person in that room that would need
24 to be informed that partisanship is involved in drawing
25 congressional lines.

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1906

1 Q. That was a public hearing, right? Not everybody was an
2 elected official?

3 A. We're talking to each other. It's a full committee. We
4 don't -- we're members speaking to members.

5 Q. On behalf of the communities you represent, right?

6 A. Well, we're speaking senator to senator. There's not any
7 public testimony at the full committee. It's senators
8 debating an issue.

9 Q. But the hearings --

10 A. Those are the rules.

11 Q. But the hearings are live-streamed so people can look and
12 listen to those hearings and be informed about the process,
13 right?

14 A. Yes.

15 Q. You had no input in Senate Amendment 1 for any
16 congressional district lines outside of CDs 1 and 6, right?

17 A. Yes, because that's where the change needed to be, and
18 everyone else was happy with the rest of the plan.

19 Q. And you understood Senate staff worked on those other
20 districts?

21 A. Districts, yeah. With members too, with members' input,
22 yes.

23 Q. I won't go through the clips right now. But on January
24 20th, before, we've talked about that was the floor debate
25 where you presented Senate Amendment 1 fully. Do you recall

GEORGE CAMPSSEN, III - CROSS-EXAMINATION BY MR. CUSICK 1907

1 that?

2 A. Yes. I do recall that, uh-huh.

3 Q. I won't go over all the same questions. But, again, you
4 didn't disclose anything about partisanship or shoring up a
5 Republican advantage in presenting the bill that you were the
6 lead sponsor on?

7 A. Well, I think I did state one of the metrics that it
8 increased the Trump/Biden vote by 1.3, 1.36 -- something like
9 that -- percentage points. I think I stated that, which is a
10 minor increase, but it is an increase.

11 Q. You don't dispute that a 140,000 residents were moved
12 from District 1 to District 6 in the map, right?

13 A. Well, the 6th District had to pick up 85,000, and the 1st
14 had to shed 88,000 in rough numbers. So, that's where the
15 change needed to happen, because they have to be equal.

16 Q. And you also don't dispute that roughly 52,000 residents
17 were moved from CD 6 to CD 1, right?

18 A. Yes.

19 Q. That's roughly 190,000 voters between CD 1 and CD 6 that
20 were moved?

21 A. Yes. I think that's correct. Although, our constituent
22 consistency is very, very high, given how much of a shift you
23 had to make. And compared to the Democrat's plan, we knocked
24 it out the park. They rewrote the whole state to get their
25 political agenda done, that's what they were after. That's

GEORGE CAMPSSEN - REDIRECT EXAMINATION BY MR. TRAYWICK 1908

1 what they proposed: Rewrite the whole state.

2 Q. And despite the fact that 190,000 people were moved out
3 of CD 1 and CD 6, it's just a coincidence that the BVAP in CD
4 1 only moved 0.16 percent up?

5 A. That is a coincidence, yes, because we followed
6 geographic boundaries, is what we did. We even -- we used the
7 Harbor, the Cooper River, the Stono River. We used the Sea
8 Islands as a community of interest. And that's what, you
9 know, was a major element in that plan. And so, to honor
10 those other principles, we ended up moving more people than
11 you actually absolutely had to move. You had to move 88,000
12 people out of the 1st.

13 Q. Thank you, Senator Campsen. That's it.

14 JUDGE GERGEL: Thank you. Anything on redirect?

15 MR. TRAYWICK: Extremely brief.

16 JUDGE GERGEL: Very brief.

17 MR. TRAYWICK: Yes, your Honor.

18 JUDGE GERGEL: We're going to kill my staff and
19 Senator Campsen if we keep going.

20 MR. TRAYWICK: That was a long 10 minutes.

21 Your Honor, I want to start off, if Mr. Gore could
22 blow up PX-116, page 114, lines 19 to 21 on the screen. This
23 is the January 20th floor debate.

24 **REDIRECT EXAMINATION**

25 **BY MR. TRAYWICK:**

GEORGE CAMPSSEN - REDIRECT EXAMINATION BY MR. TRAYWICK 1909

1 Q. Could you read that first sentence into the record,
2 Senator Campsen? And this is a statement from Senator
3 Harpootlian on the floor, starting on line 19.

4 A. So, I'm speaking for Senator Harpootlian?

5 Q. It's a rare occasion, I know, but you relish it.

6 A. Senator Harpootlian and I actually have a very cordial
7 and good relationship.

8 Q. That's fine, sir. Sorry, we've got to get out of here.
9 So, if you wouldn't just mind reading that.

10 A. "So, if you look at the guidelines, my plan, our plan,
11 the Democrat Caucus plan, Senator Sabb and Matthews' plan, it
12 complies with the guidelines."

13 Q. So, when Mr. Cusick said nobody called it a Democratic
14 Caucus plan in the record, that wasn't an accurate
15 representation, correct?

16 A. Yes, that's correct.

17 MR. TRAYWICK: If you could pull up S-116, please.

18 BY MR. TRAYWICK:

19 Q. "Things to consider," that first bullet, does it not say:
20 Don't identify yourself as speaking on behalf of any
21 Democratic organization?

22 A. Yes.

23 Q. You testified you received this e-mail on January 17th,
24 correct?

25 A. I can't remember the date, but I'll trust you.

GEORGE CAMPSSEN - REDIRECT EXAMINATION BY MR. TRAYWICK 1910

1 Q. Do you recall hearing or sensing throughout the process
2 that Democrats had coordinated among and between each other to
3 present testimony to your subcommittee?

4 A. No question about that.

5 MR. CUSICK: I would just object, your Honors, to get
6 some foundation to that question. I know that there's an
7 e-mail in, but, otherwise, I'd appreciate some foundation to
8 understand.

9 JUDGE GERGEL: I think he's laid it. Overruled.

10 MR. TRAYWICK: Do I need to repeat the question?

11 THE WITNESS: No. It was a well-oiled machine. It
12 was very clear.

13 MR. TRAYWICK: Okay. Thank you. All right. And as
14 for the allegation that nobody ever testified to wanting two
15 congressmen, Mr. Gore, will you pull up S-240, starting at
16 1:14:05? This is Mr. Matt Sweeney.

17 JUDGE GERGEL: We've heard him before.

18 MR. TRAYWICK: We've heard him before, so we can --

19 JUDGE GERGEL: We acknowledge. You don't need to --

20 MR. TRAYWICK: -- acknowledge that's not true either,
21 correct? Okay.

22 **BY MR. TRAYWICK:**

23 Q. So, Senator Campsen, you would defer to staff's testimony
24 on what they consider when drawing a map, correct?

25 A. Yes.

GEORGE CAMPSSEN - REDIRECT EXAMINATION BY MR. TRAYWICK 1911

1 Q. Okay. Do you recall in a subcommittee meeting, John
2 Ruoff testifying that the high correlation of race and party
3 isn't necessarily true for Richland or Charleston Counties?

4 A. Yes, I do remember that.

5 Q. It's a good thing to hire a lawyer to give you legal
6 advice, right?

7 A. As a lawyer, I'd say yes.

8 Q. I thought so too.

9 A. But, seriously, this is a very specialized and difficult
10 body of law, so it's very important to have good legal staff
11 who practice in this area regularly.

12 Q. Do you recall seeing Plaintiffs' Exhibit 651? It was an
13 e-mail that Mr. Cusick initially showed you. That e-mail
14 said, Breeden John to Breeden John, correct?

15 A. I think that's right.

16 Q. Did you ever see that? It also said "draft," didn't it,
17 in the subject line?

18 A. I don't think I -- I saw that first iteration anyway.

19 Q. And one other last thing I'd like to the clean up in the
20 record -- well, second to last thing.

21 Do you remember watching the video of the full Judiciary
22 Committee earlier, where Senator Rankin said voters were moved
23 because they were Democrats, correct?

24 A. Yes.

25 Q. Okay. And didn't you provide Senator Margie Bright

GEORGE CAMPSSEN - REDIRECT EXAMINATION BY MR. TRAYWICK 1912

1 Matthews Trump numbers during that very same meeting?

2 A. Yes.

3 Q. Didn't you also provide Trump numbers on the floor of the
4 Senate?

5 A. Yes.

6 MR. TRAYWICK: No further questions. Thank you, your
7 Honors.

8 JUDGE GERGEL: Thank you.

9 Thank you, Senator.

10 We adjourn for the day. 9:00 o'clock tomorrow
11 morning.

12 THE WITNESS: Thank you, sir.

13 *(Adjourned for the day.)*

14 * * * * *

15 I certify that the foregoing is a correct transcript from
16 the record of proceedings in the above-entitled matter.

17 s/Lisa D. Smith,

12/28/2022

18 Lisa D. Smith, RPR, CRR

Date

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