**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MARCUS CASTER, et al.,
     Plaintiffs,
 	
vs.
 	
WES ALLEN, et al.,
     Defendants.
	No. 2:21-cv-01536-AMM

EVAN MILLIGAN, et al.,
     Plaintiffs,
 	
vs.
 	
WES ALLEN, et al.,
     Defendants.
	No. 2:21-cv-01530-AMM

**JOINT STIPULATED FACTS FOR REMEDIAL
PROCEEDINGS**

I.   Demographics of 2023 Plan

1. The 2023 Plan contains one district that exceeds 50% Black Voting Age

Population ("BVAP").

2. According to 2020 Census data, CD 7 in the 2023 Plan has a BVAP of

50.65% Any-Part Black.

3. Under the 2023 Plan, the district with the next-highest BVAP is CD 2.

4. According to 2020 Census data, CD 2 in the 2023 Plan has a BVAP of

39.93% Any-Part Black.

Population Summary

Thursday, July 20, 2023 · 7:14 PM

District	Population	Deviation	% Devn.	[% White]	[% Black]	[% AP_Wht]	[% AP_Blk]	[% 18+_Blk]	[% 18+ _AP_Blk]
1	717,754	0	0.00%	65.36%	25.07%	70.31%	26.46%	23.8%	24.63%
2	717,755	1	0.00%	50.86%	39.93%	54.97%	41.63%	38.83%	39.93%
3	717,754	0	0.00%	70.79%	20.39%	75.16%	21.76%	19.93%	20.7%
4	717,754	0	0.00%	81.53%	6.93%	86.55%	7.9%	6.74%	7.22%
5	717,754	0	0.00%	69.02%	17.59%	75.72%	19.29%	17.33%	18.33%
6	717,754	0	0.00%	70.23%	19.36%	75.03%	20.51%	18.58%	19.26%
7	717,754	0	0.00%	40.89%	51.32%	44.15%	52.59%	49.68%	50.65%

II.   General Election Voting Patterns in the 2023 Plan

5. Under the 2023 Plan, Black Alabamians in CD 2 and CD 7 have consistently preferred Democratic candidates in the general election contests Plaintiffs' experts analyzed for the 2016, 2018, 2020, and 2022 general elections, as well as the 2017 special election for U.S. Senate. In those same elections, white Alabamians in CD 2 and CD 7 consistently preferred Republican candidates over (Black-preferred) Democratic candidates. In CD 2, white-preferred candidates (who are Republicans) almost always defeated Black-preferred candidates (who are Democrats). In CD 2, white candidates (who were Republicans) always defeated Black candidates (who were Democrats).

III.   Performance of CD 2 in the 2023 Plan

6. The *Caster* Plaintiffs' expert Dr. Maxwell Palmer analyzed the 2023 Plan using 17 contested statewide elections between 2016 and 2022. That analysis showed:

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a. Under the 2023 Plan, the average two-party vote-share for Black-preferred candidates in CD 2 is 44.5%.

b. Under the 2023 Plan, the Black-preferred candidate in CD 2 would have been elected in 1 out of the 17 contests analyzed.

Table 4: Vote Share of Black-Preferred Candidates — SB 5 Plan

		CD 2	CD 7
2022	U.S. Senator*	38.6%	
	Governor*	37.5%	
	Attorney General*	39.1%	
	Sec. of State*	39.2%	
	Supreme Ct., Place 5*	39.7%	
2020	U.S. President	45.4%	61.4%
	U.S. Senator	47.7%	63.2%
2018	Governor	45.1%	63.7%
	Lt. Governor*	45.7%	62.7%
	Attorney General	48.3%	64.5%
	Sec. of State	45.8%	62.6%
	State Auditor*	46.6%	62.9%
	Supreme Ct., Chief	48.1%	65.5%
	Supreme Ct., Place 4	46.1%	63.2%
2017	U.S. Senator	55.8%	72.0%
2016	U.S. President	44.2%	60.3%
	U.S. Senator	43.9%	59.1%

* Indicates that the Black candidate of choice was Black.

7. The *Milligan* Plaintiffs' expert Dr. Baodong Liu completed a performance analysis of the 2023 Plan using 11 statewide biracial elections between 2014 and 2022. That analysis showed:

a. Under the 2023 Plan, the average two-party vote-share for Black-preferred candidates in CD 2 is 42.2%.

b. Under the 2023 Plan, the Black-preferred candidate in CD 2 would have been elected in 0 out of the 11 contests analyzed.

Table 1: RPV in the 11 Biracial Elections based on the Livingston Plan, CD2

Election	Black Pref-Cand	White Pref-Cand	% vote cast for BPC in Livingston Plan	Black Support for Black Cand (95% CI)	White Support for Black Cand (95% CI)	BPC Won in Livingston Plan?	RPV?
2022 Governor	Yolanda Flowers	Kay Ivey	37.8%	94.0% (90-96)	4.9% (4-6)	No	Yes
2022 US Senate	Will Boyd	Katie Britt	38.8%	93.5% (89-96)	6.0% (4-9)	No	Yes
2022 Attorney General	Wendell Major	Steve Marshall	39.3%	94.3% (91-97)	6.3% (5-8)	No	Yes
2022 Secretary of State	Pamela Laffitte	Wes Allen	39.4%	94.2% (90-97)	6.0% (4-9)	No	Yes
2022 Supreme Court, Place 5	Anita Kelly	Bradley Byrne	39.9%	94.2% (91-97)	6.6% (5-10)	No	Yes
2018 Lt Governor	Will Boyd	Will Ainsworth	46.0%	93.6% (91-96)	6.3% (5-10)	No	Yes
2018 State Auditor	Miranda Joseph	Jim Zigler	46.9%	94.2% (90-97)	8.2 (6-13)	No	Yes
2018 Public Service Commission, Place 1	Cara McClure	Jeremy Oden	46.9%	95.7% (93-97)	6.5% (5-10)	No	Yes
2014 Secretary of State	Lula Albert-Kaigler	John Merrill	43.6%	91.5% (88-94)	6.2% (5-8)	No	Yes
2014 Lt Governor	James Fields	Kay Ivey	43.4%	91.3% (88-93)	6.3% (4-9)	No	Yes
2014 State Auditor	Miranda Joseph	Jim Zigler	41.7%	88.0% (81-91)	9.1% (6-14)	No	Yes

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8. Dr. Liu also analyzed the 2020 presidential election between Biden-Harris and Trump-Pence. His analysis of both the 2020 presidential election and the 11 biracial elections between 2014 and 2022 showed:

a. Under the 2023 Plan, the average two-party vote-share for Black-preferred candidates in CD 2 is 42.3%.

b. Under the 2023 Plan, the Black-preferred candidate in CD 2 would have been elected in 0 out of the 12 contests analyzed.

9. The Alabama Legislature analyzed the 2023 Plan in seven election contests: 2018 Attorney General, 2018 Governor, 2018 Lieutenant Governor, 2018 Auditor, 2018 Secretary of State, 2020 Presidential, and 2020 Senate. That analysis showed:

a. Under the 2023 Plan, the average two-party vote-share for Black-preferred candidates in CD 2 is 46.6%.

b. Under the 2023 Plan, the Black-preferred candidate in CD 2 would have been elected in 0 out of the 7 contests analyzed.

Democrat CD	2018 AG	2018 GOV	2018 LTGOV	2018 AUD	2018 SOS	2020 PRES	2020 SEN	Average
1	39.2%	38.5%	36.7%	37.6%	36.9%	34.8%	38.2%	37.4%
2	48.5%	45.3%	46.0%	46.8%	46.0%	45.6%	48.0%	46.6%
3	33.3%	32.6%	31.2%	31.8%	31.5%	29.3%	31.9%	31.6%
4	24.8%	24.8%	21.7%	22.6%	21.7%	18.6%	21.9%	22.3%
5	39.2%	38.6%	36.8%	38.0%	37.4%	36.2%	39.5%	37.9%
6	35.6%	36.2%	32.8%	33.7%	33.2%	33.4%	35.9%	34.4%
7	64.7%	64.0%	62.9%	63.2%	62.9%	61.6%	63.4%	63.2%

Republican CD	2018 AG	2018 GOV	2018 LTGOV	2018 AUD	2018 SOS	2020 PRES	2020 SEN	Average
1	60.8%	61.5%	63.3%	62.4%	63.1%	65.2%	61.8%	62.6%
2	51.5%	54.7%	54.0%	53.2%	54.0%	54.4%	52.0%	53.4%
3	66.7%	67.4%	68.8%	68.2%	68.5%	70.7%	68.1%	68.4%
4	75.2%	75.2%	78.3%	77.4%	78.3%	81.4%	78.1%	77.7%
5	60.8%	61.4%	63.2%	62.0%	62.6%	63.8%	60.5%	62.1%
6	64.4%	63.8%	67.2%	66.3%	66.8%	66.6%	64.1%	65.6%
7	35.3%	36.0%	37.1%	36.8%	37.1%	38.4%	36.6%	36.8%

IV.   The 2023 Special Session

10.   On June 27, 2023, Governor Kay Ivey called a special legislative session to begin on July 17, 2023 at 2:00 p.m. Her proclamation limited the Legislature to addressing: "***Redistricting***: The Legislature may consider legislation pertaining to the reapportionment of the State, based on the 2020 federal census, into districts for electing members of the United States House of Representatives."

11.   For the special session, Representative Chris Pringle and Senator Steve Livingston were the Co-Chairs of the Permanent Legislative Committee on Reapportionment ("the Committee"). The Committee had 22 members, including 7 Black legislators, who are all Democrats, and 15 white legislators, who are all Republicans.

12.   Before the Special Session, the Committee held pre-session hearings on June 27 and July 13 to receive input from the public on redistricting plans.

13.   At the Committee public hearing on July 13, Representative Pringle moved to re-adopt the 2021 Legislative Redistricting Guidelines ("Guidelines").

14.   The Committee voted to re-adopt the 2021 Guidelines.

15.   The only plans proposed or available for public comment during the two pre-session hearings were the "VRA Plaintiffs' Remedial Plan" from the *Milligan* and *Caster* Plaintiffs and the plans put forward by Senator Singleton and, Senator Hatcher.

16.   On July 17, the first day of the Special Session, Representative Pringle introduced a plan he designated as the "Community of Interest" ("COI") plan.

17.   The COI plan had a BVAP of 42.45% in Congressional District 2 ("CD2"), and Representative Pringle said it maintained the core of existing congressional districts.

18.   The COI plan passed out of the Committee on July 17 along party and racial lines, with all Democratic and all Black members voting against it. Under the COI plan, the Committee's performance analysis showed that Black-preferred candidates would have won two of the four analyzed-statewide races from 2020 and 2022.

COMMMUNITY OF INTEREST PLAN

Year	Race	CD2		CD7	
		% Dem.	% Rep.	% Dem.	% Rep.
2020	Pres.	47.53	51.56	61.94	37.28
2020	U.S. Senate	50.23	49.77	64.19	35.81
2018	Gov.	47.77	52.23	63.89	36.11
2018	A.G.	50.97	49.03	64.34	35.66

19.   The "Opportunity Plan" (or "Livingston 1") was also introduced on July 17. Senator Livingston was the sponsor of the Opportunity Plan.

20.   The Opportunity Plan had a BVAP of 38.31% in CD2.

21.   Neither the COI Plan nor Opportunity Plan were presented at the public hearings on June 27 or July 13.

22.   On July 20, the House passed the Representative Pringle sponsored COI Plan, and the Senate passed the Opportunity Plan. The votes were along party lines with all Democratic house members voting against the COI plan. The house vote was also almost entirely along racial lines, with all Black house members, except one, voting against the COI plan. All Democratic and all Black senators voted against the Opportunity Plan.

23.   Afterwards, on Friday, July 21, a six-person bicameral Conference Committee passed Senate Bill 5 ("SB5"), which a modified-version of the Livingston plan ("Livingston 3" plan or the "2023 Plan").

24.   The 2023 Plan was approved along party and racial lines, with the two

Democratic and Black Conference Committee members (Representative England and Representative Smitherman) voting against it, out of six total members including Representative Pringle and Senator Livingston.

25.   Representative England, one of the two Democratic and Black legislators on the Conference Committee, stated that the 2023 Plan was noncompliant with the Court's preliminary-injunction order and that the Court would reject it.

26.   On July 21, SB5 was passed by both houses of the legislature and signed by Governor Ivey.

27.   In the 2023 Plan enacted in SB5, the Black voting-age population ("BVAP") is 39.9%.

28.   The map contains one district, District 7, in which the BVAP exceeds 50%.

29.   SB5 passed along party lines and almost entirely along racial lines. Out of all Black legislators, one Republican Black House member voted for SB5, and the remaining Black House members voted against.

30.   SB5 includes findings regarding the 2023 Plan. The findings purport to identify three specific communities of interest (the Black Belt, the Wiregrass, and the Gulf Coast).

V.   Communities of Interest

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31.   The Black Belt is a community of interest.

32.   The Black Belt includes the 18 core counties of Barbour, Bullock, Butler, Choctaw, Crenshaw, Dallas, Greene, Hale, Lowndes, Macon, Marengo, Montgomery, Perry, Pickens, Pike, Russell, Sumter, and Wilcox. In addition, Clarke, Conecuh, Escambia, Monroe, and Washington counties are sometimes but not always included within the definition of the Black Belt.

33.   The 2023 Plan divides the 18 core Black Belt counties into two congressional districts (CD-2 and CD-7) and does not split any Black Belt counties.

34.   The 2023 Plan keeps Montgomery County whole in District 2.

35.   The 2023 Plan places Baldwin and Mobile Counties together in one congressional district.

36.   Baldwin and Mobile Counties have been together in one congressional district since redistricting in 1972.

37.   Alabama splits Mobile and Baldwin Counties in its current State Board of Education districts, as well as those in the 2011 redistricting cycle.