1   UNITED STATES DISTRICT COURT
     FOR THE NORTHERN DISTRICT OF GEORGIA
2   ATLANTA DIVISION

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4 ALPHA PHI ALPHA FRATERNITY,)DAY 1 - P.M. SESSION
INC., ET AL.,   )
5   PLAINTIFFS,)
)DOCKET NO.1:21-CV-05337-SCJ
6   -VS-   )
)
7 BRAD RAFFENSPERGER,   )
)
8   DEFENDANT.)

9 COAKLEY PENDERGRASS,   )
ET AL.,   )
10   PLAINTIFFS,)
)DOCKET NO. 1:21-CV-5339-SCJ
11   -VS-   )
)
12 BRAD RAFFENSPERGER, ET AL.,)
)
13   DEFENDANTS.)

14 ANNIE LOIS GRANT, ET AL.,)
)
15   PLAINTIFFS,)
)DOCKET NO. 1:22-CV-00122-SCJ
16   -VS-   )
)
17 BRAD RAFFENSPERGER, ET AL.,)
)
18   DEFENDANTS.)

19
      TRANSCRIPT OF BENCH TRIAL
20   BEFORE THE HONORABLE STEVE C. JONES
     UNITED STATES DISTRICT JUDGE
21   TUESDAY, SEPTEMBER 5, 2023

22

23 **STENOGRAPHICALLY RECORDED BY:**

24   PENNY PRITTY COUDRIET, RPR, RMR, CRR
     OFFICIAL COURT REPORTER
25   UNITED STATES DISTRICT COURT
      ATLANTA, GEORGIA

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1   I N D E X

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WITNESSES: PAGES:
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WILLIAM S. COOPER
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1   THE COURT: Okay. You're ready. We can resume.

2   MR. SAVITZKY: Good afternoon, Your Honor.

3   THE COURT: Good afternoon.

4   MR. SAVITZKY: And picking up just where we left off,

5   we had just talked about the corridor management plan, I think

6   we had just been -- Alpha's 54 had just been accepted into

7   evidence.

8   THE COURT: Yes.

9   MR. SAVITZKY: And, Your Honor, I have handed defense

10 counsel and distributed, and I'll hand up as well, what's been

11 marked for identification as Alpha's 325. Here's another copy

12 as well.

13   This is a resolution by the State Transportation

14 Board of Georgia from 2015 accepting that corridor management

15 plan and officially designating the route between Albany

16 running through Camilla, Pelham, Meigs, and to Thomasville,

17 the Old Dixie Highway, alongside US 19, as an official scenic

18 byway in Georgia. And we would ask the Court to take judicial

19 notice of that fact at this time.

20   THE COURT: Any objection, Mr. Tyson?

21   MR. TYSON: Your Honor, yes. I'm just going to lodge

22 a relevance objection here in terms of this document. It's

23 not something that we had had on the exhibit list. And I

24 haven't heard any testimony from Mr. Cooper that he relied on

25 the State Transportation Board's actions in terms of the

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1   drawing of his map. So I think there would be a relevance

2   issue. And it seems it's a government document, so I don't

3   think there's really a hearsay issue but would just impose a

4   relevance objection here.

5   THE COURT: This is the first time you've seen this

6   exhibit?

7   MR. TYSON: Yes, Your Honor.

8   MR. SAVITZKY: Your Honor, judicial notice -- we're

9   not asking the document to be admitted into evidence. We're

10   asking that judicial notice be taken that the corridor

11   management plan that was submitted, the idea that Dixie

12   Highway would be officially designated as a scenic byway, was

13   officially approved of by the state a year after that corridor

14   management plan was submitted.

15   And Mr. Cooper has testified to the relevance of this

16   information. It just further establishes that the connections

17   between these communities that Mr. Cooper testified to have

18   been validated by the state DOT, state agency, recognizing

19   those connections.

20   THE COURT: Well, as long as it's been validated by

21   the State -- in other words, Dr. Cooper's (sic) testimony does

22   make it relevant, but I'll take it the way it is and I'll give

23   it whatever weight it's due over objection.

24   THE WITNESS: Your Honor, that's Mister.

25   THE COURT: Mister?

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1   THE WITNESS: Mister.

2   THE COURT: I gave you a promotion.

3   THE WITNESS: Thank you.

4   THE COURT: Sorry about that, sir.

5 BY MR. SAVITZKY:

6 **Q.**   All right. Mr. Cooper, let me grab my clicker here.

7 Let's move on to the last majority Black district that you've

8 identified as being in your illustrative plan. This is

9 illustrative House District 145, Metro Macon area. We're

10 looking at Alpha's 1, page 678 on the right, that is the 2021

11 plan; and Alpha's 1, 680, the illustrative plan 145, on the

12 left-hand side. And 145 is the orange district we see here.

13   Tell us about the area that we're looking at right now.

14 **A.**   Well, this is the area that I had identified, which

15 includes the Macon-Bibb MSA and the Warner Robins MSA, which

16 is Houston and Peach County combined.

17   And it turns out that one can get a third House district

18 built off of Bibb County with a small amount of people over in

19 Monroe County. So House District 145 stays within the MSA,

20 the Macon-Bibb MSA.

21   And then the other two, 142 and 143, would change

22 slightly. 142 would go down into the Warner Robins MSA, which

23 is right next door. So while it's a split of an MSA, it's a

24 neighboring MSA that's contiguous.

25 **Q.**   And, Mr. Cooper, focusing here on your illustrative plan

1 in addition to those MSA boundaries you've been referring to,

2 did the location of incumbents come into play as you were

3 configuring an illustrative plan in this area?

4 **A.**   My recollection is that did become something of an issue.

5 Not just in Macon-Bibb, but even in Monroe. So that was an

6 issue I recall looking at different variations to protect

7 incumbents. In the end, I protected the incumbents, I

8 believe.

9 **Q.**   Is this district compact in your opinion?

10 **A.**   I think so. It's almost a perfect square in Macon-Bibb.

11 I mean, not quite so much in Monroe, but it's still following

12 a county line and taking in a couple of VTDs.

13 **Q.**   I think that's it. I just have a couple other questions

14 to sum it up.

15   Did you form an opinion on whether the Black population

16 in Georgia is sufficiently numerous and compact to comprise a

17 voting age majority in additional State Senate and State House

18 districts?

19 **A.**   Yes, I did.

20 **Q.**   What is your opinion?

21 **A.**   My opinion is there can be three additional Senate

22 districts in Georgia. As I've drawn them, two would be in

23 Metro Atlanta and one would be in the Eastern Black Belt and

24 includes some of those counties that have majority Black

25 populations or significant Black populations that have never

1 been part of any kind of district since the passage of the

2 Voting Rights Act that would have allowed them to elect a

3 candidate of choice.

4 **Q.**   And with respect to the House plan, did you form an

5 opinion on whether the Black population in Georgia is

6 sufficiently numerous and compact to comprise a voting age

7 majority in additional State House districts?

8 **A.**   Yes. I believe that at least five House districts could

9 be drawn that would be majority Black.

10 **Q.**   And --

11 **A.**   And that are new.

12 **Q.**   And were you able to draw illustrative plans that reflect

13 those districts you found could be created?

14 **A.**   Yes, following traditional redistricting principles.

15 **Q.**   Do considerations of race predominate over those other

16 principles in drawing your illustrative plans?

17 **A.**   No. I was aware of race, it was a factor, as it should

18 be following traditional redistricting principles.

19 **Q.**   Is it your opinion, do you feel that you balanced the

20 traditional districting principles in drawing these

21 illustrative districts that we've talked about today?

22 **A.**   I think so.

23 **Q.**   And if the Court ultimately found that there was vote

24 dilution in these areas that we have focused on today, could

25 your plans be implemented to address and ameliorate vote

1   dilution in those areas?

2   **A.**   I believe so.   I've drawn other plans in other cases.

3   For example, in South Dakota the Court ordered a plan that I

4   developed in 2008 -- I think the year was 2008, when the

5   lawsuit was finally resolved.   The State of South Dakota had

6   refused to produce a remedial plan, so the Judge just ordered

7   my plan into place which created a new House district and a

8   new Senate district around the Pine Ridge Reservation in South

9   Dakota where the Sioux Nation resides predominantly.

10 **Q.**   And you think that if the Court were to find there was

11 vote dilution here, the plans you've drawn could be ordered

12 into place as a remedy for that vote dilution?

13 **A.**   I believe so.

14   MR. SAVITZKY: I have no further questions for the

15 witness at this time.

16   THE COURT: All right.   You're representing Alpha.   I

17 don't think Pendergrass and Grant have any questions however

18 at this point; is that correct?

19   MS. KHANNA: Yes, that's correct, Your Honor.

20   THE COURT: Then, Mr. Tyson, proceed with your cross.

21   MR. TYSON: We believe we've resolved our technical

22 problems, Your Honor, so we'll see if this works better this

23 time.

24   THE COURT: All right.

25   MR. TYSON: And, Your Honor, like Mr. Savitzky, I

1   also have some notebooks for everybody. So if I could have

2   permission to distribute those.

3   THE COURT: Yes. Thank you.

4   Mr. Tyson, a lot of trees died for this book.

5   MR. TYSON: They have, unfortunately, Your Honor.

6   And just for reference as well, a number of the

7   things we'll be looking at in Mr. Cooper's cross are from

8   Mr. Morgan's report. I know that's not admitted yet, we'll

9   get that admitted when he testifies. But I just wanted to

10   make sure there was no issue from anybody with using those

11   exhibits from Mr. Morgan's report.

12   CROSS-EXAMINATION

13   BY MR. TYSON:

14   Q.   Good afternoon, Mr. Cooper.

15   A.   Good afternoon to you.

16   Q.   So we've heard a lot about maps and map drawing. And I

17   wanted to just get some basic information as we talk about how

18   you go about the process of drawing redistricting maps.

19   And I put up on the screen a demonstrative of Maptitude

20   for Redistricting. I'm not asking this to be admitted, but

21   wanted to just give some reference for people.

22   Is this similar to how your Maptitude screen looks when

23   you were drawing redistricting plans?

24   A.   No.

25   Q.   Can you tell me, do you have a visual representation of

1 the map that you're drawing in the window titled "GA House

2 Demonstratives," something similar to that when you're

3 drawing?

4 **A.**   Something similar. The one difference is, is that I run

5 reports off using Maptitude for Redistricting 2021 or '22,

6 whatever it is. When I'm drawing plans, because I started

7 drawing plans long ago using an older version of Maptitude

8 that I find much easier to deal with, I see a completely

9 different screen.

10   For example, I don't get Reock scores on screen

11 automatically. Reock being the compactness scores. But it's

12 the same software. And when I need to run off report, I just

13 export it into a Block Equivalency File and bring it up to

14 look at the reports. Not really so much the map.

15   THE COURT: Yeah, slow down a little bit.

16   THE WITNESS: I'm sorry.

17   (Discussion held off the record)

18   THE COURT: Let's take it from the top again.

19   THE WITNESS: It's a lot easier for me to deal with

20 the older version of Maptitude because I've used it for many

21 years. And I use Maptitude for Redistricting to run off the

22 reports.

23   When I'm actually printing these maps out, I use

24 plain old Maptitude 2022 version that won't let you do

25 redistricting, but it's very easy for me to use that to run

1   off maps in batch sequences of, you know, all the majority

2   Black districts or -- I just have various macros and computer

3   codes to run them off automatically.

4   THE COURT: Mr. Cooper, you've got to slow down a

5   little bit for the court reporter.

6   THE WITNESS: I'm sorry. I don't know why I talk

7   fast. I'm from the south.

8   BY MR. TYSON:

9   Q.   So, Mr. Cooper, in -- when you're drawing a redistricting

10 map you can display different layers on that map; right?

11 A.   Yes.

12 Q.   And those layers are almost like old-style overhead

13 projectors, you can add different --

14 A.   Right.

15 Q.   -- layers on top and see all of them simultaneously?

16 A.   Yes.

17 Q.   And that can include things like county boundaries and

18 highways?

19 A.   Yes.

20 Q.   And that can include precinct outlines; correct?

21 A.   Yes. I have those on screen using the older version.

22 Q.   And there's a box here titled "Data View to Pending

23 Changes." Is there a pending changes box when you're drawing

24 redistricting plans?

25 A.   No. I never use it. Never use it. Never have used it

1   since I first got the software in 1999. It just sort of gets

2   in the way.

3   Q.   And you can change the labels for the different layers

4   that you're looking at; correct?

5   A.   Well, that's right. You can put precinct numbers on

6   there, you, can put population totals, sure.

7   Q.   And --

8   A.   But it gets very cluttered when you're zoomed out, so I

9   typically don't do that. I will label cities and towns and I

10   keep the highway lines up, so...

11   Q.   And do you sometimes use labels to display population and

12   demographic information?

13   A.   I often display total population.

14   Q.   And can you also set a setting to display racial

15   population of different parts of geography?

16   A.   You could. I rarely ever do that.

17   Q.   And when you're drawing maps, let me just talk through

18   what kind of data you have and didn't have. You had, I

19   believe you said, racial data; correct?

20   A.   I have a PL 94-171 file.

21   Q.   And that's the geographic information from the census;

22   right?

23   A.   Right. That is from the census. And I -- typically with

24   the old version I just run off -- I've run off the whole

25   country to use with the old version, and so for -- with the

1   old version, I'm using the raw PL 94-171 data that I imported

2   into the Maptitude 2022, which is using the data as delivered

3   by Caliper Corporation as part of the cost of having Maptitude

4   for Redistricting 2021.

5   Q.   And I believe you indicated a few minutes ago you have

6   the ability to run reports on compactness and split

7   geographies; right?

8   A.   Yes. And I can do that in the old version, too, it's

9   just that the new version, I believe, automatically puts in a

10 couple of scores when you first open up the box. I could be

11 wrong about that, but I don't monitor it continuously. I

12 do -- I can run it on the old version, though.

13 Q.   So if you want to know a compactness score, you have to

14 export a plan and run a report?

15 A.   No. With the old version of Maptitude I get Reock,

16 Polsby-Popper and a couple of other compactness scores.

17   THE WITNESS: I'm sorry. That's a tricky one.

18 Reock, R-E-O-C-K, in the USA.

19   COURT REPORTER: Will you please repeat your answer.

20   THE COURT: Repeat that.

21   THE WITNESS: R-E-O-C-K is how you spell it.

22   THE COURT: Repeat the answer.

23   THE WITNESS: Oh, I'm sorry.

24   MR. TYSON: Maybe I'll just ask it again.

25   THE WITNESS: Yeah. Please ask it again.

1 BY MR. TYSON:

2 Q.   So when you're drawing maps, you don't continuously see a

3 compactness score. You have to run a report to review a

4 compactness score; is that right?

5 A.   If you're using the older version of Maptitude for

6 Redistricting, that's true. Well, it's an instantaneous

7 report, though. I mean, you could constantly be checking it.

8 I just don't obsess over compactness scores to the extent that

9 I need to see one every two minutes.

10 Q.   And when you're drawing, you generally rely for

11 compactness on how a district looks and then check the

12 compactness score towards the end of the drawing process;

13 right?

14 A.   Well, sometimes during the drawing process. It just

15 varies.

16 Q.   In terms of other data you had, you also had incumbent

17 addresses so you could display that information on the map;

18 right?

19 A.   Right. And I displayed that all the time. I knew -- I

20 had big blue stars where all the incumbents lived, or at least

21 where I believed they lived based on the dataset you gave me

22 and a couple of modifications based on information I received

23 from the attorneys for the plaintiffs in 2022, late 2022.

24 Q.   And you had the boundaries of the prior and enacted

25 plans; right?

1 A.   Yes.

2 Q.   And you had the General Assembly guidelines; correct?

3 A.   Yes. Well, I didn't have them on screen. I mean, I'd

4 read them.

5 Q.   And you had a table with racial information about each

6 county and population in each county; right?

7 A.   I ran off tables of that type for the report, but I was

8 not accessing that while I was drawing the plan. I just ran

9 that off as supplemental demographic information for my

10 report.

11 Q.   And in terms of data you did not have, you did not have

12 any political data; correct?

13 A.   Correct.

14 Q.   And so you were not able to use any political performance

15 or election data when you were drawing any of the illustrative

16 plans?

17 A.   No. I was testifying on *Gingles* 1 and that's independent

18 of partisan.

19 Q.   And you've referenced several times American Community

20 Survey data socioeconomic information.

21 A.   Right.

22 Q.   That was not displayed in Maptitude while you were

23 drawing; correct?

24 A.   I occasionally accessed the charts I produced. I don't

25 think I accessed bloc group-level data relating to the ACSs.

1 I was drawing a plan and that gets very complicated.

2 **Q.**   So later in your report when you discuss labor force

3 participation, bachelor's degrees, you didn't have that

4 information displayed on the screen while you were drawing;

5 right?

6 **A.**   No.   I was looking at the county totals, not components

7 of counties.

8 **Q.**   And in terms of other --

9 **A.**   Or -- or -- when I say "components of counties," I did

10 look at some municipalities along the way.

11 **Q.**   But to be clear, the ACS data is only at the county and

12 municipality level, not below those levels of geography;

13 right?

14 **A.**   Well, it's at the bloc group level.   One can do it at the

15 bloc group level.   I did not display bloc group-level data as

16 I was drawing the plan.   Of course, when you're looking at

17 citizenship, then you can use disaggregated bloc group level

18 and actually arrive at a rough estimate of what the percentage

19 of the citizen population would be in a given district.   And I

20 wasn't displaying the citizen voting age population either.

21 **Q.**   And so just so we're clear, although that's possible, you

22 weren't displaying any ACS data on the map while you were

23 drawing the illustrative plans; correct?

24 **A.**   I don't think I was.

25 **Q.**   And you never reviewed any public testimony from Georgia

1 voters when you were preparing your plan; right?

2 **A.**   No, I did not.

3 **Q.**   And you didn't keep notes during the map drawing process

4 to explain the decisions you made; correct?

5 **A.**   I did not do that. It would be a laborious task.

6 **Q.**   So let's talk --

7 **A.**   I do name -- I save some plans, so I do name some plans

8 like this part of the state, that part of the state, but not

9 extensive notes on why I was doing that particular draft.

10 **Q.**   So in terms of a choice for a particular district, when

11 we're talking about different factors that went into that

12 decision, you're going off your memory on that, not on any

13 notes or other documents related to that; correct?

14 **A.**   As we sit here today?

15 **Q.**   Yes.

16 **A.**   Yes.

17 **Q.**   So let's move to some term definitions. I know we talked

18 a little bit about that, too. And I believe you testified

19 that a majority Black district in your report is a district

20 where the any part Black voting age population is over

21 50 percent; is that correct?

22 **A.**   Correct.

23 **Q.**   And the term "majority-minority district" can include

24 other racial minorities with Black voters; right?

25 **A.**   Anyone who is not non-Hispanic white.

1 **Q.**   And so all majority Black districts are majority-minority

2 districts, but not all majority-minority districts are

3 necessarily majority Black districts; right?

4 **A.**   Correct.

5 **Q.**   Another term you use in your report is the term

6 "packed" --

7   MR. TYSON: And, actually, I apologize, Your Honor.

8 Let me get a copy of these slides for everybody.

9 BY MR. TYSON:

10 **Q.**   Mr. Cooper, on page 31, note -- footnote 23 on the

11 screen, you define packing as "election districts where a

12 minority population is unnecessarily concentrated, resulting

13 in an overall dilution of minority voting strength on the

14 plan"; is that right?

15 **A.**   Yes.

16 **Q.**   And you didn't pack any districts on your illustrative

17 plans; correct?

18 **A.**   I probably did, because I left districts intact in some

19 places that were drawn by the State. I was not trying to

20 unpack the whole state, I was asked to develop *Gingles*

21 1-compliant districts. So some districts might have remained

22 well over what would be considered packing, but I did not

23 pursue that because it would have meant many more changes to

24 the existing plan.

25 **Q.**   For any districts that you changed, if you modified a

1 district, did you pack any of the districts that you drew that

2 were not existing districts from the prior plan?

3 A.   I'm not sure what you mean by that. I didn't pack any of

4 the -- any of the new majority Black districts.

5 Q.   And my question was, you modified several districts

6 around the new majority Black districts; is that correct?

7 A.   That's correct.

8 Q.   Are any of the districts surrounding a new majority Black

9 district packed districts if you drew the district?

10 A.   I could not answer that, but that's a little bit

11 different if a district is now packed, in the sense that it's

12 got more Black people in it than it previously did. The

13 upside is a new majority Black district has been created, so

14 that's not necessarily problematic.

15 Q.   So sitting here today, you can't say whether you packed

16 any districts that you drew that were different than districts

17 drawn in the enacted plan; is that right?

18 A.   I'm not as obsessed with race as you are, so I cannot say

19 that.

20 Q.   Okay. So let's look at the population summary report.

21 This is Exhibit 01 to your plan. This is a chart you created

22 for part of your report; correct?

23 A.   Yes.

24 Q.   In the column that says "Percent AP Black" here is the

25 Black voting age population; is that correct?

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1   **A.**   That is correct.

2   **Q.**   And the column over here that says "NHDOJ Black CVAP"

3   refers to non-Hispanic individuals who were voting age and

4   citizens; is that also correct?

5   **A.**   Well, that is a somewhat expanded category that would

6   include anyone who is single race non-Hispanic Black, or of

7   two races, namely Black and white and non-Hispanic. That --

8   that reference to DOJ Black is the definition that the

9   Department of Justice uses in most voting rights cases when

10   there are just two sets of groups at issue, the non-Hispanic

11   whites and the minority population at issue.

12   If it's a broader category, then there would be -- you

13   know, coalition districts or something like that, then you

14   might have non-Hispanic DOJ Black, non-Hispanic DOJ Indian or

15   indigenous, non-Hispanic DOJ Asian. So that way you can get a

16   sum total.

17   So you really cannot derive a non-Hispanic any part Black

18   number from the US Census Bureau at the district level.

19   **Q.**   Thank you.

20   In looking at the --

21   **A.**   But by the non-Hispanic Black CVAP at the district level.

22   **Q.**   And looking at District 34 on your illustrative Senate

23   plan, it has an AP Black percentage of 77.84 and an NHDOJ

24   Black CVAP percentage of 82.68; is that right?

25   **A.**   That would be true.

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1 **Q.** And it's your testimony that District 34 on the

2 illustrative plan is not packed, while District 34 on the

3 enacted plan is packed; is that right?

4 **A.** Well, the point that I would make is that if, in fact --

5 and I don't know for a fact -- that District 34 in the enacted

6 plan is something under 77 percent, the point is that I've

7 created a new majority Black district that is adjacent to

8 District 34 that is not present in the 2021 plan.

9   So I would argue that it would be better to have a lower

10 percentage perhaps, but the fact that additional majority

11 Black district is created would suggest to me that in this

12 instance it's probably okay.

13 **Q.** And, Mr. Cooper, my question was specifically about

14 District 34 on the illustrative plan is not packed and is

15 packed on the enacted plan. And so is that your testimony,

16 that that's correct?

17 **A.** I did not say that. I mean, packing is a general term.

18 And I would have to look at the numbers but the -- it goes

19 beyond numbers. So if you're District -- House District 34 --

20 yours, the State's -- is 68 percent, well, maybe it is packed,

21 maybe it isn't, but you didn't create the second district that

22 I did in South Metro Atlanta --

23   THE COURT: Yeah, but you're not answering his

24 question.

25   THE WITNESS: Oh.

1   THE COURT: You're really not answering the question.

2   Repeat the question again, Mr. Tyson.

3   MR. TYSON: Yeah.

4 BY MR. TYSON:

5 Q.   My question is, it's your testimony that District 34 is

6 not packed on the illustrative plan and is packed on the

7 enacted plan?

8   MR. SAVITZKY: Your Honor, objection --

9   THE WITNESS: That's a very difficult question

10 to answer --

11   THE COURT: Hold on. Hold on.

12   THE WITNESS: I don't think I can --

13   THE COURT: Hold on. We've got an objection.

14   MR. SAVITZKY: I think that mischaracterizes the

15 testimony that Mr. Cooper --

16   THE COURT: It's just a question. Overruled.

17   Repeat it one more time.

18 BY MR. TYSON:

19 Q.   It's your testimony that District 34 is not packed on the

20 illustrative plan and is packed on the enacted plan; correct?

21 A.   Well, what is the percentage Black in the enacted plan?

22 Q.   Let me go take a look at that.

23   On the enacted plan, I've just changed to Exhibit M1 from

24 your report, District 34 is 69.5 percent AP Black and is 74.46

25 on the NHDOJ Black number. Here's the two side by side.

1 A.   Yeah.   Okay.   In this instance I will say that both are

2 packed.

3 Q.   You say they're both packed?

4 A.   Yes.

5 Q.   Do you recall giving a deposition on February 10th, 2023?

6 A.   I do recall having a deposition down here; right.

7 Q.   And you were under oath for that deposition; correct?

8 A.   That's correct.

9 Q.   I'm going to hand you two pages of that deposition.

10   MR. TYSON: May I approach, Your Honor?

11   THE COURT: Yes.

12 BY MR. TYSON:

13 Q.   Mr. Cooper, if you'll look at page 122, line 21, you see

14 the question says, "So it's your testimony that District 34 is

15 not packed on the illustrative plan and is packed on the

16 enacted plan?"

17   Did I read that question correctly?

18 A.   Yes.

19 Q.   Then the answer you gave was, "Yeah.   You can't just look

20 at percentages and jump to a conclusion one way or the other.

21 It's clear that one can create a very reasonably shaped

22 District 28 by including parts of old 34 or -- yeah, old 34 as

23 you drew it and the State drew it and create a new majority

24 Black district that would include Fayette, Spalding and part

25 of Clayton.   And just knowing the percentages doesn't mean

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1   much because of the issue relating to one person one vote."

2   Did I read that correctly?

3   A.   Yes.

4   Does that contradict anything I've said?

5   Q.   I'll take that back. Thank you.

6   And to be clear, Mr. Cooper, District 34 on the

7   illustrative plan is 77.84 percent AP Black VAP; District 34

8   on the enacted plan is 69.54 percent AP Black VAP; correct?

9   A.   Correct. Well, I think it's correct.

10 Q.   Do you want to verify real quick on the --

11 A.   Well, I'll take your word for it.

12   THE COURT: It's right there in front of you.

13   THE WITNESS: Yeah.

14   Okay. Well, I see the -- I see the illustrative

15 plan.

16 BY MR. TYSON:

17 Q.   The illustrative plan is the first red --

18 A.   Oh, I'm sorry. Okay. Yes. Okay.

19 Q.   And looking again at your report at paragraphs 98 and 99,

20 you say, the second sentence there, "Senate District 16 is

21 nevertheless drawn with a BVAP of 23 percent by packing

22 majority Black neighborhoods into Northeast Fayette and into

23 Senate District 24."

24   Do you see that?

25 A.   Yes.

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1   Q.   And in your report you said that the Senate District 34

2   on the enacted plan was packed; correct?

3   A.   Yes.

4   Q.   And then in paragraph 101 you say that you unpacked 2021

5   plan District 34 by drawing an additional majority Black

6   district; is that correct?

7   A.   That is correct. Population was moved out of

8   District 34. Arguably, it was not unpacked, I will agree with

9   that. There could have been -- more changes could be made to

10 the Senate plan as drawn by the State.

11 Q.   And moving to paragraph 166 of your report, you reference

12 2021 House District 117 and say you unpacked the Black

13 population in 2021 House District 116; is that correct?

14 A.   Yes.

15 Q.   And that was in service of creating a new majority Black

16 district, illustrative District 117; right?

17 A.   Correct.

18 Q.   And that district was 58.12 percent AP Black VAP on the

19 2021 enacted plan; correct?

20 A.   Correct.

21 Q.   And then after you unpacked District 116, the new

22 illustrative plan VAP is 54.34 percent; is that correct?

23 A.   Correct.

24 Q.   So it's your testimony that a drop of less than four

25 points is unpacking a district?

1 **A.**   You know, things can be taken out of context, but the

2 reality is I created a new majority Black district that was

3 adjacent to a district that had a relatively high Black

4 population percentage.

5   So I'm using the term "unpack" perhaps too broadly, or

6 maybe I should have used another term, but Black voters were

7 moved and shifted out of 116 into a new majority Black

8 district.

9 **Q.**   And it's correct that it's your view that you can never

10 determine whether a district is packed with Black voters

11 without knowing the context of the districts around it; right?

12 **A.**   Well, without knowing lots of things, but, yes. I mean,

13 it is conceivable that there are areas in Georgia where the

14 population is so segregated due to socioeconomic factors that

15 you're going to have House districts that are in the 70s and

16 there's not much you can do about it without creating really

17 odd-shaped districts.

18 **Q.**   So then it's your testimony there's no percentage alone

19 that will tell you if a district is packed or not; correct?

20 **A.**   I think that's a safe statement, yes.

21 **Q.**   So Mr. Savitzky asked you some questions about

22 traditional districting principles that you followed. I

23 wanted to work through some of those.

24   You referenced the traditional principle of population

25 equality. And I believe I heard you say your methodology was

1 generally following the same deviations from the ideal

2 district size as the General Assembly did overall; is that

3 correct?

4 A.   That's correct. The Senate has plus or minus 1 percent.

5 I think maybe the Senate might go slightly over that. And the

6 House districts were plus or minus 1.5.

7 Q.   And then you referenced communities of interest. And you

8 referenced a number of different areas where you had run

9 reports on split geography. Do you recall that?

10 A.   Yes.

11 Q.   Did you consider any communities of interest that are not

12 covered in reports you could generate from Maptitude?

13 A.   Well, most of these areas that I took into consideration

14 could be represented demographically -- I mean geographically

15 by established boundaries, like the county commissions and the

16 MSAs. I did not have access to a statewide map of

17 neighborhoods, for example, that might have been useful.

18 Q.   And my question was a little bit different.

19   My question was, in your map drawing process did you

20 consider any communities of interest that could not be

21 represented on a report run by Maptitude?

22 A.   Yes. I mean, I looked at socioeconomic data that was at

23 the municipal level and at the county level. And I could not

24 derive a subset of that data down to the district level

25 necessarily.

1 Q.   Beyond socioeconomic data, are there any other

2 communities of interest that you considered that were not

3 either socioeconomic data related or from a report you could

4 run from Maptitude?

5 A.   Well, I mean, I was aware to a certain extent of

6 transportation corridors and where some colleges were, that

7 sort of thing, so -- but I guess you could run a report off in

8 Maptitude doing that as well. So I'm not sure if I understand

9 your question. I did not do interviews of local citizens, put

10 it that way.

11 Q.   And so my question is, you didn't rely on knowledge that

12 can't be displayed in Maptitude or on a spreadsheet for a

13 socioeconomic report for a community of interest when you were

14 drawing your plans; right?

15 A.   I think in general most of the factors I considered could

16 be displayed on a map. I did not, for example, reproduce the

17 GBPI report that has a pretty good description of the

18 contemporary Black Belt. And one could have done a map that

19 would have replicated their work and overlaid that onto

20 Maptitude.

21   I did look at the map, so I was looking on a paper

22 version, and I could not produce that in Maptitude without

23 additional work.

24 Q.   You referenced splits of core-based statistical areas.

25 Do you recall that?

1 **A.**   Yes.

2 **Q.**   Do you know if the General Assembly relied on core-based

3 statistical areas when drawing the 2021 enacted plans?

4 **A.**   I do not know that.

5 **Q.**   You mentioned regional commission splits in your report.

6 Do you recall that?

7 **A.**   Yes.

8 **Q.**   Do you know if the General Assembly relied on regional

9 commission boundaries when it was creating the 2021 enacted

10 plans?

11 **A.**   I don't know that for a fact. I would be very surprised

12 if they didn't, though, because there's a lot of connection

13 between regional commissions and the state legislature.

14 **Q.**   And you explained your understanding of the role of a

15 regional commission. How did you gather that understanding?

16 **A.**   From some Internet searches. I mean, the regional

17 commissions in Georgia are actually very similar to planning

18 and development districts in states like Mississippi and

19 Louisiana or plain old planning districts in Virginia. And

20 they're just a grouping of counties that are in a particular

21 part of the state that have common interests, or it is

22 perceived they have common interests.

23   So there's nothing unusual about the fact that Georgia

24 has 12 regional commissions, because most states do. And I

25 think most states started doing it about 50 years ago to

1 coordinate transportation planning and economic development

2 planning. So it's a great idea.

3   So that's why I paid attention to regional commission

4 lines as much as I could, but you can't draw plans that neatly

5 fit into regional commissions for various and sundry reasons,

6 not the least of which is one person one vote.

7 Q.   So when you say you considered regional commission

8 boundaries, it's fair to say you were aware of them but didn't

9 necessarily rely on them; right?

10 A.   I relied on them, I just was unable to avoid splitting

11 some regional commission boundaries, that's true. Partly

12 because I tried to keep some of your -- some of the State's

13 districts intact without changing them. I think I changed 31

14 Senate seats -- Senate districts and maybe about half of the

15 House districts.

16   So a lot of what I might be able to do was really

17 hampered by the fact that I wanted to keep some of the

18 existing plan intact without making changes.

19 Q.   You referenced a community of interest called historical

20 connections. Do you recall that?

21 A.   Yes.

22 Q.   And what was your methodology for determining historical

23 connections as a community of interest?

24 A.   Well, I think we've discussed the historical and cultural

25 connections with the Black Belt and the Black population in

1 Georgia. So that was certainly a consideration.

2 Q.   Besides the Black Belt are there other historical

3 connections you relied on in creating your plan?

4 A.   Well, yeah, the enacted plan because it has districts

5 that are already there that may in some spots reflect

6 historical information.

7 Q.   So besides the enacted plan, the Black Belt, what other

8 historical connections did you rely on in drawing your plans?

9 A.   What do you mean by "historical"? I mean, I'm familiar

10 with the history of the US. I don't know what you're exactly

11 questioning me about.

12 Q.   Mr. Cooper, I'm referring to slide 34 from your direct

13 testimony where listed as one of the communities of interest

14 was historical connections. And I had a note that

15 Mr. Savitzky had asked you about that, and you had said you

16 relied on those in drawing the plans. And I'm trying to

17 determine beyond the enacted plan and the Black Belt as a

18 region that you've identified, what else? What other

19 historical connections did you rely on?

20 A.   Well, regional commissions are historical. They've been

21 there for 50 years or more. Probably more. I think they were

22 developed in the 1960s. So that's a historical aspect as

23 well.

24 Q.   You also referenced socioeconomic commonalities as a

25 community of interest. Do you recall that testimony?

1 A.   I do recall that; yes.

2 Q.   And the CD with the report that you referenced, that has

3 data available at the county level and the city level but not

4 below those levels of geography; right?

5 A.   Not true. It also has census-designated places.

6 Q.   Okay.

7 A.   Which can be -- I mean, there are a number of them in

8 Georgia that -- I limited those reports to populations that

9 are 2,500 or more. So a very small community or even a small

10 town would not show up in the socioeconomic data.

11   Part of the reason there is because once you get to

12 levels below about 2,500 people, the margin of error becomes

13 so great that it doesn't really paint a good picture of

14 necessarily what that particular tiny community may represent

15 in terms of socioeconomic well-being.

16 Q.   So if a district splits counties and contains no whole

17 counties and splits cities and contains no whole cities --

18 A.   I'm sorry, I didn't understand what you said.

19 Q.   If a district has county splits, has no whole counties in

20 it, and has no whole cities in it, you couldn't determine the

21 socioeconomic characteristics of that district from the data

22 you provided; correct?

23 A.   You could certainly determine the socioeconomic

24 characteristics of -- are you saying no whole counties and no

25 whole cities? What about census-designated places?

1 **Q.**   Let's say no whole census-designated places.

2 **A.**   Because I did look at -- yeah. Not from the charts, no.

3 **Q.**   You also referenced a community of interest of shared

4 interests. Do you recall that?

5 **A.**   Yes.

6 **Q.**   What methodology did you use to determine what areas of

7 the state had shared interests?

8 **A.**   I looked at -- at the regions as defined by the -- by the

9 State, the regional commissions. I'm aware of different

10 regions in Georgia. I understand that there's Appalachian

11 Georgia, there's Middle Georgia and there's South Georgia.

12 And there are rivers and other things that factor into how

13 people perceive the part of the state they live in.

14   I'm not an expert on Georgia in that sense. I guess

15 you'll hear from other experts later in this lawsuit, but I

16 never heard anybody complain about how I drew the new majority

17 Black districts from our side. I guess we'll hear differences

18 from your side.

19 **Q.**   You also referenced a traditional redistricting principle

20 of non-dilution of minority voting strength. Do you recall

21 that?

22 **A.**   Yes. I'm not a *Gingles* 2 or *Gingles* 3 expert, so I do

23 have to rely on some assessments from the other experts in

24 this case.

25 **Q.**   Well, that was going to be my question. What methodology

1 do you use to determine if you're following that traditional

2 principle as you're drawing your redistricting plan?

3 **A.**   Well, in general, I understand that we no longer live in

4 the world of the 1980s. It's no longer necessary to have

5 districts that are 65 percent Black in order to, in some

6 fashion, meet a standard set by the DOJ back 40 years ago.

7 You can now have districts that are much lower than that that

8 are effective districts, allowing for voters in that area to

9 elect a candidate of choice.

10   So I produce an illustrative plan and then it is reviewed

11 by statistical experts and election data is reviewed. And

12 then a determination would be made that that district is going

13 to also pass *Gingles* 2 and *Gingles* 3 and it's locked in.

14 **Q.**   The analysis of whether the map passes *Gingles* 2 and

15 *Gingles* 3 comes after you've drawn the plan; correct?

16 **A.**   Well, after I've drawn a plan. But if I hear from an

17 expert through the attorneys that -- that a particular

18 district cannot meet *Gingles* 2 and *Gingles* 3 requirements,

19 then I would look elsewhere.

20 **Q.**   Did you make any adjustments to your illustrative plans

21 based on *Gingles* 2 and 3 analysis in this case?

22 **A.**   Not in this map. I think in the original preliminary

23 injunction I may have made a change or two in the Eastern

24 Black Belt, because there was some concern that one of the

25 districts I drew in a draft form -- maybe I'm not even

1   supposed to be talking about that, I'm not sure.

2   But the reality is that I did change one district because

3   it didn't quite pass muster with the *Gingles* 2 and *Gingles* 3

4   expert.

5   **Q.**   Earlier in some of your questions with Judge Jones you

6   testified about how you know race didn't predominate in the

7   drawing of your illustrative plans. Do you recall that

8   interaction?

9   **A.**   Yes.

10 **Q.**   And one of the ways you know that, you said, is that your

11 statistics are similar to the enacted plans; is that right?

12 **A.**   Right. In terms of county splits and VTD splits, for

13 sure.

14 **Q.**   And so if there were additional county splits or VTD

15 splits, you wouldn't say that meant the race predominated, but

16 you would have less of a case that race did not predominate.

17 Would you agree with that?

18 **A.**   Not necessarily.

19 **Q.**   In fact, you don't believe there's any metric that would

20 identify if race predominated in the creation of a districting

21 plan; correct?

22 **A.**   Sure, there is. I mean, if you draw a really -- if you

23 draw -- I think in the '90s I remember hearing about

24 complaints in Georgia about max Black plans. And some of them

25 were truly crazy looking, of course. There was the famous

1 Congressional plan that went from Downtown Atlanta to

2 Savannah, that sort of thing. Well, you can eyeball them and

3 see there's a problem there.

4   I just don't think you can eyeball any of the new

5 majority Black districts that I've drawn and say there's a

6 problem. And you can't do it with county splits. You can't

7 do it with municipal splits. You can't do it with

8 compactness.

9   So I personally think that you and some others are living

10 in sort of a demographic fantasy world that things have not

11 changed since 1990, so if you do draw a new additional

12 majority Black district, you are somehow or another obsessed

13 with race, and that's just not the case. I'm reflecting

14 reality. You're reflecting Georgia 40 years ago.

15 Q.   Do you have a way that you would determine in your work

16 if race predominated in a districting plan you were reviewing?

17 A.   No, it's my opinion. And the Judge can make other

18 decisions and that is that.

19 Q.   And so if the map drawer's goal was to maximize -- was to

20 draw the maximum number of majority Black districts in a plan,

21 in your view race would not necessarily predominate in the

22 creation of that district plan; right?

23 A.   Well, first of all, that was not my goal. My goal was

24 not to draw the maximum number of majority Black districts,

25 because I suspect that I could have drawn several more.

1 Q.   And my question was more general, not about these

2 illustrative plans.

3 A.   I see.

4 Q.   As a hypothetical matter, if the map drawer's goal is to

5 draw the maximum number of majority Black districts in a plan,

6 in your view race would not necessarily predominate in the

7 creation of that district plan; correct?

8 A.   No. If -- I mean, if that were the goal, the maximum

9 number that could be drawn, then that would seem to imply that

10 race did predominate. That's not what I did.

11 Q.   Mr. Cooper, I know we talked once about your deposition.

12 Do you recall the deposition on February 10th?

13 A.   Parts of it.

14 Q.   I'm going to hand you a page, it's front and back here.

15   I'll begin on line 19 of that page 41.

16   Question -- and my question was, "If the map drawer's

17 goal is to draw the maximum number of majority Black

18 districts, in your view would race predominate in the creation

19 of that district plan?"

20   Did I read that question correctly?

21 A.   Yes.

22 Q.   And your answer was, "Well, not necessarily. I mean,

23 that's sort of an open-ended question. I really can't say.

24 Normally you would not go into a situation where you were

25 drawing the maximum number of majority Black or majority

1   Latino districts. If you were to do that, you would likely

2   run into conflict with some other of the traditional

3   redistricting principles."

4   Did I read that correctly?

5   **A.**   Isn't that what I sort of said previously?

6   THE COURT: No. Did he read that correctly?

7   THE WITNESS: Well, it was transcribed, so I don't --

8   THE COURT: No. Did he --

9   THE WITNESS: Yes. Yes.

10   THE COURT: That's the answer. Yes.

11   MR. TYSON: Okay. Thank you.

12   If I may approach, Your Honor, just to get that back.

13   THE COURT: Yes.

14   MR. SAVITZKY: Your Honor, I'd just like to object

15   and seek to strike that last colloquy. It was improper

16   impeachment. And, you know, that line of questioning was

17   objected to in the deposition as well as calling for

18   speculation from Mr. Cooper. So we'd ask that it be stricken.

19   THE COURT: I'm going to overrule your objection.

20   BY MR. TYSON:

21   **Q.**   So, Mr. Cooper, you talked earlier about data that was

22   displayed. And you can't recall specifically if you used any

23   features of Maptitude that displayed racial data about census

24   blocks when you were dividing a precinct on the illustrative

25   plans; is that right?

1 A.   I don't specifically recall a situation like that. At

2 the bloc level, did you say?

3 Q.   When you were dividing a precinct --

4 A.   Yeah.

5 Q.   -- you don't recall if you ever turned on racial

6 information in order to make the decisions about dividing that

7 precinct; correct?

8 A.   Right. I don't recall that, but it's conceivable that

9 somewhere along the line I saw a -- a percentage of a bloc

10 that was Black or not Black, I don't recall.

11 Q.   And when you were drawing the illustrative plan, you

12 would sometimes use information to tell you where more heavily

13 Black precincts were located; correct?

14 A.   Well, yes. I've acknowledged that I use a little dot for

15 precincts that are 30 percent or greater Black.

16 Q.   And that displays on the plans so you can immediately

17 locate precincts that are 30 percent or greater Black?

18 A.   Right. In other words, it's 70 percent white. Often I

19 put them in a majority Black district.

20 Q.   Mr. Cooper, one of the exhibits is a report called Plan

21 Components with Population Detail. Do you see that?

22 A.   Yes.

23 Q.   And can you explain to the Court what a plan components

24 report is?

25 A.   It just -- it runs through all of the districts and shows

1 how a population was divided into districts in a particular --

2 by county. And so you can see that District 1, which is up in

3 the north end of the state, is divided into three counties.

4 Q.   And this report also shows the racial makeup of the total

5 population line of the AP Black percentage and then the second

6 line of each county would refer to the voting age population;

7 is that right?

8 A.   Right. And they're not -- District 1 is only in Dade and

9 Walker Counties, as drawn in the illustrative House. It's

10 quite possibly the same districts that the states run.

11 Q.   I'd like to look at one of your districts in particular.

12 We'll come back to this when we get to the specific districts

13 in your report. But this is your House District 133, one of

14 your new majority Black districts as you call it; correct?

15 A.   Correct.

16 Q.   And looking at the planned components report for Baldwin

17 County, the portion of Baldwin County that you included in

18 District 133 is 51.46 percent AP Black VAP; correct?

19 A.   Correct.

20 Q.   And on the other side you can see is District 144. The

21 portion that you -- of Baldwin you did not include in

22 District 133 and put in 144 is 22.32 percent Black; is that

23 correct?

24 A.   That's correct. I was not looking at this table as I was

25 drawing the plan, but that's the end result. So I really had

1 no idea as I was drawing the plan as to the exact demographics

2 of the split in Baldwin County.

3 **Q.**   And the boundary in Baldwin County in District 133 splits

4 the City of Milledgeville as we discussed earlier; right?

5 **A.**   It does split Milledgeville, that's right.

6 **Q.**   And it splits some precincts in Baldwin County as well,

7 doesn't it?

8 **A.**   It does.

9 **Q.**   Looking at the other split county in District 133, the

10 portion of Wilkes County that's located in District 133 is

11 47.03 percent AP Black VAP; correct?

12 **A.**   Right. A minority of the voting age population.

13 **Q.**   But the portion that is not included in District 133 and

14 is in 123 is 26.43 percent Black; right?

15 **A.**   Correct.

16 **Q.**   And it's your testimony that in splitting these counties

17 on those boundaries, you never turned on any racial

18 information in Wilkes or Baldwin County?

19 **A.**   No, that's not true. I told you that I know where -- I

20 see the data showing that a precinct is 30 percent or more

21 Black. That is what I see. But I see so many reports coming

22 from experts these days that are directed at bloc level racial

23 shading and VTD racial shading. And I don't do that, I'm

24 sorry. I know you want me to say that, but I don't do it.

25 **Q.**   But you'd agree that in each split county in District 133

1 the portion of the county that is most heavily Black is

2 included in District 133 and the remainder is excluded from

3 District 133?

4 **A.**   In that particular incident, yes, but I have to say, why

5 does that matter? Don't some of the districts the State drew

6 have the same kind of breakout where the Black population

7 is -- of a particular county is higher in one split than it is

8 in the other? So I don't -- I don't see any meaning to that.

9 **Q.**   And to clarify, you didn't have any political data and

10 you're aware the State had political data; right?

11 **A.**   I did not use political data, no.

12 **Q.**   Are you aware the State had access to political data

13 or do you know?

14 **A.**   I do not know what the State -- I don't know who drew the

15 plans for the State, and I don't know what data they were

16 using at all, whether it was strictly political or if there

17 were instances where they relied on race data as a proxy for

18 political data.

19 **Q.**   So we'll come back to this question later, but in

20 creating your illustrative plans, you relied in part on the

21 history of the experience of Black Americans and the

22 commonality that goes with that as a basis for a community of

23 interest; correct?

24 **A.**   Absolutely. I think there's something special about the

25 Black experience in America.

1 Q.   Mr. Cooper, we looked earlier, you had a display in your

2 report that discussed the number of majority Black districts

3 on the 1990s era plans, the 2006 plan, 2014-2015 plans and the

4 2021 plans. Do you recall that?

5 A.   From when?

6 Q.   I'm referring to Figure 11 from your report --

7 A.   Yes.

8 Q.   -- that showed the number of majority Black districts

9 over time?

10 A.   Yes.

11 Q.   The 2006 plan for Georgia House and Senate was a

12 court-drawn plan, wasn't it?

13 A.   Probably. I think it was -- or at least a follow-up to

14 the *Laris* decision, or am I wrong about that? I didn't know

15 it was court drawn.

16 Q.   And you referenced eight additional State House districts

17 that could be drawn based on population growth by Black

18 individuals in Georgia over the last decade. Do you recall

19 that?

20 A.   Yes. Just as a hypothetical, describing the enormous

21 population change that's occurred in Georgia over the past

22 decade.

23 Q.   And you're only offering five new majority Black

24 districts in your report in this case; right?

25 A.   Well, I'm not offering it, it's the plaintiffs. I drew a

205

1 plan that the plaintiffs approved.

2 **Q.**   So to be clear, your plan only draws five additional

3 districts --

4 **A.**   Right.

5 **Q.**   -- not eight additional districts?

6 **A.**   That's true.

7 **Q.**   So, Mr. Cooper, you were retained, I believe you said, by

8 the Alpha Phi Alpha plaintiffs before the special session in

9 November of 2021; is that right?

10 **A.**   Yes.   Sometime in the -- I may have been retained earlier

11 in 2021, very early, but I didn't do any plans until the late

12 summer, early fall of -- it was probably in August of 2021.

13 **Q.**   And you first started drawing the House and Senate maps

14 before the special session from the legislature was complete;

15 right?

16 **A.**   I drew plans, again, using pre-census data, ACS data, in

17 August of 2021.   Honestly, I don't think I started drawing any

18 more plans in 2021 until sometime in November because I was

19 working on other cases, like Ohio, which was a nightmare.   And

20 I was also working on the Alabama case, and helping some

21 localities develop redistricting plans.   San Juan County,

22 Utah, was alive during that time period.

23   So I was working on various plans.   I don't think I

24 started on Georgia for the preliminary injunction until

25 sometime in the middle to late part of November.

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1 Q.   And I believe you referenced in your deposition as well

2 that you had also been hired to draw some alternative plans

3 after the 2011 redistricting cycle in Georgia, but no

4 litigation was brought until later in that decade; right?

5 A.   Could you repeat that?

6 Q.   I believe you testified in your deposition that you were

7 also hired to create alternative plans after the 20 -- or

8 during the 2011 redistricting cycle, but that no litigation

9 was brought until later in the decade; is that right?

10 A.   Well, the first project did not involve the same set of

11 attorneys or even the same issues, maybe, as the lawsuit filed

12 in the latter part of the decade. So there's really no direct

13 connection at all, other than that I, you know, had a database

14 with the various plans that were developed, 2011 and 2015,

15 already on the computer when I was hired to work on *Dwight*

16 *v. Kemp*.

17 Q.   And you never discussed the design of these plans with

18 any of the plaintiffs in this case; right?

19 A.   Of which -- of those previous decade --

20 Q.   I'm sorry. Let me clarify.

21   Back to 2021 and your work in the Alpha Phi Alpha case,

22 you did not discuss the design of the plans before you drew

23 them with any of the plaintiffs in the case; right?

24 A.   No, I haven't discussed anything with any of the

25 plaintiffs at all. I mean, I'm working through the attorneys.

1 **Q.**   Let's talk a little bit about your drawing process.

2   You discuss with Mr. Savitzky these regions that you set

3 up across the state. Do you recall that testimony?

4 **A.**   Yes.

5 **Q.**   And you didn't have a methodology by which you selected

6 particular counties in each of those regions, did you?

7 **A.**   Well, yes, I did. I mean, as I've indicated, I was

8 familiar with South Metro Atlanta and the tremendous

9 population growth that had occurred there, having worked on

10 the lawsuit in Fayette County and also later in the decade on

11 the *Dwight v. Kemp* case, which involved Henry County and

12 Gwinnett County. And I -- so I had kind of been in the area

13 and I knew that would be a place where most likely additional

14 majority Black districts could be created because I had seen

15 the data showing the tremendous Black population growth in

16 those areas just between 1990 and 2010. And then I

17 subsequently looked at 2010 to 2020 and saw that the growth

18 was continuing a pace.

19   So that's the knowledge I had going into it, along with a

20 general knowledge of the Georgia Black Belt because I had

21 worked on a lot of cases in Georgia and drawn a lot of plans,

22 a lot of it non-litigation related, in that same Black Belt

23 region stretching from Augusta down to the southwest part of

24 the state.

25 **Q.**   You'd agree that Baldwin County was not included in any

1 of your regions where you analyzed population; right?

2 **A.**   What do you mean, any of the regions where I analyzed

3 population?

4 **Q.**   In the regions in your report, if you could --

5 **A.**   Oh, that's true. It was not one of the Regions A, B, C

6 or D, it was not within those four regions. Were just kind of

7 a general guide as to places where I might think could support

8 an additional majority Black district. That was done -- I

9 created those regions before I really had even done a full

10 plan.

11 **Q.**   And the districts that you drew didn't stay within those

12 regions either; correct?

13 **A.**   No. Nor did I ever think they would. I just sort of

14 selected a grouping of counties at the outset that appeared

15 to be likely to result in another majority Black district.

16 **Q.**   And you referenced metropolitan statistical areas as

17 another basis for assembling your regions; is that right?

18 **A.**   Well, I just wanted to -- I mean, they were like county

19 lines, they are there. And in the case of Macon-Bibb and

20 Warner Robins, those are two MSAs that are right next to one

21 another. So I did focus on MSA lines in that particular part

22 of the state.

23 **Q.**   But you'd agree that Houston County and Bibb County are

24 in different MSAs; right?

25 **A.**   Yes.

1 Q.   So talking first about the State Senate plan, you changed

2 35 of the 56 districts from the enacted plan to add the three

3 additional majority Black districts; is that right?

4 A.   Yes.

5 Q.   And you'd agree that's more than half of all the State

6 Senate districts in Georgia; correct?

7 A.   Yes.

8 Q.   So what I want to do is put Mr. Morgan's summary up here,

9 just because this has all this information in one place about

10 the Senate plan, and start at the bottom and work up.

11   So, first, I believe you testified earlier that the

12 deviation range, so the population sizes of these various

13 districts, is the same for the enacted plan and the

14 illustrative plan; right?

15 A.   Well, I mean, it's roughly the same. It's 2 percent on

16 the Senate plan. Of course, this is the -- is this the

17 December 5th plan, is that the illustrative plan on the table

18 today, or is that the one at the preliminary injunction?

19 Q.   So this is from Mr. Morgan's report responding to your

20 report, so it's the 12 -- he refers to the 1205 plan, it's the

21 illustrative plan you submitted in your December 5th report.

22 A.   Yeah. Right.

23   So the deviation is the same. I mean, it's all --

24 there's a difference of one tenth of -- one tenth of a

25 percentage point, or one-one hundredth, but basically it's

1 2 percent versus 2.01 percent.

2 Q.   And you have listed that there are 18 majority Black

3 districts on your plan as opposed to 14 on the enacted plan;

4 correct?

5 A.   Correct.

6 Q.   And plaintiffs are only saying -- or, actually, your

7 report only posits three additional majority Black districts

8 on the Senate; correct?

9 A.   Correct.   One of the districts that I created is not

10 being challenged.

11 Q.   So 14 plus 3, we get to 18.   How does that happen?

12 A.   Well, that's -- there are 18 majority Black districts in

13 the Senate plan, one of which just was sort of organically

14 created as I was redrawing the enacted plan.   But it's not

15 being challenged in this case, as I understand it.   But there

16 are 18 majority Black districts in the illustrative Senate

17 plan.

18 Q.   And the additional district that's not majority Black on

19 the enacted plan but is majority Black on the illustrative

20 plan that you don't discuss in your report is District 33 in

21 Cobb County; correct?

22 A.   Perhaps.   I think that may be right.   It's in my report.

23 Q.   And District 33 currently elects a Black Democratic

24 member of the Senate despite not being a majority district;

25 right?

1 **A.**   I don't know that to be a fact, but I will take your word

2 for it.

3 **Q.**   And you're aware that District 17, District 23 and

4 District 28 on the State Senate plan, the districts you

5 discussed and have illustrative districts for, all currently

6 elect white Republican members of the Senate; right?

7 **A.**   I don't know that for a fact either. I do have

8 information about where the incumbents live and assumed they

9 were white, but I didn't know their party.

10 **Q.**   At the preliminary injunction stage of this case you drew

11 19 majority Black State Senate districts, didn't you?

12 **A.**   Yes. I made changes and there were still only three

13 challenged districts in that preliminary injunction hearing as

14 well. I think that there was an additional majority Black

15 district that was organically created, perhaps in Gwinnett

16 County or Rockdale, I don't remember, but it was not one

17 that's challenged. And it disappeared organically as I was

18 working on this plan.

19 **Q.**   But just so we're clear, your report only proposes three

20 additional majority Black districts, but you can draw as many

21 as two more majority Black districts beyond those three;

22 right?

23 **A.**   I don't know that. I mean, I -- I mean, it is probable

24 because I -- I created a different one in the -- well, in

25 the -- in the preliminary injunction plan I -- there were

1 five. And I said "I created," I drew three that are

2 challenged. And then through the ripple effect two more were

3 created.

4 Q.   But just so we're clear, you agree that you can draw more

5 than three additional majority Black districts on the State

6 Senate plan; correct?

7 A.   You could, yes.

8 Q.   On the compactness scores we have each of the mean

9 compactness for the Reock score, it looks like one-one

10 hundredth of a point better on the Cooper plan, and the mean

11 compactness on the Polsby-Popper score, one hundredth of a

12 point better on the enacted plan; is that right?

13 A.   Yes.

14 Q.   And because this is an average compactness score, it's

15 including districts that were unchanged as well; right?

16 A.   Correct.

17 Q.   So it's correct to say the illustrative plan is slightly

18 more compact on Reock and the enacted plan is slightly more

19 compact on Polsby-Popper; right?

20 A.   Yes, but very slightly. So as far as I'm concerned, they

21 are equal. There's not enough to really matter.

22 Q.   And we've discussed you splitting fewer counties and

23 precincts on the illustrative plan than the enacted plan;

24 right?

25 A.   That's right. Census VTDs. So precinct lines have

1 changed since then, I'm sure.

2 Q.   And in Mr. Morgan's report he breaks out the specific

3 counties that you split and didn't split; correct?

4 A.   That's my recollection.

5 Q.   So in looking at that chart from Mr. Morgan's report,

6 there are five counties listed there that were split in the

7 enacted plan but which are whole in the illustrative plan. Do

8 you see that?

9 A.   Yes, I see that.

10 Q.   And it's correct that none of the counties that were

11 previously split in the enacted plan that you made whole are

12 majority Black; correct?

13 A.   That's true. Actually, Newton is real close, though,

14 isn't it?

15 Q.   Newton is at 47 percent on voting age population.

16 A.   Right. And 49.7 percent on AP Black, so...

17 Q.   In terms of looking at Clarke County, that's not near any

18 of the new majority Black districts you've added; correct?

19 A.   Well, there's a ripple effect, though. So sometimes

20 counties can be unsplit as a ripple effect progresses and one

21 person one vote comes into play, and so you can avoid

22 splitting a county elsewhere.

23 Q.   And Jackson County also is a heavily white county that's

24 pretty distant from the changes you've made, isn't it?

25 A.   Is what?

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1   **Q.**   Jackson County is distant from the changes you made?

2   **A.**   Well, it is.   It is.   But I don't -- I don't see the

3   problem there.   I didn't split those counties.   The State did.

4   I was not like purposefully splitting -- I don't know why the

5   State has the splits.   It's possible they are more historical

6   in nature because incumbents were protected in those counties

7   or something, but in the end I didn't have to split some of

8   those counties.

9   **Q.**   But just so we're clear, you have testified that the

10 illustrative plan has fewer county splits than the enacted

11 plan, but that fewer county splits include counties like

12 Coffee County and Clarke County and Jackson County; correct?

13 **A.**   Correct.   So what?   Coffee County could very well have

14 been impacted by changes I made in Southwest Georgia.   The

15 same goes for Clarke County and the Augusta region.   I mean,

16 there was a ripple effect.   And there's no point in splitting

17 a county if you don't have to.   Not very many counties --

18 citizens of counties like having their counties split.   But if

19 there are counties that want to be split in that list, no

20 doubt it could be done with a modification to the illustrative

21 plan.

22 **Q.**   And, Mr. Cooper, on the Senate plan you didn't make any

23 changes in Southwest Georgia related to State Senate

24 districts, right, for additional majority Black districts?

25 **A.**   I did not.   So I retract what I just said.   For whatever

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1   reason Coffee County is whole in my plan and it's not whole in

2   the State plan. If it is preferable to split the county, of

3   course, it could be done.

4   Q.   And you actually created a plan that added majority Black

5   districts in Districts 17, 23 and 28, while changing fewer

6   districts that you decided not to use because it had more

7   county splits than the enacted plan; right?

8   A.   I missed that question.

9   Q.   You created a plan that added majority Black districts

10   in Districts 17, 23 and 28, while changing fewer overall

11   districts that you decided not to use in your report because

12   it had more county splits than the enacted plan; right?

13   A.   I created a plan like that? Perhaps -- are you referring

14   to the preliminary injunction plan? I'm not sure what you're

15   referencing there.

16   Q.   So, Mr. Cooper, in your deposition do you recall being

17   asked a question -- well, let me ask this, Mr. Cooper.

18   Is it correct that you've not created a plan that

19   includes majority Black seats in Districts 17, 23 and 28 that

20   modifies fewer than 35 districts?

21   A.   Well, I've -- I'm completely lost here in the point

22   you're trying to make and really unable to respond. I did do

23   different drafts of plans, but I don't understand -- I don't

24   really follow this line of questioning at all.

25   THE COURT: Well, you don't have to understand the

1 line of questioning, just answer the questions.

2   THE WITNESS: Well --

3   MR. SAVITZKY: Your Honor, I would just object to the

4 question as creating a double negative, confusing and perhaps

5 assuming some facts that are not in evidence yet.

6   THE COURT: Do you want to respond, Mr. Tyson?

7   MR. TYSON: Your Honor, if I could be permitted to

8 proceed, I'm going to hand Mr. Cooper the exact question he

9 was asked in his deposition and go with his answer on that.

10   THE COURT: Go ahead.

11   THE WITNESS: That would be helpful to look at that

12 and then I --

13   THE COURT: Yeah.

14 BY MR. TYSON:

15 Q.   I'm going to hand you page 157 of your deposition in this

16 case.

17   And you recall giving a deposition; right?

18 A.   Yes.

19 Q.   Beginning at line 12, question: "So it's correct that

20 you have not created a plan that includes majority Blacks in

21 Districts 17, 23 and 28 that modifies fewer districts than 35;

22 right?"

23   THE COURT: Hold on. Hold on. Hold on.

24   MR. SAVITZKY: Your Honor, just objecting to having

25 Mr. Cooper read from his deposition where there's no grounds

1 for impeachment and he hasn't made --

2   THE COURT: Well, he said he didn't understand the

3 question, so he handed it to him so he could read it so he

4 could understand it. I don't see the problem. He's reading

5 the question he's asked him because he said he didn't

6 understand the question.

7   MR. TYSON: And that was my intention, Your Honor,

8 that Mr. Cooper didn't give an answer, so I was trying to...

9 BY MR. TYSON:

10 Q.   Mr. Cooper, did I read that question correctly?

11 A.   You did.

12 Q.   And your answer was, "At some point I did, but it also

13 had more county splits. And so I made a decision to reduce

14 the split -- county splits at the expense of maintaining what

15 are often just ephemeral enacted planned districts that you

16 guys changed even in mid-decade, like you did in 2015 and

17 2014, so they are very volatile in terms of their lines;

18 whereas the county lines in Georgia, and even the regional

19 commission lines, are unlikely to change."

20   Did I read that correctly?

21 A.   Yes.

22   MR. TYSON: Your Honor, I'll get that back.

23   THE COURT: Yes.

24 BY MR. TYSON:

25 Q.   So, Mr. Cooper, it's correct that you designed a plan

1 that had fewer county splits, but you decided to split more

2 counties and change more districts, is that right, because you

3 wanted to reduce the number of county splits?

4 **A.**   Well, see, that's -- didn't you say that I -- I don't --

5   THE WITNESS: I'm still confused about his question,

6 frankly.

7   I developed various drafts, and some of them may have

8 had more county splits than the illustrative plan. And so I

9 may have reduced a county split that was not within the areas

10 that I focused on, which in turn led to the plan overall

11 having the same or fewer county splits than the enacted plan.

12 I will agree with that statement.

13   But I can't pinpoint exactly which counties that

14 impacted within the illustrative plan as presented here. I

15 suspect that the split in Clarke County, for example, may have

16 just been a ripple effect. Newton was probably a ripple

17 effect to keep it whole.

18   So, you know, that's all I can say. There are just

19 an infinitesimal number of ways to draw voting plans. And you

20 could probably create a plan that adds majority Black

21 districts, three additional majority Black districts that

22 split fewer counties, I'm pretty confident of that, if you

23 spent some time. Or you could get a computer algorithm to do

24 it and that would work as well. It might have other issues.

25 But there are so many different ways to draw plans that you

1 can't really set a limit one way or the other ultimately.

2 Q.   Let's move to the State House, global statistics.

3   You agree that you changed 92 of the 180 districts on

4 your illustrative plan to add five majority Black State House

5 districts; right?

6 A.   I did, although I'm fairly confident, again, that one

7 could have reduced the number of changes and still created

8 those districts.

9 Q.   And you agree that's more than half of all the State

10 House districts in Georgia; right?

11 A.   Yes.

12 Q.   Looking at Mr. Morgan's summary again here, you'd agree

13 that you used a higher overall deviation range on the House

14 illustrative plan than on the enacted plan; correct?

15 A.   The difference is de minimis, and my assumption was that

16 it was 1.5 minus -- plus or minus 1.5. I saw nothing to

17 indicate that it would be something as odd as minus 1.4

18 but plus 1.34.

19   And the difference is de minimis. It really in no way

20 suggests that your plan is somehow superior because it happens

21 to have a lower overall deviation of 2.74 percent versus

22 2.98 percent, because, generally speaking, the range that can

23 be accepted in a state legislative plan or a local plan is

24 plus or minus 5 percent that is used in many different states.

25   So from a one person one vote standpoint, there's no

1   problem with the plan I drew.

2   Q.   And just so I'm understanding your answer, you agree that

3   the legislature used a total deviation range of 2.74, and when

4   you created the illustrative plan, you used a total deviation

5   range of 2.98; right?

6   A.   I used a total deviation range of 1.5, 1.5, and made the

7   assumption that the State had that range as well, but managed

8   to get below it for whatever reason.

9   Q.   And just so it's clear to the Court, minus 1.49 to plus

10 1.49 relates to the variation from the size of a district if

11 all districts were equally sized; right?

12 A.   Correct.

13 Q.   On majority Black VAP districts you'd agree that 49 on

14 the enacted plan, which is an increase from the prior plan;

15 right?

16 A.   Yes.

17 Q.   And you have five additional districts on your House

18 plan; correct?

19 A.   Yes.

20 Q.   And those five additional districts on this illustrative

21 plan are different than the five additional districts you

22 offered in the preliminary injunction phase of this case;

23 correct?

24 A.   Yes. I think there are differences.

25 Q.   And there's a new district in Macon that you were

221

1 offering as an additional majority Black district in this

2 report that you did not offer in your report in the

3 preliminary injunction phase; right?

4 A.   Correct.

5 Q.   But the overall increase in majority Black districts on

6 both your preliminary injunction plan and your 1205 plan is

7 the same; right?

8 A.   Correct.

9 Q.   And so you'd agree that you can draw additional majority

10 Black districts in different places depending on how you

11 configure the remaining districts; right?

12 A.   Yes.   There would be opportunities to draw additional

13 majority Black districts elsewhere in the state.

14 Q.   Looking at compactness, this refers to the -- the mean

15 compactness is the average of all House districts; is that

16 right?

17 A.   Yes.

18 Q.   And so on a plan that has 88 districts that are the same,

19 are you surprised to see similar compactness scores or

20 identical compactness scores?

21 A.   Not really, because if 80 districts are the same, then

22 the neighboring districts would also have some similarities,

23 so -- both -- .39 is fine for a mean average Reock score in a

24 state legislative plan, I think, based on plans I've seen.

25 Q.   And, again, you referenced that you have fewer county

1 splits but more precinct splits in the enacted plan; is that

2 right?

3 A.   I would have to see the other -- yes. Yes, there are a

4 few more precinct splits.

5 Q.   And Mr. Morgan, again, broke out the specific counties

6 that were split and unsplit in his report. Do you recall

7 reviewing that?

8 A.   Well, I broke that out, too.

9 Q.   So looking at Mr. Morgan's report, you'd agree with me

10 that Dawson, Gordon, Lumpkin, Oconee and White Counties all

11 have 5 and a half percent or less Black voting age population;

12 right?

13 A.   Yes.

14 Q.   And they're all in North Georgia?

15 A.   Northeast Georgia. Not far from illustrative Senate

16 District 23. That's where the ripple effect begins to come

17 into play if you're trying to avoid county splits. In the

18 end, it could mean that some of the counties that are further

19 north could be made whole.

20 Q.   So, Mr. Cooper, we're on the State House plan now, and

21 so is it --

22 A.   I'm sorry. We're looking at -- yeah, I'm looking at the

23 wrong map. But there was an additional House district created

24 in the eastern part of the Black Belt. So my comment still

25 remains the same.

1 **Q.**   Is it your testimony that the splits of, for example,

2 Dawson and Gordon Counties was related to the creation of new

3 majority Black districts?

4 **A.**   I suspect that I saw Gordon County because it's split and

5 there didn't seem to be an incumbent involved and eliminated

6 that split there, maybe independent of a ripple effect. But I

7 could not say the same for some of the other House districts

8 in the more eastern part of Georgia.

9 **Q.**   So looking at, again, a few maps from Mr. Morgan's

10 report, this is Northeast Georgia; is that correct?

11 **A.**   Yes.

12 **Q.**   And you can see the boundary line for this group of House

13 districts that runs here into Cherokee County, over, and then

14 the state line. Do you see that?

15 **A.**   I do see that, yes.

16 **Q.**   And on your map, I know it's a little hard to see, but

17 there's a purple line that runs right here. And you would

18 agree that follows the same boundary as the enacted plans for

19 that region; is that correct?

20 **A.**   It appears to be correct.

21 **Q.**   And the difference in the plans in this area is Gordon

22 County is split on the enacted plan but unsplit on the

23 illustrative plan; right?

24 **A.**   Yes.

25 **Q.**   And I think you just said you'd agree this is an area

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1   that's wholly contained within itself unrelated to any effort

2   to add majority Black districts; right?

3   **A.**   No.   I said that there is a chance that that's the case.

4   **Q.**   Okay.

5   **A.**   I will not say the same about the others that are further

6   east, so I will say that much.   I have no reason to think that

7   that would in any way violate traditional redistricting

8   principles; right?

9   I mean, to keep a county whole when you can is a good

10 move normally, but it is possible, it is possible that there

11 are citizens and voters in Gordon County that like that split.

12 And if that's the case, I'm sure there could be a way to

13 return that split to Gordon County, even holding most of the

14 illustrative plan constant.

15 **Q.**   You're testifying here in this proceeding that your

16 illustrative plan splits fewer counties than the enacted plan;

17 right?

18 **A.**   Well, it does.

19 **Q.**   And that includes splits like this one of Gordon County

20 that are unrelated to adding majority Black districts?

21 **A.**   Well, we don't know that.   We don't know that.   I said I

22 suspect that maybe for Gordon County, okay, we're now on par,

23 29, 29.   So that's as far as I can go with it because I

24 suspect that some of those other splits are ripple effect

25 splits that I was able to remove because I changed the area

1   around Augusta and north all the way up to Wilkes County and

2   all of those factors come into play. You have to balance

3   things.

4   And there's a ripple effect. When you make a change in

5   one area, it goes beyond that one area, when it comes to

6   balancing out one person one vote, even if the counties are

7   majority white.

8   But I cannot affirmatively say one way or the other

9   exactly what the impact was there. Also, I was looking at

10   incumbents.

11   THE COURT: I guess my question is -- excuse me,

12   Mr. Tyson -- is that did you intentionally set it out that

13   there would be more splits in the majority white counties by

14   redoing the maps, or are you saying it's just a ripple effect?

15   THE WITNESS: Well, it is ripple effect, but it is

16   possible that -- and I don't know when I did Gordon County,

17   but Gordon County is a little further west, so it is possible

18   that I made a decision to keep Gordon County whole. But that

19   decision was not necessarily looking at the number of split

20   counties and saying, oh, yes, I can make Gordon County whole

21   and that will mean we'll have fewer county splits in the

22   illustrative plan. I wasn't thinking in that fashion.

23   And overlaying all this is the incumbents. And I

24   wanted to avoid pairing incumbents. And so it may have been

25   necessary because of the other ripple effects in Northeast

1 Georgia to make Gordon County whole to avoid pairing a couple

2 of incumbents in another county and still stay within plus or

3 minus 1.5 percent. It's a balancing act. I did the best I

4 could. I think I could probably have reduced the number of

5 splits in the illustrative plan given time and given

6 100 percent accurate information about where the incumbents

7 live.

8 Q.   And, Mr. Cooper, just to close out this line, though, you

9 agree with me that this map shows the outer boundary of these

10 districts is the same on both plans, and you'd agree this

11 is -- based on these statistics, these are mostly precincts

12 that are between 0 and 20 percent Black; right?

13 A.   Yes.

14 Q.   And so are you testifying this unsplitting of Gordon

15 County was related to the creation of the new majority

16 Black --

17 A.   If they are exactly the same and completely surrounded

18 exactly the same, then I think it's safe to say that I just

19 made a decision to keep Gordon County whole because it could

20 be done without having any adverse impact on one person one

21 vote.

22 Q.   So when you say that your plan splits one fewer county

23 than the enacted plan, it's including Gordon County as one of

24 those counties that's one less split?

25 A.   Yes. It's a true statement.

1   And if I did split Gordon -- if we unsplit Gordon County,

2 then the illustrative plan is still on par with the enacted

3 plan in terms of county splits. So no problem; right?

4   MR. TYSON: So, Your Honor, I'm about to switch over

5 to go into some detailed districts, and then we're

6 approaching our 3:00 timeline.

7   THE COURT: Let's take a break right here.

8   MR. TYSON: Thank you.

9   THE COURT: We'll start back at 3:15.

10   (After a recess, the proceedings continued at

11 3:16 p.m. as follows:)

12   THE COURT: You may be seated.

13   Mr. Tyson, you may proceed.

14   MR. TYSON: Thank you, Your Honor.

15 BY MR. TYSON:

16 **Q**.   Mr. Cooper, what I'd like to do next is walk through each

17 of the districts that you created in your illustrative plan

18 that you identify as new majority Black districts. And to

19 look at that, I have some views from Mr. Morgan's report.

20   Are you familiar with the display and the coloring of the

21 precincts on these particular maps?

22 **A**.   No, I'm not. That's not the way I draw voting plans,

23 so...

24   I looked at Mr. Morgan's report three or four months ago,

25 but I don't draw plans like this.

1 Q.   And just so we're all oriented here, if a precinct is

2 colored yellow or red, it's going to be above 50 percent total

3 Black population; whereas the green is 35 to 50, and then the

4 blue and -- or kind of light and dark blue is more heavily

5 white population. Do you see that?

6 A.   I do see that.

7 Q.   And the purple line here is the outline for illustrative

8 Senate District 17; is that correct?

9 A.   Yes, I believe it is. I don't know for certain, but I'll

10 take your word for it.

11 Q.   And you'd agree that the district, District 17, runs from

12 heavily Black areas in South DeKalb and Rockdale Counties to

13 more heavily white areas in Henry County; is that correct?

14 A.   In what county?

15 Q.   In Henry County.

16 A.   Some of those areas would have, it would appear, in the

17 range of 20 to 35 percent Black; right. The light blue.

18 Q.   Areas that are not majority Black; right?

19 A.   As of the 2020 census; right. Assuming the map is

20 correct. And I did not verify it.

21 Q.   Just for reference at the top here, you see the title

22 from Mr. Morgan, APA Cooper Illustrative Senate 1205 SD 17.

23   Do you see that?

24 A.   Yes. I'm going to assume with no problem the lines are

25 showing for SD 17. I have not confirmed that these particular

1 percentages are accurate. They probably are, but I have not

2 confirmed that.

3 **Q.** You'd agree that the Black population in Henry County

4 that is contained in Senate District 17 has white population

5 between it and the more heavily Black concentrations of DeKalb

6 and Rockdale; correct?

7 **A.** Yes. There is a little distance between the two; right.

8 This is not like the Texas case where there was 300 miles'

9 difference that's often cited between one Latino community in

10 South Texas and another in West Texas.

11 **Q.** So let's look at the planned components report for this

12 district. And this indicates that the DeKalb County portion

13 of District 17 is 94.9 percent Black; is that correct?

14 **A.** Yes.

15 **Q.** And the Henry portion is not majority Black; correct?

16 **A.** Taken as a whole, it is not majority Black, but it is not

17 far from it.

18 **Q.** And Henry County is the largest county in Senate

19 District 17; correct?

20 **A.** Yes, there would be 84,580 people in Henry County who are

21 in District 17.

22 **Q.** And if District 17 did not have the portions of DeKalb

23 and Rockdale that you've included in it, it would not be a

24 majority Black district; correct?

25 **A.** It also wouldn't be large enough to be a Senate district,

230

1 so I'm not sure what you're demonstrating there.

2 **Q.**   And you believe there's a geographically compact minority

3 community in the entirety of District 17 as you've drawn it;

4 right?

5 **A.**   I believe that Senate District 17 fully complies with

6 traditional redistricting principles. I don't think there

7 should be a problem that there may be some areas of Henry

8 County that are in the range of 20 to 35 percent Black that

9 would be between other areas in Rockdale and DeKalb that have

10 heavier Black populations, you would see that all over the

11 map, not just the illustrative plan but your own Senate plan.

12 That sort of thing happens.

13 **Q.**   My question was a little bit different.

14   You believe that there is a geographically compact

15 minority community in the entirety of District 17 as it's

16 drawn on the illustrative plan; right?

17 **A.**   I do believe that, yeah. It's over 50 percent.

18 **Q.**   And can you identify specifically where that

19 geographically compact Black community is in District 17?

20 **A.**   It's in DeKalb, Rockdale and the western portion of Henry

21 County.

22 **Q.**   It's correct, isn't it, that you're not aware of any

23 community of interest between South DeKalb County and Henry

24 County except that the geographic distance isn't that far;

25 right?

231

1   **A.**   No.   Both areas are suburban in nature, and so there's

2   that connection.   And it's in Metro Atlanta.   How different

3   can the people in Henry County really be from people who live

4   in the extreme southwest tip of DeKalb County?   I don't think

5   there's going to be a lot of difference.   They play on

6   different sports teams and that sort of thing, but overall

7   both groups would consider themselves to be part of Greater

8   Atlanta.

9   **Q.**   So it's your belief that people in South DeKalb and

10 people in South Henry County share a community of interest?

11 **A.**   To a certain extent, because they're part of Greater

12 Atlanta.   If you -- if they travel to, I don't know, Virginia,

13 they would say they're from the Atlanta area.

14 **Q.**   And so is there any other community of interest between

15 South DeKalb County and South Henry County besides being part

16 of Metro Atlanta?

17 **A.**   Yes, there would be.   Same sports leagues probably.   It

18 is literally probably a ten-minute drive from western Henry

19 County into Rockdale County.   I don't -- I mean, your question

20 really is preposterous.   They're neighbors.

21   THE COURT: Well, hold on, hold on, hold on.   We want

22 to keep this civilized.   Okay?

23   THE WITNESS: I'm sorry.

24   THE COURT: Just answer the question.   Leave the

25 editorials to me.

1   THE WITNESS: I'm sorry.

2   THE COURT: Just stick to answering questions. Be

3   civilized and respectful. You may not agree with the

4   question, but the answer was not that's preposterous, I don't

5   think. Okay?

6   THE WITNESS: All right.

7   THE COURT: All right?

8   BY MR. TYSON:

9   **Q.**   Mr. Cooper, District 17, as you've configured it,

10 contains no whole counties; correct?

11 **A.**   Correct.

12 **Q.**   And are you aware whether this district places an

13 incumbent -- a Republican incumbent in a majority Black

14 district?

15 **A.**   I don't recall. Is that a problem?

16 **Q.**   You don't recall?

17 **A.**   No, I don't.

18 **Q.**   And this district doesn't maintain the core of existing

19 Senate District 17; correct?

20 **A.**   No, it would not, because it's a new majority Black

21 illustrative district.

22 **Q.**   And this may be an obvious question, but you connected

23 the geography you connected in Senate District 17 to create an

24 additional majority Black district in this area; right?

25 **A.**   I'm sorry, I didn't understand that.

1 **Q.**   You connected the geography that you connected in

2 District 17 in order to create an additional majority Black

3 district in this area; right?

4 **A.**   It is an additional majority Black district. It's not

5 cast in stone, though. There would be other ways to do it.

6 **Q.**   And my question was, specifically, you chose these

7 geographies as part of the process of drawing this as an

8 additional majority Black district; right?

9 **A.**   Oh, yes. But I could have chosen some other

10 configuration. It might look a lot like this, but it would

11 be different.

12 **Q.**   I want to look at a few districts around District 17.

13 And I want to begin with District 16, one district to the

14 west.

15   You'd agree that this district also begins in a more

16 heavily Black area and runs down into a more heavily white

17 area at the south end of Spalding County; right?

18 **A.**   The very south end, yes.

19 **Q.**   And you'd agree that District 16 connects more urban

20 areas with more rural areas; right?

21 **A.**   Probably more suburban with more rural maybe would be a

22 better way to put it.

23 **Q.**   And District 16 contains no whole counties; correct?

24 **A.**   Well, it doesn't, but that would be true for almost every

25 Senate district in Metro Atlanta; right?

1   **Q.**   And District 16 does not maintain the core of existing

2   District 16, does it?

3   **A.**   I'd have to look at the core constituencies report. I

4   think maybe some of the population which was in the enacted

5   2021 Senate District 16 may well still be in 2021 Senate

6   District 16, but I don't have those numbers before me. But

7   you can get that from the exhibits. There's a -- someone got

8   a core constituents report that I've mentioned previously, so

9   you can see exactly where the component population in

10 illustrative Senate District 17 comes from, which enacted

11 Senate district it would be drawn from.

12 **Q.**   Is there a community of interest you can identify from

13 North Clayton County that connects it to South Spalding

14 County?

15 **A.**   Well --

16   MR. SAVITZKY: Objection, Your Honor, just to the

17 relevance of discussing in detail communities of interest in a

18 district that's not one of the illustrative districts at issue

19 in the case.

20   THE COURT: Mr. Tyson, why is that relevant?

21   MR. TYSON: Your Honor, it's relevant. Mr. Cooper

22 has testified that districts around the districts he drew, he

23 had to make changes to create the new districts. And as we

24 talked about earlier, we believe it's part of the totality of

25 the circumstances what steps were necessary to create the

1 additional majority Black districts. It may not be a *Gingles*

2 1 question, but it is a question related to what this Court

3 must consider on the mapping front.

4   THE COURT: I'll allow it. I'll look at what effect

5 these changes have to make overall. I'll allow it.

6   MR. TYSON: Thank you, Your Honor.

7 BY MR. TYSON:

8 **Q.**   Mr. Cooper, can you identify any community of interest

9 that connects North Clayton County with rural parts of South

10 Spalding County?

11 **A.**   Again, Metro Atlanta area, very close to one another.

12 There would be commuting patterns from Spalding County into

13 Downtown Atlanta. There are no doubt sports teams that

14 compete against one another, so people drive back and forth on

15 Friday nights to see the football games.

16   It's -- there are commonalities there because this is a

17 distance that is not overwhelming. I mean, you can drive from

18 down around the border of Spalding and Lamar up into Clayton

19 County or deeper into Atlanta probably in under an hour most

20 likely.

21   So I don't get the point you're making, but -- the

22 district could have been drawn differently. Again, this is an

23 illustrative plan. And I am not offering this, and I know the

24 plaintiffs aren't offering this, as the remedial plan. There

25 would be other ways to draw it with additional information.

1   And, again, always in the back of my mind was trying to

2 avoid pairing incumbents. And I also had a very tight

3 deviation range to deal with, plus or minus 1 percent. And I

4 wanted to avoid splitting counties, and I wanted to avoid

5 splitting towns. All of those factors entered in to the way I

6 drew Senate District 17 and by extension into Senate

7 District 16 since it's adjacent.

8 **Q.**   Do you recall if there were any incumbency-specific

9 issues with Senate District 17 -- 16 as you've drawn it?

10 **A.**   I do not recall.

11 **Q.**   I noticed that you've gone around the City of Griffin in

12 Spalding County with the boundaries of Senate District 16; is

13 that right?

14 **A.**   All of Griffin, I believe, is in another district.

15 **Q.**   Can you recall, sitting here today, why you didn't

16 include Griffin in Senate District 16?

17 **A.**   Because I believe it is in Senate District 28; right?

18 **Q.**   And Senate District 28 is one of the new majority Black

19 districts you drew?

20 **A.**   Yes.

21 **Q.**   And so you chose to place the majority Black city of

22 Griffin into the new majority Black district and not into

23 District 16?

24 **A.**   Yes. Doesn't that make sense?

25 **Q.**   And you constructed District 16 this way as part of the

1 creation and configuration of geography to create District 17

2 and Districts 28 as new majority Black districts; right?

3 **A.**   Yes.   However, I have to stress again, that District 16

4 could have looked different, as could District 28 and

5 District 17.   This is merely an illustrative plan, not a

6 remedial plan that's going to be enforced tomorrow obviously.

7   So there are other options out there and the State will

8 likely get the opportunity to present those options, if we

9 prevail.

10 **Q.**   So let's move next to District 28.   And I've kind of

11 taken a little bit more zoomed-out view here so we can see

12 this.

13   You'd agree that District 28, as you've configured it,

14 connects more heavily Black population in South Clayton County

15 with more heavily white population in rural parts of Fayette

16 and Spalding Counties; right?

17 **A.**   There are areas in District 28 in the extreme southwest

18 corner that are predominantly white.

19 **Q.**   And I believe you referenced earlier that you've removed

20 heavily white areas around Peachtree City from this district;

21 correct?

22   MR. SAVITZKY: Your Honor, objection.   Just

23 mischaracterizing testimony.   I don't think Mr. Cooper

24 testified that he removed those areas.

25   MR. TYSON: I'm happy to rephrase the question, Your

1   Honor.

2   THE COURT: Rephrase.

3   BY MR. TYSON:

4   Q.   Mr. Cooper, I believe you testified earlier that

5   Peachtree City is not included in District 28 as you've

6   configured it; right?

7   A.   Correct.

8   Q.   And I believe you also stated that Peachtree City is a

9   more heavily white area; is that right?

10   A.   I think so, based on my travels in that part of the

11   state.   Limited travels, albeit, but I think it's safe to say

12   that Peachtree City is predominantly white.

13   Q.   And --

14   A.   Also I think there's an incumbent that lives over there,

15   I could be wrong about that, but it seems like that rings a

16   bell that maybe there's an incumbent in or around Peachtree

17   City.

18   Q.   And you chose to include the City of Griffin in

19   District 28; correct?

20   A.   Yes.

21   Q.   And did you choose to exclude the white population from

22   Peachtree City in the configuration of this district?

23   A.   Not necessarily, but I ran up against one person one

24   vote.   I mean, once you pick up Griffin and some of the area

25   between Spalding County and Fayetteville, there's a lot of

1 population as you approach Fayetteville. So from one person

2 one vote standpoint you could not include Peachtree City in

3 District 28. And, frankly, probably if you did, it would no

4 longer be majority Black. But there may be ways to include

5 part of it in Senate District 28 still.

6 Q.   And you're aware generally of the Black and white

7 populations in Fayette County because of work you've done in

8 that county; correct?

9 A.   Generally speaking, yes. Yes.

10 Q.   And you would agree there is intervening white population

11 between the Black population in Clayton and Fayette Counties

12 and the population in Griffin in Spalding County; right?

13 A.   In Senate District 28?

14 Q.   Yes.

15 A.   Yes, there is some white population.

16 Q.   Would you agree that the Black population in Griffin in

17 Spalding County is older and less urban than the Black

18 population in Clayton County?

19 A.   I think it is more likely that it is older, yes. But I

20 could not tell you that for a fact.

21 Q.   And your reason for believing there's a connection

22 between the Black communities in Griffin in Spalding County

23 and Black communities in Clayton County is that they're

24 relatively geographically close; right?

25 A.   They're geographically close, that's right. And they are

1 in the same -- yeah, they're just neighbors, you know. I

2 mean, you have to include neighbors when you're drawing

3 districts; right? You can't just isolate certain areas. You

4 would never be able to draw a district that adhered to one

5 person one vote requirements.

6 **Q.**   And District 28 contains no whole counties; correct?

7 **A.**   It does not, as there are many districts in and around

8 Metro Atlanta that don't include whole counties.

9 **Q.**   Do you recall if existing District 28 contained whole

10 counties?

11 **A.**   I don't recall.

12 **Q.**   And District 28, as you've configured, does not maintain

13 the core of existing District 28; right?

14 **A.**   Do you have -- I'd need to look at a map of existing

15 District 28 to really make a statement. I can probably find

16 one here but...

17 **Q.**   I'll pull up your report real quick.

18   I believe Exhibit L to your report is going to contain

19 the 2021 Senate plan.

20 **A.**   That sounds about right.

21 **Q.**   It might be easier to locate in your other binder with

22 all the tabs on it.

23 **A.**   Oh, yes, I guess I'm using your binder, aren't I? That

24 will expedite matters.

25 **Q.**   I apologize. I probably should have that visible for

1 you.

2   MR. SAVITZKY: And I'll -- just to inject, if you're

3 looking for side-by-side images of District 28 in both plans,

4 that would be pages 290 and 292 of Alpha's 1, Mr. Cooper's

5 report. Those have closer-up images.

6   MR. TYSON: Thank you.

7   THE COURT: Which book?

8   THE WITNESS: 290? Yes, I now have 290 and 291,

9 which is the illustrative Senate.

10 BY MR. TYSON:

11 **Q.**   Mr. Cooper, do you have an exhibit number on your 290 and

12 291 that you're referring to?

13 **A.**   I'm looking at P1 and P2.

14 **Q.**   P1 and P2. Okay.

15 **A.**   In the plaintiffs' exhibits.

16 **Q.**   In looking at Exhibits P1 and P2 of your report, can you

17 tell if District 28 contains whole counties on the enacted

18 plan?

19 **A.**   It does. It includes Lamar, Pike and Spalding as whole

20 counties, and then splits Fayette, including some

21 predominantly minority populations around Tyrone and -- just

22 south of Fayetteville in District 16.

23 **Q.**   And just to be clear, Senate District 16 on the enacted

24 plan includes all of Spalding, Pike and Lamar Counties; is

25 that right?

1   **A.**   That's true. Pike and Lamar are predominantly white and

2   are, I think, kind of at the outer ring of --

3   (Clarification by the court reporter)

4   THE WITNESS: That's true. They are further south in

5   the outer rim of the Atlanta MSA.

6   BY MR. TYSON:

7   **Q.**   And Coweta County is whole in Senate District 28 on the

8   enacted plan as well; right?

9   **A.**   Correct. And I believe it's also whole in the

10   illustrative plan.

11   **Q.**   So in this part of Atlanta you agree that Spalding County

12   was not split on the enacted plan and is split on the

13   illustrative plan; right?

14   **A.**   Yes.

15   **Q.**   Can you identify any community of interest between

16   Clayton County and Griffin aside from the geographic distance

17   between the two?

18   **A.**   Well, as I've suggested, the areas are generally suburban

19   in nature. I think Griffin, maybe the city itself, has been

20   there for a while, so it's not all suburban. And it's a

21   majority Black town, so there is the connection, the cultural

22   history that we've mentioned, that makes it acceptable, I

23   think, to include certain communities in a majority Black

24   district. And so that's what I did.

25   And it also eliminates a split to Senate District 28 of

1   Fayetteville and Fayette County that is caused by District 34

2   dipping into Fayette County and picking up predominantly Black

3   population and then allowing for a much whiter Senate

4   District 16.

5   **Q.**   And you would agree that illustrative District 28 splits

6   Fayette County like the enacted plan does on different

7   boundaries but Fayette County is split in both plans; right?

8   **A.**   That's true. The illustrative Senate District 28 splits

9   Fayette County between House District 39 and -- between Senate

10   District 39 and Senate District 28. And the enacted plan

11   splits Fayette County between Senate District 34 and Senate

12   District 16.

13   **Q.**   And you constructed Senate District 28 to be a new

14   majority Black district in this area; right?

15   **A.**   One possible majority-minority -- majority Black district

16   that is currently not in place.

17   **Q.**   And you'd agree that both Senate District 28 and Senate

18   District 16 on the illustrative plan connect more exurban

19   population with more rural population; is that right?

20   **A.**   I think it's really connecting some suburban population

21   with exurban population. Although I do understand that

22   Griffin is a town that's been there for some time, so it was

23   there before the exurban explosion that we've seen in the past

24   three decades.

25   **Q.**   And we talked about Senate District 34 on the

244

1 illustrative plan previously, about whether that district was

2 packed or not. Do you recall that testimony?

3 A.   I do.

4 Q.   And in reviewing that area on the plan, going back to

5 your screen there, the boundaries of District 34, do you see

6 those.

7 A.   Yes.

8 Q.   And you'd agree that that Black VAP is 77.8 percent;

9 right?

10 A.   I don't know. I'm not looking at the table --

11 Q.   The plan components report is right here. Here is your

12 total voting age population for the district.

13 A.   Well, that's Mr. Morgan's total, but I don't think -- I

14 don't question that. I think it's probably accurate. He uses

15 Maptitude as well as I.

16 Q.   And the Fulton portion of that district is 92.89 percent

17 Black; right?

18 A.   Apparently.

19 Q.   And Clayton County is split three ways on the

20 illustrative plan; is that right?

21 A.   I'm not sure about that. I'd have to look at the split

22 report.

23 Q.   But just visually you can see there's a portion of

24 Clayton County here, a portion of Clayton County in

25 District 16 and a portion of Clayton County in 28; right?

245

1 **A.**   Probably. It looks that way. You've overlaid the Senate

2 District's lines onto the county lines, but I think that's

3 probably right.

4 **Q.**   In looking at the enacted plan in the same area, which is

5 Exhibit 34, Mr. Morgan's report, you'd agree that Clayton

6 County on the enacted plan is only divided into two districts;

7 correct?

8 **A.**   This is really hard to look at.

9 **Q.**   So your border of Clayton County runs --

10 **A.**   Yeah. I mean, I see the border. Well, I sort of see the

11 border. But I think there are two districts there.

12 **Q.**   And you'd agree that the enacted Senate plan does not

13 connect portions of Clayton County with rural areas in

14 Spalding County; right?

15 **A.**   And it doesn't connect it with exurban areas in Spalding

16 County.

17 **Q.**   Would you agree the enacted Senate plan doesn't connect,

18 at least on District 10 and District 44, any urban areas in

19 South DeKalb with rural areas in Spalding County; right?

20 **A.**   Well, I still maintain that we're looking really at

21 urban versus -- suburban versus exurban. The rural flavor of

22 Spalding County, while still there in some areas, is seemingly

23 disappearing due to population growth.

24 **Q.**   Let's move to Senate District 23. I want to begin with

25 the enacted plan districts. This is Exhibit 35 of

246

1 Mr. Morgan's report.

2   You'd agree that Senate District 22 on the enacted plan

3 was wholly within Richmond County; right?

4 **A.**   It was. It was.

5 **Q.**   And you believe that Senate District 22 on the enacted

6 plan is packed; correct?

7 **A.**   I believe that Augusta-Richmond County, can be

8 reconfigured in a manner that would allow for an additional

9 majority Black Senate district in the Eastern Black Belt to be

10 created.

11   You'll recall that maybe in our last hearing you

12 complained about McDuffie County, which is a majority Black --

13 I think it's a majority Black, or very close to it, it's part

14 of the Black Belt, not being included in any of my plans. So

15 this particular plan accomplishes what you were complaining

16 about.

17   I added part of Augusta County -- I'm sorry, part of

18 Augusta and -- Richmond Augusta County, I guess, and it

19 included McDuffie in the majority Black district of -- with

20 Richmond and Augusta County.

21   THE COURT: What was wrong with the enacted plan

22 regarding Richmond being just the one county for that Senate

23 seat?

24   THE WITNESS: Well, if -- you do need to split the

25 county in order to get the second majority Black district. I

1 think that's true probably. Although I haven't seen the other

2 plaintiffs' plans in this lawsuit, so I may be wrong about

3 that.

4   THE COURT: Now, Richmond County is predominantly

5 Black?

6   THE WITNESS: Yes.

7   THE COURT: There's 191,000 people used to make up a

8 State Senate seat?

9   THE WITNESS: Well, 91,000 makes up a House seat.

10   THE COURT: But a Senate seat?

11   THE WITNESS: Oh, it's 161,000.

12   THE COURT: Okay. So you're saying you had to split

13 Richmond County in order to get the second Black Senate seat?

14   THE WITNESS: Probably so. You split Richmond and

15 Augusta County between Senate Districts 22 and 23, and then

16 add in to Senate District 22 McDuffie County and eliminate a

17 part of the existing plan that actually goes -- picks up white

18 population in Columbia County.

19   So Columbia County is made whole in this illustrative

20 plan, whereas it's split in the State's 2021 plan.

21   THE COURT: But doesn't the split in Richmond County,

22 didn't it make it hard for the Black African-Americans trying

23 to win that Senate seat if you split it?

24   THE WITNESS: Well, the Black VAP in that Senate

25 district would be lower. And the understanding I have is that

1 based on the *Gingles* 2 and *Gingles* 3 analysis that has been

2 done, a Black candidate would be able to prevail in a district

3 that is not as heavily Black as the existing Senate

4 District 22, because otherwise that particular configuration

5 would not have been produced by the plaintiffs' side --

6   THE COURT: You change an almost safe seat into a

7 seat at some risk?

8   THE WITNESS: Perhaps. I mean, it's certainly --

9 yeah, it's certainly a smaller Black VAP for Senate

10 District 22 than it has under the enacted plan. I'm not

11 looking at the percentage, but I do think it would cut it.

12   THE COURT: Mr. Tyson asked the question and I may

13 have missed the answer. You may have answered and I missed

14 it. He asked the question, was that seat -- did you consider

15 that seat packed, that Senate seat packed under the enacted

16 plan. You may have answered it, I may have just missed it.

17   THE WITNESS: I may not have answered it. And I

18 have a real -- I use the term "packed" and "cracked" kind of

19 in a very broad brush. I -- I have to look -- you know, you

20 can't really just look at the percentages but --

21   THE COURT: What do you look --

22   THE WITNESS: I -- well, I was aware of the

23 percentages. And I was also aware that if Richmond County was

24 split and then included in a new Senate District 22 that would

25 bring in the adjacent rural counties, that you would still

1 have a majority Black VAP district.

2   THE COURT: Well --

3   THE WITNESS: So the question was whether it would be

4 sufficient, in other words, well over 50 percent, to make it

5 likely that Black candidates would normally be able to prevail

6 in that district. And the understanding I have is, based on

7 the *Gingles* 2 and *Gingles* 3 analysis, it would be a district

8 where the Black population would run competitively in a Senate

9 seat.

10   THE COURT: Do we have a percentages? Do you know

11 what the percentage would be if you split it?

12   THE WITNESS: Well, I do have -- I mean, I have the

13 percentages -- we have both. We have the -- let me get the

14 table.

15   THE COURT: What percentage of it now as-is?

16   THE WITNESS: Yeah. Yes, your Honor. I'll find that

17 here. It may take me a moment.

18   THE COURT: Well, we can come back to that.

19   MR. TYSON: I actually have it on the screen, Your

20 Honor. This is the percentage of voting age population on the

21 existing District 22, 56.5 percent.

22   THE COURT: If you split it -- it's 56 now, so if you

23 split it, would it be under 50?

24   THE WITNESS: It would be a little bit over -- it

25 would be 50.1 -- 50.2 percent -- I'm sorry, 22 would be 50.36

1 percent any part Black.

2   THE COURT: A reduction of about 6 percent?

3   THE WITNESS: Yes. The white population would be

4 40.63 percent. So there's a 10 percentage point advantage to

5 the Black voting age population in Senate District 22, because

6 Augusta-Richmond has other minorities, Latinos, that would

7 also be in the mix. So there's a ten percentage point gap, so

8 that's still -- it's not a 50/50 district, but it would be

9 more competitive, obviously.

10   THE COURT: All right. Thank you.

11   Go ahead.

12   MR. TYSON: Thank you, Your Honor.

13 BY MR. TYSON:

14 **Q.**   And, Mr. Cooper, again, not to belabor this point, but in

15 terms of District 22 on the enacted plan being packed, you

16 believe that District 22 is packed on the enacted plan?

17 **A.**   I think I've tried to state -- and I probably haven't

18 done a very good job of it -- that it's -- there is no magic

19 number for packing.

20   What I tend to say about packing is that it -- there -- I

21 would suggest that you could slightly reduce the Black VAP in

22 District 22 and thereby create a Senate District 23 that is

23 majority Black, a Senate District 23 that does include part of

24 Augusta-Richmond County, and then extends following the Black

25 Belt counties down towards Twiggs County and back up in a

1   northeasterly direction.

2   So it's a fairly large district, but it would be majority

3   Black in an area that those populations now are in districts

4   that are overwhelmingly white.

5   THE COURT: Well, 56 percent, you think that's a

6   possibility of calling that packing?

7   THE WITNESS: Well, no, I'm not -- I shouldn't use

8   the term. I should stop using it altogether.

9   THE COURT: Well, I have to use it. It's the only

10 thing I've got.

11   THE WITNESS: Well, yeah. I mean, there is

12 sufficient population in Richmond Augusta County to allow for

13 minor reduction in that percentage and, therefore, create a

14 new majority Black Senate District. I mean, you create --

15 essentially you create two more racially diverse districts

16 than just the one that you have in Senate District 22.

17   THE COURT: Maybe.

18   THE WITNESS: Well, I mean, I'm not -- I'm just

19 saying the districts are racially diverse, but I'm not

20 predicting a winner here at all. But I'm basing my assumption

21 that District 23 as drawn would be a reasonable opportunity

22 district for a Black candidate, but it's no guarantee.

23   THE COURT: What would be the percentage in

24 District 23, Senate District 23, what would be the percentage

25 of Black?

1   THE WITNESS: 50.2. So it's a -- and the white

2 population percentage in that district would be 45 percent.

3 So it would be somewhat more competitive but still an

4 advantage to the Black voting population.

5   THE COURT: Go ahead.

6   MR. TYSON: And, Your Honor, my learned co-counsel

7 has corrected me on the break that I was not being

8 sufficiently precise with my impeachment. I don't want to

9 belabor this point, but I have one more piece to bring out.

10 BY MR. TYSON:

11 **Q.**   Mr. Cooper, you recall giving a deposition on

12 February 10th; right?

13 **A.**   I was there, yes, on February 10th.

14 **Q.**   And you recall a court reporter was present and took down

15 what you said?

16 **A.**   Yes.

17 **Q.**   And you were under oath; right?

18 **A.**   Yes.

19   MR. TYSON: So, Your Honor, I'd like for permission

20 to read the deposition at 140, 8 through 13.

21   THE COURT: Yes.

22   MR. TYSON: I can bring one up to the Court as well

23 or read one, whatever you'd prefer.

24   THE COURT: You can read it.

25 BY MR. TYSON:

1 Q.   So, Mr. Cooper, do you remember when I asked you, you

2 believe that Senate District 22 is packed on the enacted plan,

3 and your answer was, "Yes, I do"? Do you recall that

4 testimony?

5 A.   Well, yeah. I mean, I apologize for not being able to

6 really express myself on this issue adequately, but the point

7 is, is that you have a district that's 56 percent Black. And

8 with a minor change, you know, three or four percentage points

9 apparently, I was able to create a second majority Black

10 district. So given that, I believe that the Black population

11 is somewhat packed, but there's not a -- there's not a -- I

12 mean, it just varies from place to place and situation to

13 situation.

14   THE COURT: But it kind of looks like you're looking

15 for Black voters. You take a Senate District 22, which is

16 56 percent, I've got to admit, I kind of find it hard to find

17 that that's a packed district.

18   THE WITNESS: Well --

19   THE COURT: And if you take 6 percent out in order to

20 create -- I understand to create the second district. Then

21 your argument is rather than having one Black Senate district,

22 you have two. But, you know, you're saying, well, it's not

23 really packed, Judge, I don't want to use that word, but you

24 can't create that second district unless you take those

25 6 percent Blacks out of that district to put in this other

1   district.

2   THE WITNESS: That would seem to be the case, but I

3   have not seen the plan that's been developed by the other

4   plaintiffs in this lawsuit which may well accomplish that, I

5   don't know.

6   But in my case I made a decision to split Richmond

7   and Augusta and, therefore, have population that would allow

8   for a majority Black district extending towards Wilkes County.

9   THE COURT: You split it so you can get 6 percent

10 Blacks out of this district to make a second district?

11   THE WITNESS: Well, that's essentially what happens;

12 right.

13   THE COURT: Go ahead.

14 BY MR. TYSON:

15 Q.   Mr. Cooper, following up on those questions, in looking

16 at the configuration of District 22, it is underpopulated on

17 this indication in your report by zero -- by minus

18 .92 percent; right?

19 A.   Right.

20 Q.   And you've used a plus or minus 1 percent deviation for

21 your State Senate plan; correct?

22 A.   Correct.

23 Q.   So that is a very underpopulated district when you're

24 using a plus or minus 1 percent deviation?

25 A.   It would be on the low end for sure, but as I understand

1 it, it's a constitutional district because it's obviously

2 adhering to the requirements of the State Senate and well

3 below plus or minus 5 percent.

4 **Q.**   Are you aware that Senate District 22 is part of the

5 *Georgia v. Ashcroft* litigation in the 2001 redistricting

6 cycle?

7 **A.**   I was not.

8 **Q.**   So you're not aware of what the BVAP was in the 2001

9 decision in *Georgia v. Ashcroft*?

10   (Clarification by the court reporter).

11 BY MR. TYSON:

12 **Q.**   So you're not aware of the Black voting age percentage in

13 Senate District 22 in the 2001 *Georgia v. Ashcroft* case;

14 right?

15 **A.**   I am not. I mean, I guess there was a plan that the

16 Court adopt -- I mean that the state legislature adopted

17 sometime in 2001, and then there was a lawsuit, and then the

18 Court ordered a new plan. I'm not sure -- you're not

19 referencing the -- you're not referencing -- are you

20 referencing the 2006 plan or another plan?

21 **Q.**   I was referencing the 2001 plan that was objected to by

22 the Department of Justice.

23 **A.**   Yes. That was a long time ago, but I don't know what the

24 percentage is.

25 **Q.**   So, Mr. Cooper, looking a little more closely at

1   District 22 --

2   THE COURT: Mr. Tyson, can I interrupt for one

3   second.

4   MR. TYSON: Certainly.

5   THE COURT: I would remind you that the court

6   reporter needs us all to do two things: Speak slower and

7   louder.

8   MR. TYSON: I will endeavor to do my best on that.

9   THE WITNESS: I will try to do better as well.

10   THE COURT: I'm guilty of that as well, so she'll

11   start off being mad at me first.

12   MR. TYSON: I received a pretrial admonishment, and I

13   still am struggling. So I'll keep working on it.

14   BY MR. TYSON:

15   Q.   Mr. Cooper, in looking at the boundaries of Senate

16   District 22 as you've drawn it, it now begins in Richmond

17   County, but as you indicated, includes McDuffie, Warren and

18   Glascock Counties in addition to the portion of Richmond

19   County; is that right?

20   A.   Right.

21   Q.   And by extending District 22 out of Richmond County, that

22   freed up population that you can use in Senate District 23;

23   correct?

24   A.   Correct. Again, I'm not -- I'm not looking at where the

25   incumbents live, so that might have been a factor.

1   **Q.**   But you'd agree that moving District 22 into those three

2   adjoining counties allowed for Black population to be

3   available to go into District 23; right?

4   **A.**   Yes.

5   **Q.**   So let's take a look at some of the pieces we have of

6   Senate District 23.

7   So 23 begins in Richmond County; correct?

8   **A.**   Yes.

9   **Q.**   Oh, I'm sorry, Mr. Cooper, I got ahead of myself here.

10   Both Senate District 22 and Senate District 23 are

11   underpopulated districts on the illustrative plan; right?

12 **A.**   They are underpopulated but within the plus or minus

13 1 percent. I mean, that's acceptable, as far as I know.

14 **Q.**   And you can't identify any community of interest between

15 Richmond County and McDuffie, Warren or Glascock Counties, can

16 you?

17 **A.**   I think you can. They're neighbors. Richmond County and

18 Augusta now, that's a consolidated county. So all you have to

19 do is step across the line and you're in McDuffie County.

20 They were all part of the Central Savannah Regional

21 Commission, so those counties would have reason to cooperate

22 with one another either under your enacted Senate plan or

23 under the illustrative plan. So I -- I think that it makes

24 sense to include McDuffie with Richmond Augusta County.

25 **Q.**   And Columbia County is part of that same regional

1   commission; right?

2   **A.**   Correct.

3   **Q.**   And you did not include Columbia County with District 22;

4   correct?

5   **A.**   That's true.   I eliminated the split of Columbia County

6   that you -- that is in the enacted plan, in the 2021 plan.

7   **Q.**   And this configuration of Senate District 22 was in

8   service of the goal of making District 23 a majority Black

9   district; right?

10 **A.**   It worked out to be a way to draw a majority Black

11 district that included some of the more rural counties in the

12 Black Belt, true.   I don't know if that's the only way to do

13 it, though.

14 **Q.**   In looking at Senate District 23, as you've configured

15 it, it appears that the two split counties are Richmond and

16 then Wilkes, which is slightly out of view on this one, but

17 you can see on this display here.   Do you see that?

18 **A.**   Yes.

19 **Q.**   And the portion of Wilkes County from the plan components

20 report that is put into District 23 is 69.86 percent Black; is

21 that correct?

22 **A.**   I'm going to assume that is correct.

23 **Q.**   And this portion -- this split of Wilkes County divides

24 the City of Washington, Georgia; right?

25 **A.**   It follows -- if I'm not mistaken, it follows county

1 commission boundaries that also split the Town of

2 Washington -- or the City of Washington.

3 **Q.**   And the portion of Wilkes County that is not included in

4 Districts 23 is 25.39 percent Black; correct?

5 **A.**   Yes.

6 **Q.**   When you were drawing Senate District 23, were you aware

7 of the racial impact of the split of Wilkes County?

8 **A.**   I was aware that I could not include all of Wilkes County

9 in a majority Black district. I was also aware that it --

10 that Wilkes County goes almost all the way right up to the

11 South Carolina line, so it basically has to be split

12 regardless of the underlying racial demographic.

13 **Q.**   You said that you couldn't include all of Wilkes County

14 in a majority Black district. Is that because the number

15 would drop below 50 percent on --

16 **A.**   No. There are the two reasons that I just named. One is

17 the obvious one, that it would throw the deviation off. And

18 the other reason is that it's slanted up towards the South

19 Carolina line, and so it would just kind of create this very

20 narrow passageway for Lincoln to be connected with something.

21 So it makes sense to split Wilkes County.

22 **Q.**   And is it your testimony that you never looked at racial

23 data when you were making the split of Wilkes County?

24 **A.**   No. As I've said, I've looked at VTD-level racial data.

25 **Q.**   So it just happened that almost 70 percent of the

1 population from Wilkes County that you included in District 23

2 is of Black voting age?

3 A.   I had no idea that was the percentage. As I was drawing

4 the plan I did use the existing county commission district

5 lines. So I did -- I mean, there's -- I mean, those are lines

6 that have been established by local people; right?

7   And where I didn't follow the county commission lines in

8 the Senate plan, I followed the municipal lines of the City of

9 Washington. So what did I do wrong?

10 Q.   You also split precincts in Wilkes County when you were

11 following those other boundaries; right?

12 A.   I did for the House plan. I'm not sure about the Senate

13 plan. Well, the municipal lines do split precincts. See,

14 that's the trade-off. There's a trade-off between following

15 VTD lines and following municipal lines, because oftentimes

16 VTD lines extend beyond municipal lines. So I made a decision

17 just to include the City of Washington in the majority Black

18 district.

19 Q.   And that resulted in the portion you included in

20 District 23 being 69.9 percent Black; right?

21 A.   Apparently so. I'm taking your figures on the assumption

22 they're correct.

23 Q.   In looking at the broader boundaries of Senate

24 District 23, you'd agree that it begins on a South Carolina

25 border here and runs all the way to Twiggs County just south

1 of Macon; correct?

2 **A.**   Yes.

3 **Q.**   And you'd agree that illustrative District 23 as you've

4 drawn it includes counties from different regions than the

5 regions you analyze at the beginning of your report; right?

6 **A.**   Well, I've looked at different regions, that's true.

7 I've looked at the contemporary Black Belt. I've looked at

8 regional commissions. And I've looked at MSA lines and

9 micropolitan and statistical area lines and county lines. So

10 I've looked at different regions, true.

11 **Q.**   And you'd agree that illustrative District 23 crosses

12 regional commission boundaries as you've configured it; right?

13 **A.**   It does.

14 **Q.**   And is it correct that the only connection you can

15 identify between Richmond County and Twiggs County is that

16 they're both in the area of the Black Belt?

17 **A.**   They're in the Black Belt. And there are transportation

18 corridors between the two areas now. There's a Fall Line

19 Freeway that would allow you to pretty much travel from Twiggs

20 to Augusta County with any -- without any problem at all.

21   And as you're probably aware, there's now in the works an

22 I-14 that would go from the Macon area to Augusta that would

23 go through many of these counties. I don't think the map's

24 been plotted out exactly where those interstate boundaries

25 would go. I would say it's a new development as of a couple

1 of years ago. And it will take a while for that particular

2 interstate to be constructed.

3   But during the process of that construction it would be a

4 very good thing if Twiggs County is in the same Senate

5 district as Augusta-Richmond area because those counties are

6 going to need to work together as plans for I-14 roll out.

7 **Q.**   Did you rely on the proposed route of I-14 for your

8 choices to configure illustrative District 23 this way?

9 **A.**   I was aware of the existence of a potential I-14. I

10 don't know if -- I don't even think that this project is at

11 the stage yet where there's actually a proposed route that is

12 definitive. But I think it will follow a lot of what is now

13 called the Fall Line Freeway, Highway 540, which is already a

14 four-lane road, with some minor exceptions, that goes from

15 somewhere south of the Macon area, Jefferson -- the City of

16 Jeffersonville, I think, in Wilkins County -- Wilkinson County

17 up to Augusta.

18 **Q.**   Did you rely on the route of the Fall Line Freeway for

19 your choices to configure Senate District 23 this way?

20 **A.**   Well, I didn't rely on the -- I mean, it was not a

21 boundary because it kind of cuts through the middle of the

22 contemporary Black Belt. I mean, it's there. It exists. It,

23 I think, used to be parts of other highways, but now it's all

24 subsumed under Highway 540, a state highway.

25   And ultimately, a lot of that, as I understand it, will

1   become part of I-14.

2   Q.   And so the communities that you relied on that connect

3   Richmond and Twiggs Counties are both being part of your

4   definition of the Black Belt and having some transportation

5   commonality or corridors between them; is that right?

6   A.   Yes.

7   Q.   So let's talk a little bit about the Black Belt.

8   You'd agree there is no uniform definition of the Black

9   Belt; right?

10   A.   Yes.

11   Q.   And you can't say for sure which counties are in or out

12   of the Black Belt in Georgia; is that right?

13   A.   Well, different analysts would perhaps examine data and

14   come to different conclusions about which ones should or

15   should not be in the Black Belt. I think that the GBPI had a

16   pretty good methodology and most of the area between Twiggs

17   and Augusta, those counties, would be in the contemporary

18   Black Belt.

19   Q.   So let's take a look at that GBPI report. I believe that

20   was Alpha Plaintiff's Exhibit 53. It's also in tab 4 of the

21   second binder I handed up to you there marked as

22   Defendant's 22, but it's the same report.

23   A.   Wait a minute. This is in your -- I've got it but --

24   Q.   It's fine to refer to the plaintiff's version if you'd

25   like to.

A.   I think it's in Exhibit E, isn't it, or somewhere

thereabouts, no? Ah, here it is. Yes. It's in Exhibit D.

Q.   And you relied on this paper by the Georgia Budget &

Policy Institute for what the contemporary Black Belt region

is; right?

A.   Yes, as a general guide. It's not cast in stone, but as

a general guide, I did.

Q.   What other sources did you rely on besides this report

for your understanding of the Black Belt region in Georgia?

A.   Well, I also just looked at the demographics. And if you

go back to, I guess, Figure -- is it Figure -- I'll get you

the figure from my report here in a second -- Figure 4, you

see that most of the counties, stretching from Twiggs County

to Augusta–Richmond, are 40 percent or more Black. Wilkinson

would be an exception, I guess, it's 35 percent Black.

Q.   So part of your definition of the Black Belt includes

counties that have at least 35 to 40 percent Black population?

A.   Not necess- -- I didn't develop a hard and fast rule

on that, but that would be reasonable. A county that is in

the range of 40 percent or more is probably going to be part

of the historical Black Belt and especially a part of the

contemporary Black Belt.

Q.   And you didn't include any counties from Metro Atlanta as

part of that -- as part of the Black Belt?

A.   I did not because Atlanta is some distance away from the

1   midsection of the state. So I did not try to draw a district

2   that stretched, say, from Henry County down to Twiggs County

3   or something. I just stuck with the northeast-southwest

4   approach.

5   **Q.**   And so turning to page 7 of the Georgia Budget & Policy

6   Institute report, this is the map that you relied on in

7   creating your report; is that correct?

8   **A.**   I used it just as general background information. It

9   didn't really control exactly how I was drawing the lines.

10 **Q.**   You'd agree that this map includes Savannah and

11 St. Simons Island as part of the Black Belt; right?

12 **A.**   I don't know about St. Simons Island. It's what -- well,

13 it's including Chatham County is what it's including, I guess.

14 **Q.**   And it's including Glynn County as well?

15 **A.**   Well, let's look. Yes. The slave population in Glynn

16 County was 73 percent in 1860, and they are now -- school

17 enrollment in Glynn County is 35 percent Black and there's

18 36 -- 38 percent Black poverty. So that was how the Georgia

19 Budget & Policy Institute established what parts of the state

20 is within -- what parts are within the Black Belt.

21   And so they didn't just restrict it to a narrow band of

22 counties necessarily between Augusta and Southwest Georgia.

23 It would have included some other areas of the state. And so

24 it's -- it was a guidepost, but it was not the overriding map

25 that I used to develop the illustrative plan.

1   Q.   And you'd agree that the report includes Clarke County

2   and Athens as a Black Belt area, Newton County, Butts County

3   and Spalding County in Metro Atlanta as Black Belt counties;

4   right?

5   A.   Yes.   And if you look at Clarke County, you can see that

6   almost half of the Black population that enroll in school is

7   Black, 49 percent.   And the percent of poverty is really quite

8   high, 46 percent in Clarke County.

9   Q.   And Clayton County is well over 35 percent Black, but it

10   is not included as part of the Black Belt; right?

11   A.   Yes, but there is a proviso there.   For some reason the

12   authors of this report decided not to include the core

13   counties of Atlanta as part of their analysis.   And I'm --

14   they didn't really -- at least I didn't see where they

15   elaborate on that as to why that decision was made because

16   Clayton County would qualify based on percent Black enrolled,

17   which is 70 percent, and percent Black and poverty,

18   42 percent.

19   Q.   And this report helped form your opinions about where the

20   Black Belt is located in Georgia, didn't it?

21   A.   It did inform my opinion, yes, because it showed me that

22   there are areas that go beyond just looking at simple

23   county-level data that could be included in the Black Belt.

24   Q.   And this is a map not of counties but of school --

25   A.   School systems, that's right.   There are -- the school

1 systems don't stand out so much in the Black Belt because both

2 the school systems and the counties are kind of, you know,

3 colored deep blue. Most -- you can see some of the school

4 systems in North Georgia are shown on this map, but they would

5 not be Black Belt counties. I mean, they show up as being

6 maybe a thicker line or something, but you can see them.

7 **Q.**   Did you have a particular method by which you excluded

8 counties that the GBPI found were part of the Black Belt and

9 that you did not find to be part of the Black Belt?

10 **A.**   No. I was looking at this as just general background

11 information. So take it for what you will.

12 **Q.**   In getting back to Senate District 23, your understanding

13 of the Black Belt is what formed at least one of the

14 communities of interest you relied on for this configuration

15 of the district; right?

16 **A.**   I'm sorry, I missed part of that question.

17 **Q.**   In going back to Senate District 23, your understanding

18 of the Black Belt is what formed -- I'm sorry.

19   Your understanding of the Black Belt helped inform the

20 decisions you made about the configuration of Senate

21 District 23; right?

22 **A.**   Yes.

23 **Q.**   In looking at the counties in District 23, is there one

24 geographically compact Black community in illustrative

25 District 23?

1 **A.**   That's an odd question. I have trouble answering it.

2 But I would say that there is a community that extends from

3 Augusta—Richmond, down through the Black community, down

4 through the Black Belt and back up towards Twiggs County based

5 on cultural and historical factors.

6 **Q.**   In wrapping up with illustrative District 23, it splits

7 two counties; correct?

8 **A.**   As does your -- the State's District 23, if I'm not

9 mistaken.

10 **Q.**   Oand illustrative District 23 has a different footprint,

11 obviously, than existing District 23; right?

12 **A.**   Yes.

13 **Q.**   And aside from the Black Belt and the transportation

14 corridor between Richmond and Twiggs, you can't identify any

15 other communities of interest in the counties contained in

16 this district; right?

17 **A.**   Well, that would seem to me to be enough. I mean, it

18 goes beyond just being Black or having a transportation

19 corridor. If you look at the poverty rates -- go back and

20 look at the county data, those charts, and take a look at the

21 poverty rates in this area of the state. And I'm talking

22 specifically about Black poverty. And you may come away with

23 a different feeling about it all.

24   And I would also mention that some of those counties have

25 just been in -- the voting population in those counties have

1 been in majority white districts, going all the way back to

2 the passage of the Voting Rights Act. So this would be the

3 first opportunity for some Black voters, some of whom are

4 quite elderly, to have a shot at having a meaningful vote cast

5 for state legislature.

6 **Q.**   And this construction of Senate District 23 was designed

7 to be an additional majority Black district in this area;

8 right?

9 **A.**   Absolutely.

10 **Q.**   So let's move to the State House districts.

11   First of all, before I get to that, you'd agree that the

12 2021 enacted plan added two majority Black districts from the

13 prior House plan; right?

14 **A.**   Yes. There were 47 in the prior plan, now there are 49,

15 so two were added.

16 **Q.**   And you drew five additional majority Black districts

17 beyond the enacted plans number; right?

18 **A.**   Right.

19 **Q.**   And one of those districts is in a different location in

20 the state than the preliminary injunction plan you drew;

21 right?

22 **A.**   That's true.

23 **Q.**   So let's work through these districts as well. We're

24 going to start with South Metro.

25   And your House map, looking at it here, has the same

1   pattern of taking higher concentrations of Black voters in

2   Clayton and Fulton Counties and then running them like a

3   stripe down into more heavily white areas in Fayette County in

4   69 and 77; right?

5   **A.**   The Black population in that area is concentrated more

6   around Fayette County in the northern part and Clayton County,

7   that's true.

8   **Q.**   And District 69 and 77 are already majority Black

9   districts on the existing plan. District 64 is what you're

10 calling the new district; right?

11 **A.**   Yes.

12 **Q.**   So looking at these districts, starting with District 69,

13 you'd agree that most of the population in District 69 is in

14 Fayette County; is that correct?

15 **A.**   Yes, but -- it's 39,000 in Fayette; right.

16 **Q.**   And the portion of Fayette that's included is only

17 34.43 percent Black; correct?

18 **A.**   That's --

19   MR. SAVITZKY: Your Honor, I just renew my objection

20 at this time to questioning about the details of districts

21 that are not put forward as the illustrative districts in

22 Mr. Cooper's plan.

23   And I would add only that to the extent that

24 Mr. Tyson's position that these are relevant to the totality

25 of the circumstances, Mr. Cooper is here as an expert in

1   *Gingles* 1, not the totality of the circumstances.

2   THE COURT: Yeah, Mr. Tyson, I'm not quite following

3   you on the relevancy of this line of questioning on these.

4   The other ones I could see the effect, but this one, I don't

5   quite see the relevance in here.

6   MR. TYSON: And so, Your Honor, what we'll see is the

7   addition of District 77 is key to creating District 74 as a

8   new majority Black district. So both 69 and 77, as we'll work

9   through these, will show are longer and thinner than the

10 districts that were drawn by the legislature. And that is

11 necessary to create -- free up the population, kind of like

12 with Richmond County for District 74 in this location. So

13 that's the reason for the questions in this space.

14   MR. SAVITZKY: Your Honor, it doesn't go to the

15 compactness or configuration of District 74 itself, which is

16 being put forward as the illustrative district that we're

17 suggesting can be drawn. So I don't think it's relevant to

18 the *Gingles* 1 question.

19   THE COURT: I sort of agree with him here, Mr. Tyson,

20 with the objection here.

21   MR. TYSON: Thank you, Your Honor.

22 BY MR. TYSON:

23 **Q.**   Mr. Cooper, in configuring District 74 did you have to

24 reconfigure other districts nearby?

25 **A.**   Yes, other districts were configured nearby.

1 **Q.**   And looking at District 74 as you've drawn it, you'd

2 agree that the only portion -- only county that's majority

3 Black on voting age population is the Clayton County portion

4 of District 74; correct?

5 **A.**   That is correct.

6 **Q.**   And District 74, as it's configured, places the heavily

7 white portion of Spalding County in with an almost 80 percent

8 Black-backed portion of Clayton County; correct?

9 **A.**   I don't know the exact percentages, but maybe it would

10 be about 7,000 people from Spalding County, of which about

11 15 percent is Black.

12 **Q.**   Can you identify the geographically compact Black

13 community in District 74?

14 **A.**   Well, I think the district itself is compact. And most

15 of the Black population does come from Clayton County, but it

16 is picking up Black population in Henry County. The part of

17 Henry County that is included in that district is 47 percent

18 Black voting age, 50 percent Black. And there is some

19 population from Spalding County that is Black, 15 percent.

20 And you create a majority Black district. And that is

21 unquestionably compact. And end of story as far as I'm

22 concerned.

23 **Q.**   You'd agree --

24 **A.**   Very, very -- I mean, the distances there to get from one

25 part of the district to the other are, you know, what is it,

1 maybe a 20-minute drive at most, unless you're going during

2 rush hour traffic or something, maybe it's more than that.

3 **Q.**   And you'd agree that you need the Black population in

4 Clayton County to make District 74 a majority Black district;

5 correct?

6 **A.**   I think as it's configured here, yes. Is that a problem?

7 No.

8 **Q.**   Are you aware that the enacted plan maintained Clayton

9 County's borders except for a small portion over in Henry?

10 **A.**   I am aware that a small portion of Clayton County was

11 split, yes.

12 **Q.**   And can you identify a community of interest in

13 illustrative District 74 between the portions of Clayton and

14 Spalding Counties that are included, besides geographic

15 distance?

16 **A.**   Well, they are neighbors. I mean, we're not -- I'm not

17 drawing a district here, House District 74, that is in any way

18 extending across vast territory to create a majority Black

19 district. It's a very compact area. There are most certainly

20 linkages between North Spalding County and Henry County and

21 Clayton, which is, in that part of the county, as I understand

22 it, largely suburban.

23 **Q.**   Mr. Cooper, would changes in Districts 77 and 69 be part

24 of the ripple effect of drawing District 74 as you testified

25 earlier?

1 **A.**   Part of a ripple effect, perhaps.

2   And if you think 77 is too elongated now, there would

3 likely be other ways to draw it.

4   MR. TYSON: And, Your Honor, with that I'm going to

5 renew my questions on District 77 and 69, expecting I might

6 get an objection, but I just wanted to alert you. We feel

7 like that we've laid the foundation now for why those are

8 relevant to the drawing of District 74.

9   THE COURT: I guess it goes back to my summary

10 judgment order, where I found that it would not be relevant.

11 That's, more than anything, the basis of sustaining the

12 objection.

13   MR. TYSON: Certainly, Your Honor. And we'll respect

14 that. Thank you.

15 BY MR. TYSON:

16 **Q.**   Mr. Cooper, have you reviewed Chart 8 in Mr. Morgan's

17 report about compactness scores for these four districts?

18 **A.**   Some time ago, yes.

19 **Q.**   And you've testified several times that District 74 is

20 very compact; right?

21 **A.**   Yes, it has a .63 compactness score on Reock and .36

22 on Polsby-Popper. And it's just visually compact.

23   THE COURT: Mr. Tyson.

24   MR. TYSON: Yes, sir.

25   THE COURT: I hate to interrupt y'all, but there's a

1   matter that's come up in my chambers that I need to step off

2   for about five minutes to take care of it. Let's just take a

3   break right here.

4   It's my goal to finish this witness today.

5   (After a recess, the proceedings continued at

6   4:40 p.m. as follows:)

7   THE COURT: Y'all can be seated.

8   I apologize, Mr. Tyson, just something came up I had

9   to handle.

10   MR. TYSON: Certainly understand, Your Honor.

11   And just for timing logistics, I mean, we obviously

12 have three districts left to talk through on the House plan.

13 You've seen about how long it's taking per district. I just

14 want to make sure I'm being forthright with kind of what we're

15 looking at. I think it probably is going to be at least a

16 5:30 finish for me, and we have redirect, I'm assuming, after

17 that, so...

18   THE COURT: Let me put it this way. We're going to

19 go to 5:30, may go to 6:00. Well, we'll see how long the

20 redirect goes and then recross. You may be able to get your

21 cross in and go from there.

22   MR. TYSON: Okay. Thank you, Your Honor.

23   And one other housekeeping piece, Your Honor. I

24 talked with co-counsel at the break. Just we do -- I

25 understand your Court's ruling on the other districts. We

1 believe the racial predominance piece is in *Gingles* 1, and

2 that we have testimony from Mr. Cooper now about the effects

3 that he had while he was drawing the plans. And the only

4 questions we would have asked additionally for 69 and 77 were

5 going to be about communities of interest from the north part

6 of the district to the south part of the district. So I just

7 wanted that to be reflective.

8   THE COURT: So noted for the record.

9   MR. TYSON: Thank you.

10   THE COURT: You still have an objection; correct?

11   MR. SAVITZKY: Yes, Your Honor.

12   THE COURT: All right. So noted for the record.

13   MR. TYSON: Understood. Thank you, Your Honor.

14 BY MR. TYSON:

15 Q.   Mr. Cooper, let's move to Henry County, District 117.

16 And this is an additional majority Black district in Metro

17 Atlanta; correct?

18 A.   It is.

19 Q.   And it includes portions of Henry and portions of

20 Spalding Counties; correct?

21 A.   Correct.

22 Q.   And this district splits the City of Locust Grove; right?

23 A.   It does split Locust Grove.

24 Q.   And the city also splits the city of -- I mean, sorry.

25   This district also splits the City of Griffin; right?

1 **A.** The southwest corner.

2 **Q.** And you connected a portion of Locust Grove with a

3 portion of the City of Griffin in District 117; right?

4 **A.** Yes.

5 **Q.** And the basis for connecting Locust Grove and Griffin was

6 their geographic proximity and the opportunity to create a new

7 majority Black district; right?

8 **A.** I think that's a safe statement, yes. They're very close

9 to one another.

10 **Q.** And you referenced earlier various labor force

11 participation rates and socioeconomic data. Since

12 District 117 does not include whole municipalities or whole

13 counties, you can't conduct a socioeconomic analysis for the

14 voters in District 117; right?

15 **A.** Well, I think you could look at socioeconomic data for

16 Griffin. Perhaps for Locust Grove.

17 **Q.** But those would be for the entire cities --

18 **A.** Right. That's true. That's true.

19 **Q.** And both of those cities are split; correct?

20 **A.** Right. But it gives you an indication of the underlying

21 population.

22 **Q.** And beyond what we've talked about you can't identify any

23 other community of interest that connects Locust Grove and

24 Griffin; right?

25 **A.** They are in an exurban area of Metro Atlanta. Both

1 communities are majority Black. And they're very close to one

2 another. So I can't imagine that there's not a community of

3 interest.

4   Locust Grove is exurban and really didn't exist in large

5 part until the 2000s. I think in the 1990s it had a

6 population of about 300 people. So it is a newer place than

7 Griffin.

8 **Q.**   And the connection of Locust Grove and Griffin was made

9 in service of the goal of making this a new majority Black

10 district; right?

11 **A.**   Well, I'm looking at areas that could be contained within

12 a majority Black district somewhere in Metro Atlanta. I don't

13 believe that I sacrificed any traditional redistricting

14 principles at all. In fact, I'm 100 percent certain that I

15 did not. But you can parse the data and try to claim

16 otherwise, as you've done so far today.

17 **Q.**   Let's move over to East Georgia. And I want to begin

18 with the enacted plan in the East Georgia area.

19   Are you looking at the map with me there?

20 **A.**   I'm now looking at -- I mean, the map you're showing, I

21 have to stress, is not the sort of map that I would ever be

22 looking at as I'm drawing a plan. That's a very important

23 point to make.

24   You guys seem to be totally obsessed with race. And

25 I'm trying to develop plans that adhere to traditional

1 redistricting principles while simultaneously being aware of

2 race but not just completely obsessed with racial shading.

3 **Q.**   And, Mr. Cooper, you've testified that you were able to

4 reduce the overall county splits from the enacted plan on the

5 illustrative plan; right?

6 **A.**   Yes. For the House plan by one county; right.

7 **Q.**   And so looking at this area on the enacted plan, I count

8 six split counties, McDuffie, Columbia, Richmond, Putnam,

9 Jones and Baldwin. Do you agree with that?

10 **A.**   I haven't counted them up, but we'll accept that for now.

11 **Q.**   And now looking at the illustrative plan in the same

12 area, I count additional county splits in Oglethorpe, Wilkes,

13 Jefferson, Burke, Johnson, Laurens and Screven Counties. Did

14 I name those correctly?

15 **A.**   Yes.

16 **Q.**   And those are counties that are not split on the enacted

17 plan but are split on the illustrative plan; correct?

18 **A.**   Correct. I specifically recall modifying this plan to

19 protect an incumbent in Screven County.

20 **Q.**   So looking specifically at District 133 -- I know we

21 talked about this briefly before, but just to get our

22 bearings -- there's a county split in Wilkes County here in

23 the north part of the district; right?

24 **A.**   Yes.

25 **Q.**   And a county split in Baldwin County in the almost south

1 part of the district; right?

2 A.   Right.

3 Q.   And that split of Baldwin County splits the City of

4 Milledgeville?

5 A.   Yes.

6 Q.   And the Baldwin split takes in more heavily Black

7 portions of Baldwin into District 133 and leaves the more

8 heavily white portion out of District 133; right?

9 A.   Probably. I don't have the numbers in front of me, but I

10 suspect that's the case.

11 Q.   Do you recall earlier when we looked at these splits at

12 the beginning of your testimony?

13 A.   I think we did at some point. I just don't have the

14 percentages in my head.

15 Q.   In looking around the borders of District 133, you'd

16 agree that most of the precincts that touch the outside of

17 District 133 are that blue or light blue color; is that right?

18 A.   That would appear to be the case. Again, this is not

19 a map that I would be looking at as I'm drawing a plan.

20 Q.   And those colors would indicate more heavily white

21 population on the border around District 133; correct?

22 A.   Yes.

23 Q.   And can you identify any community of interest or

24 connection between Wilkes County and Baldwin County?

25 A.   Yes. It's part of the Black Belt.

1   **Q.**   Any other connection besides being part of the Black

2   Belt?

3   **A.**   It's the same general part of the state. I mean, it --

4   I don't know -- I do not know how you can make things any

5   clearer other than to say that those are counties that are --

6   by and large, Hancock, Warren, Telfair and Wilkes -- are rural

7   in nature. And except for, of course, Glascock, those

8   counties are significantly Black.

9   **Q.**   And, Mr. Cooper, in creating District 133 you had to make

10 changes to the enacted District 128; correct?

11 **A.**   I'm not looking at the enacted 128. Let's see.

12 **Q.**   There you go. The enacted 128 is back on your screen.

13 **A.**   Yeah, well, I'll look at it just from my own declaration

14 here. I find your map very confusing, as I said.

15   But, yes, 128 was changed.

16 **Q.**   And District 128 was previously a majority Black

17 district; right?

18 **A.**   Yes. And it still is.

19 **Q.**   And so putting District 128 up side by side with the

20 enacted plan, on the enacted plan, District 128 has a portion

21 of McDuffie, a portion of Baldwin and then contains whole

22 counties; correct?

23 **A.**   Yes. Why did you split McDuffie?

24 **Q.**   And then on the illustrative plan District 128 begins in

25 Dublin and Laurens County, takes a portion of Laurens, a

1 portion of Johnson, all of Washington, a portion of Jefferson

2 and a portion of Burke; correct?

3 **A.**   I think so. There are more splits in this part of the

4 map than most of the other illustrative plans I've drawn.

5 **Q.**   And on the enacted plan District 155 includes two whole

6 counties; right?

7 **A.**   I'm sorry? What --

8 **Q.**   District 155 includes all of Laurens and all of Johnson?

9 **A.**   It does, yes.

10 **Q.**   And it now has a county split on illustrative plan in

11 Laurens; right?

12 **A.**   Yes.

13 **Q.**   And the four split counties in a single district, in

14 District 128, is the most county splits in a single district

15 on the illustrative plan; right?

16 **A.**   I believe so. I believe so.

17 **Q.**   And the changes in 128 were necessary to create

18 District 133 as a majority Black district; correct?

19 **A.**   Yes.

20 **Q.**   And can you identify any connection between the portion

21 of Burke County on the eastern side of District 128 and the

22 portion of Laurens County and Dublin on the other end, besides

23 the fact that they both have Black population in them?

24 **A.**   Well, most of 128, as I've drawn it, is in the -- is in

25 the Central Savannah River Regional Commission, but Laurens

1 County would not be.

2 **Q.**   And Laurens County, looking at the racial split of

3 Laurens, 128, the portion in 128 is 52.89 percent -- or

4 8 percent Black; correct?

5   I know that's very small type.

6 **A.**   Oh, yes. I see it's 52.8; right.

7 **Q.**   And the portion excluded from Laurens County is

8 23 percent Black; correct?

9 **A.**   That appears to be correct.

10 **Q.**   And you created District 5 this way as part of the goal

11 of adding a majority Black District 133; right?

12 **A.**   It does require changes to House District 128, existing

13 House District 128. You're right.

14   THE COURT: Hold on. Repeat that answer, please.

15   THE WITNESS: Yeah. It does require changes to House

16 District 128 to create House District 133.

17 BY MS. LAKIN:

18 **Q.**   And my question was about District 150 -- I'm sorry --

19 128 and 155 are both in Laurens County; right?

20 **A.**   Apparently I'm not looking at a map in my declaration

21 that actually shows the entire area, but it does appear that

22 155 in the illustrative House plan is in Laurens County.

23 **Q.**   Did you also have to make changes to District 126 to make

24 133 a majority Black district?

25 **A.**   Don't know. Where is 126?

1   **Q.**   It's over -- starting in Richmond and Burke.   There we

2   go.   That's --

3   **A.**   Yeah.   Yeah.   I see it.   Yes.

4   I think so; yes.

5   **Q.**   And on the enacted plan, 126 included all of Burke, all

6   of Jenkins and part of Richmond; right?

7   **A.**   Yes.

8   **Q.**   And on the illustrative plan, it includes all of

9   Glascock, a piece of Jefferson, a piece of Burke, a piece of

10 Richmond, and a piece of Screven; right?

11 **A.**   Right.   I think there would be alternative ways to draw

12 this particular House District 126 in the illustrative plan if

13 I did not attempt to protect an incumbent in Screven County.

14 **Q.**   So it's your testimony that all of the county splits in

15 that district are related to incumbent protection?

16 **A.**   That's a fact; right.   Because that incumbent would have

17 to be drawn into 126 to avoid pairing that incumbent with

18 someone else.   That's my recollection.   I hope I'm correct on

19 that.   It's easy to forget these things.

20 **Q.**   And you can't identify any community of interest between

21 the portion of Screven in District 126 and Glascock and North

22 Jefferson; right?

23 **A.**   Well, they're extremely close to one another.   I mean,

24 it's eastern -- it's the eastern end of the Black Belt.   And

25 they're in the -- basically in the same regional commission

1   except a little tiny part of Screven. So I don't -- I just

2   don't understand your emphasis on requiring that I explain a

3   community of interest for counties that are so close to one

4   another. They're right next door to one another. They might

5   have regional concerns, like high school football, but

6   basically it's the same people.

7   Q.   And looking at the split of Screven County in

8   District 126, the portion of Screven included in District 126

9   is 53.9 percent Black and the portion outside of District 126

10 is 33.41 percent Black; right?

11 A.   Yes. Is that a problem?

12 Q.   And you created District 126 in this configuration as

13 part of creating District 133 as a new majority Black district

14 in the area; right?

15 A.   I believe that was a factor, if memory serves.

16 Q.   So after looking at these areas, Mr. Cooper, would you

17 agree that in order to create House District 133 as a new

18 majority Black district, the illustrative plan adds more

19 county splits to this region of Georgia; right?

20 A.   In its present format, perhaps it does. But there is a

21 ripple effect coming out of other areas. So it -- it may

22 create more splits, but those splits can be eliminated

23 elsewhere in order to keep some of the Black communities in

24 the Eastern Black Belt together.

25 Q.   So if not for eliminating county splits in other parts of

1   the state, your plan would split more counties than the

2   enacted plan; right?

3   **A.**   As drawn perhaps, yes.   But other possibilities are out

4   there.

5   **Q.**   And the illustrative plan split in this area splits

6   counties in such a way that higher concentrations of Black

7   voters are included in majority Black districts and lower

8   concentrations of Black voters are not included in those

9   districts; right?

10 **A.**   To an extent, yes.   I was not obsessed with race, though.

11 I was not looking at a shaded map that breaks out Black

12 population in increments of 0 to 20, 20 to 30.   I mean, it's

13 just -- it's too extreme for me, frankly.

14 **Q.**   Let's move to Macon for our last district here.

15   This is a new majority Black district you drew that was

16 not presented as part of your preliminary injunction plan;

17 right?

18 **A.**   Correct.

19 **Q.**   And to get our bearings, there are heavy concentrations

20 of Black voters in Downtown Macon that are currently included

21 in Districts 142 and 143; right?

22 **A.**   Correct.

23 **Q.**   And on the enacted plan 142 and 143 are wholly within

24 Bibb County; correct?

25 **A.**   Correct.

1 **Q.**   And are you aware the Democratic leader of the House

2 represents District 143?

3 **A.**   No.

4 **Q.**   In looking to the illustrative plan, District 145 is the

5 new majority Black district you say you've created; right?

6 **A.**   It is the new -- it is the new illustrative Black

7 district in the Macon-Bibb area, yes.

8 **Q.**   Instead of the Black population in Bibb being divided

9 into two districts, it's divided into three districts on the

10 illustrative plan; correct?

11 **A.**   Yes. Parts of Bibb are in three districts; right.

12 **Q.**   And it was necessary to remove Black population from

13 Districts 142 and 143 to free up that population to be placed

14 in District 145; right?

15 **A.**   Yes, to a certain extent. I -- I added population from

16 the Warner Robins area into 142 and made changes in

17 Macon-Bibb.

18 **Q.**   And so on the illustrative plan there are no State House

19 districts that are wholly contained in Bibb County; correct?

20 **A.**   I don't think that's true. Isn't -- I think that --

21 well, I take that back. No, there is no longer a whole

22 district in Macon County. That's right.

23 **Q.**   And to free up the Black population to move into

24 District 145, you expanded District 142 down to Warner Robins

25 and District 143 into Twiggs and Wilkinson Counties; right?

288

1 **A.**   Right. They're neighbors. They're all part of the

2 Greater Macon area, which includes the Warner Robins MSA and

3 the Macon-Bibb MSA.

4 **Q.**   And the new District 145 you've created is only

5 two-tenths of a point over 50 percent; correct?

6 **A.**   That's true.

7 **Q.**   And that district runs from Downtown Macon out into

8 Monroe County; right?

9 **A.**   Correct.

10 **Q.**   And you'd agree that Monroe County is more rural than

11 Bibb County; correct?

12 **A.**   At least in parts, for sure.

13 **Q.**   And you can't identify any community of interest between

14 Downtown Macon in Bibb County and the portion of Monroe you've

15 included in District 145; correct?

16 **A.**   No. It's a very small population. And I made that

17 decision to make sure we had a district that was within plus

18 or minus 1.5 percent, taking into account where incumbents

19 live in Macon-Bibb.

20   I mean, the incumbents are always in the background, so,

21 you know, that tended to rule how I drew a lot of these

22 districts. And they could have been drawn differently with a

23 different set of incumbents.

24 **Q.**   And you didn't provide any maps that showed the locations

25 of incumbents for when you were drawing your plans; right?

1 **A.**   I had a map; right. I had incumbents overlaid onto the

2 map.

3 **Q.**   In your expert report you didn't include any maps that

4 showed the location of incumbents; right?

5 **A.**   I did not. Incumbents are constantly moving, I mean, are

6 constantly changing, you just had primaries. So I really

7 would need from you folks an update should this case go on so

8 that I can proceed with other alternatives given the location

9 of the new batch of incumbents.

10 **Q.**   And can you identify anything about the configuration of

11 142, 143 or 145 that you know for certain was related to

12 incumbents?

13 **A.**   Yes. I mean, I know that there are three incumbents, I

14 believe, in -- I think there are three in Bibb and --

15 Macon-Bibb, although there may be one who lives just on the

16 other side of the line in Monroe. That was an uncertainty I

17 had. But I believe that one of the incumbents in that general

18 area of House districts actually lives in Monroe County.

19 That's my recollection thinking back, but I may have faulty

20 memory.

21 **Q.**   And you drew 145 to be an additional majority Black

22 district in the Macon area; right?

23 **A.**   Yes.

24 **Q.**   And I believe you said this already, but you'd agree

25 District 142 crosses out of the Macon MSA into the Warner

1 Robins MSA; right?

2 A.   Yes. It's part of what would be a combined statistical

3 area according to the Census Bureau. In other words, joining

4 two contiguous MSAs into one. The same thing happens with the

5 Atlanta MSA and the Athens MSA. They have a whole other

6 level, combined Athens and Atlanta. "They" being the Census

7 Bureau.

8 Q.   And you configured District 142 the way you did in

9 service of the goal of drawing District 145 as a new majority

10 Black district; right?

11 A.   No, not really in service. I don't like that term. I

12 was drawing this plan in part to deal with some incumbent

13 issues in terms of where folks lived, the incumbents. And

14 also, of course, to meet one person one vote requirements.

15   This is a balancing act. You think everything is done

16 based on race. I, on the other hand, tried to balance things.

17 I keep repeating myself. I'm not trying to be difficult on

18 this, but just over and over again you are claiming that every

19 move I make is somehow or another based on race and that is

20 just false, and I want to make that clear right now.

21 Q.   So let's move to Southwest Georgia and wrap up our

22 legislative districts.

23   Starting with the enacted plan for this region, you'd

24 agree that Lee County was not split; correct?

25 A.   I think I would agree, although let me look at the -- let

1   me look at that portion of my declaration. Like I say, I

2   can't follow your maps very well.

3   In the 2021 plan Lee was in House District 152; right.

4   Q.   And Lee County is split on the illustrative plan; is that

5   right?

6   A.   That's correct.

7   Q.   And so you've added at least one additional county split

8   in Southwest Georgia in the process of drawing District 171 as

9   a new majority Black district; correct?

10   A.   I'm not sure. But by the same token, I eliminated a

11   four-way split in Dougherty County, so that should be taken

12   into account as well.

13   Q.   And District 171 is the new majority Black district;

14   correct?

15   A.   Correct.

16   Q.   And it runs, I think we talked about, from Albany in

17   Dougherty County, through white population in Mitchell and

18   Thomas Counties before it gets to Black population in

19   Thomasville; is that correct?

20   A.   I don't think it is. I believe Mitchell is majority

21   Black. I can look at the county data. I think that's the

22   case. It may be right around 50 percent, hovering around

23   50 percent.

24   Let's look.

25   Mitchell County has a 2020 population of 21,755. The

1 in-part Black population is 10,394. And the non-Hispanic

2 white population is 10,106. So it's plurality Black.

3 **Q.**   And Thomas County is split on District 171; correct?

4 **A.**   It is split, yes.

5 **Q.**   And reviewing the racial makeup of that split in Thomas

6 County, looking at the plan components report, you would agree

7 the portion of Thomas County you included in District 171 is

8 51.07 percent Black VAP, and the rest of the county that is

9 not in District 171 is 25.58 percent BVAP; right?

10 **A.**   Yeah. But one thing I also need to point out here is I'm

11 not looking at VAP when I'm drawing these plans. And so by

12 focusing on VAP, you're making it look like I just drew the

13 most narrowest possible district that could be drawn, barely

14 over 50 percent, just barely got there somehow or another.

15   And I'm looking, in fact, at total population, not VAP.

16 And the VAP in that particular area was 53 percent.

17 **Q.**   And you also split several precincts when you were

18 drawing District 171; correct?

19 **A.**   Not so sure about that. I think I may have split a

20 precinct in Thomas County.

21 **Q.**   And do you recall splitting one in Dougherty County as

22 well?

23 **A.**   Might have. Again, incumbents may have come into play

24 there. And I eliminated a county split. So getting rid of a

25 county split trumps adding a VTD split.

1 Q.   And to be clear, when you say getting rid of a county

2 split, you're referring to reducing splits of Dougherty County

3 from four districts to three districts; right?

4 A.   Right.

5 Q.   When you were drawing District 171, did you review at all

6 its impact on -- actually, strike that.

7   You mentioned and discussed earlier the corridor

8 management plan for US Highway 19 as a connection between

9 Thomasville and Albany; right?

10 A.   Well, it is a connection. That's not the scenic byway,

11 but it is a connection. The scenic byway sort of parallels

12 it. I think it's Highway 3.

13 Q.   And did you rely on that corridor management plan when

14 you were drawing your plan, or did you find it after you drew?

15 A.   I was aware of it as I was drawing that part of the

16 state, I believe.

17 Q.   When did you --

18 A.   I did not have complete information about whether or not

19 it was a final deal in terms of being approved by the

20 legislature, but I knew that it had been in the works since

21 sometime in the mid 2010s.

22 Q.   Did you ever check to see if US Highway 19 crosses out

23 of District 171 as you've drawn it?

24 A.   Well, it does. Actually, it eventually kind of goes just

25 east of Thomasville. And Highway 84 dips down into Downtown

1   Thomasville. So 19 enters Thomas (sic) -- might not enter

2   Thomasville, but I think it picks up on the eastern end. And

3   then Highway 84, and I think maybe it's Route 3, goes through

4   the center of the city.

5   Q.   And you mentioned socioeconomic data when drawing

6   District 171. You could only get reliable information on that

7   from Mitchell County since it's the only whole county; right?

8   A.   I think you can get reliable information from these

9   socioeconomic charts that give you a general idea about the

10 nature of the district you're drawing.

11   So in these rural counties I feel pretty confident that

12 what you see in the county-level chart or in the case of

13 Thomas County, maybe just a Thomasville chart, you'd get a

14 good picture of the socioeconomic well-being of the Black and

15 the white population in those areas.

16 Q.   And you've never reviewed whether District 171 followed

17 the description of the route in the corridor management plan

18 document; correct?

19 A.   I did not go mile by mile. I mean, it clearly follows

20 the route through -- I think through Mitchell County. At some

21 point it may not once it gets to Thomasville, but it must be

22 pretty close.

23 Q.   And besides US Highway 19, the only thing connecting

24 Black communities in Albany and Thomasville are that they're

25 both in Southwest Georgia, they're both part of the Black Belt

1 as you interpret that, and they're both smaller towns; is that

2 right?

3 **A.**   That would be a primary point to make. They're also part

4 of the Southwest Georgia Regional Commission, those counties.

5   And you complain about my joining Albany to Thomasville,

6 but House District 171 under the 2021 plan extends from

7 Mitchell down to Decatur County and picks up part of Grady

8 County, so there's a county split there.

9   And the transportation corridor there is not as well

10 developed as Highway 19, so I think it's kind of a circuitous

11 route. Just pointing that out. It's a majority white House

12 District 171.

13 **Q.**   And to create District 171 as a majority Black district,

14 you connected the Black populations in Albany and Thomasville;

15 right?

16 **A.**   I did. To create majority Black districts you have to

17 have districts that contain majority Black populations.

18 That's why this is all just kind of a circular argument.

19 **Q.**   And the configuration of this district was part of the

20 goal of drawing a new majority Black district in this area of

21 the state; right?

22 **A.**   It shows that one can be drawn that complies with

23 traditional redistricting principles.

24 **Q.**   Let's talk briefly about the American Community Survey

25 socioeconomic data in your report.

1   A.   Sure.

2   Q.   You report after each plan for House and Senate various

3   information for the counties in each district, but you didn't

4   make the same comparisons of ACS data for each district you

5   analyzed; is that right?

6   A.   I'm not sure what you mean.

7   Q.   So for some districts you looked at labor force

8   participation rates, others you looked at the rate of

9   bachelor's degrees.

10 A.   Oh, sure. Yeah. There -- I just selected a few snippets

11 from the reports that you can get from the CD that have

12 probably I think close to 60 pages of charts and data. And so

13 I -- I did select a snippet from each one of those reports,

14 but I could have used others.

15   I could have used the same one, poverty, for all of them.

16 Even in Fayette County, if you look at the poverty rates of

17 Blacks and whites in Fayette County, you're going to find that

18 Blacks are going to be a little higher. It's much worse in

19 the Eastern Black Belt in Southwest Georgia. But there are

20 disparities even in Fayette County.

21 Q.   But to be clear, you did not report poverty rates for all

22 the counties where you drew districts; correct?

23 A.   Oh, yes, I did. I just didn't write it up in this report

24 because it would have been more than 800 pages. Each one of

25 these county reports has like 30 charts on one page and then

1   data directly from the Census Bureau on 30 more pages. So

2   each report is 60 pages.

3   I didn't -- I mean, there are 100 and -- I don't know how

4   many counties in Georgia have more than 10 percent Black

5   population, but it's probably over 100. So that would be,

6   what, about a thousand pages just of data. I mean, you have

7   it if you want to reference it.

8   Q.   And to be clear, you conducted that -- putting together

9   the documentation about socioeconomic information after you

10 drew the illustrative plans; right?

11 A.   No. To be clear, I developed those charts a year before

12 I even started on this report. The preliminary injunction

13 report, not this report. Those charts were run off in the

14 summer -- I exaggerate a little bit. Those charts were run

15 off in the summer of 2021, about the same time that I

16 initially looked at Georgia as a potential project for state

17 legislative redistricting.

18   And I don't just put Georgia up there, I've got every

19 state in the country up there with a significant Black

20 population, county or city. So it was not -- I was not just

21 selecting Georgia to target to analyze.

22 Q.   But you didn't utilize those charts in the process of

23 drawing the illustrative plans; did you?

24 A.   Well, no. I was just trying to get a general picture of

25 how things are in selected counties; right.

1 **Q.**   And it's fair to say that in assembling that data you

2 were focusing on areas with at least some Black population;

3 right?

4 **A.**   Well, right.   Here we go with the circular argument

5 again.   You know, if you're going to draw a majority Black

6 district, you have to go to areas that have Black population;

7 right?

8   And we know that those areas have increased in large part

9 just over the past ten years.   500,000 more African-Americans

10 in the state in 2020 than in 2010.   I mean, that's a huge

11 jump.   Way beyond anything you might have seen, say, in

12 Alabama or Louisiana.

13   Georgia and Metro Atlanta are a magnet for in migration

14 from Mississippi, Louisiana, Tennessee.   I mean, there's

15 just -- it's there.   And that's where a lot of Black folks are

16 moving, young and old, but particularly young.

17   And as you know, the -- as I mentioned in my report, the

18 Governor's Office of Policy and Population Projections, or

19 something like that, it's in the footnote, has estimated that

20 there will be another 92,000 people in those South Metro

21 counties I've identified, and most of that population will be

22 Black for the coming decade, to clarify.

23 **Q.**   Thank you, Mr. Cooper.

24   MR. TYSON: If I could consult with my co-counsel

25 just briefly, I think I'm finished, Your Honor.

1   THE COURT: All right.

2   MR. TYSON: Mr. Cooper, I know it's been a long

3   afternoon. I appreciate your time. It's always good to see

4   you.

5   THE WITNESS: Yes, it's always a pleasure.

6   MR. TYSON: Those are all the questions I have for

7   now. Thank you.

8   THE COURT: Thanks, Mr. Tyson.

9   Will there be a redirect?

10   MR. SAVITZKY: Yes, Your Honor. And I'm sorry to

11   tell you I think we'll probably go a little longer than half

12   hour, maybe closer to 45 minutes.

13   THE COURT: Well, I'm not going to -- even if it's

14   going to be ten minutes, because then we'll have a recross,

15   so...

16   We'll stop right here for today. We're going to

17   start tomorrow morning at 9:30 rather than 9:00. There's a

18   matter I have to take up in the morning that's going to take

19   some time. So we'll start tomorrow at 9:30, but we will go to

20   5:30 tomorrow to make up for that half hour difference.

21   MR. SAVITZKY: And, Your Honor, one other thing,

22   during Mr. Cooper's direct examination you had asked to run

23   off the full exhibits --

24   THE COURT: It can wait until tomorrow. It can wait

25   until tomorrow. Because I know he's been here all afternoon.

1   So tomorrow's fine.

2   MR. SAVITZKY: Thank you, Your Honor.

3   THE COURT: Anything else?

4   MR. TYSON: Your Honor, just logistically I believe

5   we had some witnesses whose only availability was tomorrow. I

6   guess we can chat about that, but I just think --

7   THE COURT: Who are they? We may have to call them

8   first. Because I was going to ask you-all, is the Grant

9   Pendergrass people going to call Mr. Cooper tomorrow?

10   MS. KHANNA: We've had -- I think the order of

11 operations was supposed to be Alpha's expert, Mr. Cooper;

12 Alpha's fact witnesses; Grant's expert, Dr. Esselstyn; Grant's

13 fact witnesses; and then Pendergrass's expert, Mr. Cooper.

14   I don't know even if that were the order, if we could

15 do that, especially with the added wrinkle that I mentioned

16 this morning, Dr. Palmer, who's our *Gingles* 2, 3 expert has to

17 go tomorrow.

18   THE COURT: Well, I already agreed we can call those

19 people out of order.

20   So Mr. Cooper can come back later; right? Once he

21 finishes tomorrow after *Gingles* 1, he will not be called back

22 tomorrow. He'll be called back later, either later this week

23 or sometime next week. Okay.

24   So what we'll do tomorrow, the witnesses that can

25 only come -- we'll finish Mr. Cooper tomorrow, hopefully by

1 lunch, hopefully earlier than that. Nothing personal.

2   And then we'll take the witnesses out of order that

3 can only testify tomorrow.

4   Let Mr. Tyson know who they are and how you're going

5 to call them.

6   MS. KHANNA: Absolutely, Your Honor.

7   MR. SAVITZKY: Thank you, Your Honor.

8   THE COURT: Thank you, all. Have a good evening.

9   (The proceedings recessed at 5:27 p.m.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

     I do hereby certify that the foregoing pages are a true

and correct transcript of the proceedings taken down by me in

the case aforesaid.

          This the 6th day of September, 2023.

          _____

          PENNY PRITTY COUDRIET, RMR, CRR
          OFFICIAL COURT REPORTER

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

_____,)
             Plaintiff(s))
)
     V.)
)
_____,)
            Defendant(s))

Case No._____

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

_____,)
)
              Plaintiff(s)   )
)   Case No._____
       V.   )
)
)
_____,)
              Defendant(s)   )

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