

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

GEORGIA STATE CONFERENCE OF  
THE NAACP, et al.,

Plaintiffs,

v.

STATE OF GEORGIA, et al.,

Defendants.

COMMON CAUSE, et al.,

Plaintiffs,

v.

BRAD RAFFENSPERGER,

Defendant.

CIVIL ACTION FILE NO.

1:21-CV-5338-SCJ-SDG-ELB

CIVIL ACTION FILE NO.

1:22-CV-0090-SCJ-SDG-ELB

**COURT'S NOTICE OF FILING**

By direction of the Court, the attached series of slides presented to the Court by counsel for Defendants during oral argument held May 30, 2023 shall be made part of the record in the above-entitled civil actions.

This 31<sup>st</sup> day of May, 2023.

KEVIN P. WEIMER, CLERK  
By: s/Pamela Wright  
Pamela Wright  
Courtroom Deputy Clerk for  
Judge Steve C. Jones  
(404)215-1284

# Defendants' Motions for Summary Judgment

*Common Cause v. Raffensperger*

*Ga. State Conf. of the NAACP v. State of Georgia*

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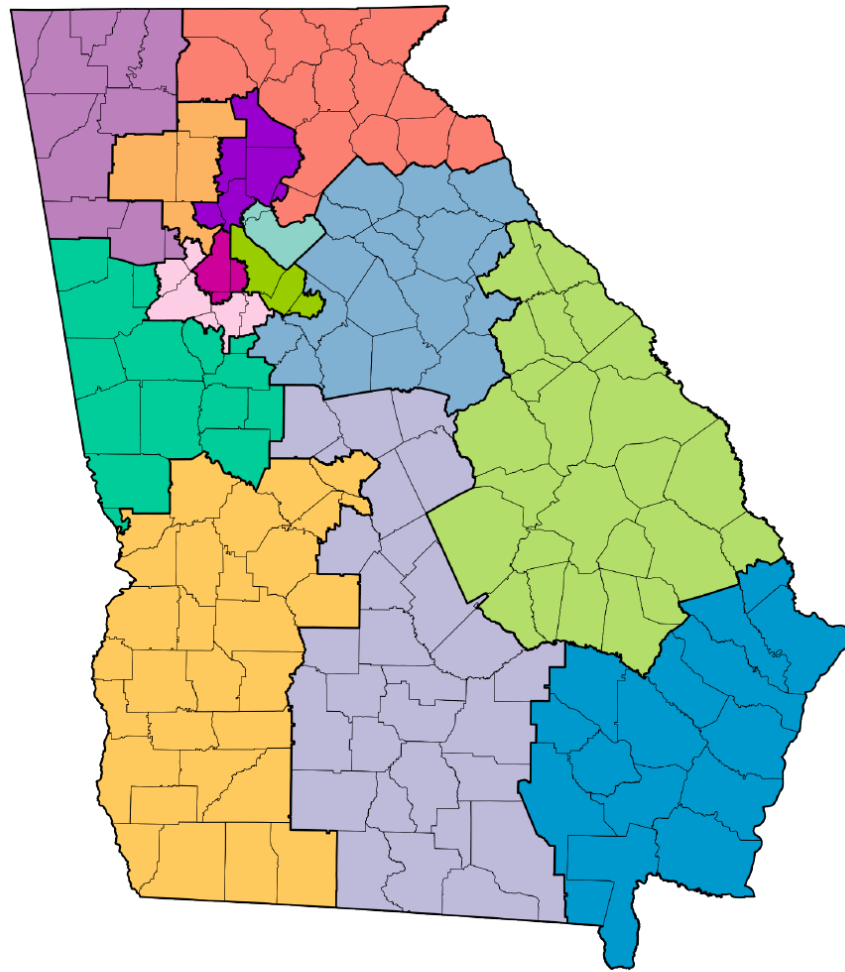
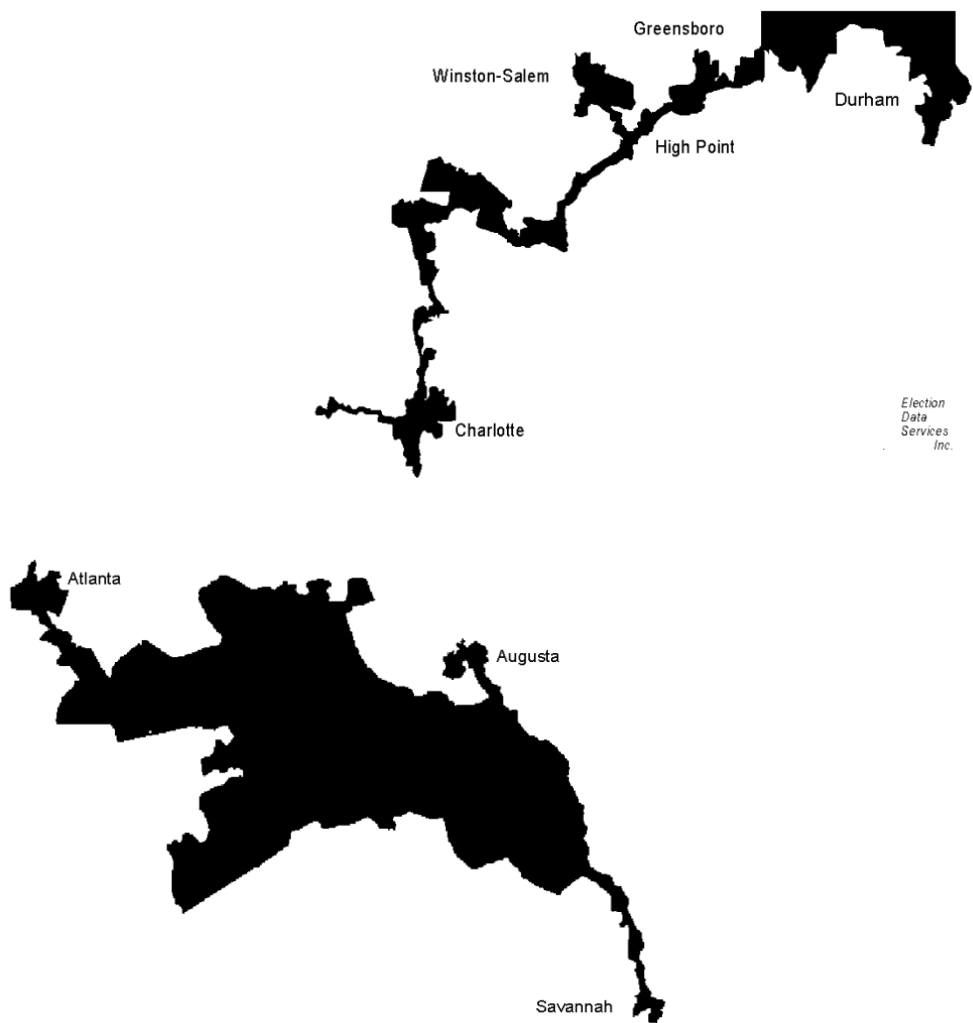
**THE ELECTION LAW GROUP**

ACCOUNTABILITY, INTEGRITY, AND ACCURACY IN ELECTIONS

## What does the law require the legislature to do?

- “[F]ederal courts are bound to respect the States’ apportionment choices unless those choices contravene federal requirements.” *Voinovich v. Quilter*, 507 U.S. 146, 156 (1993).
- **Draw more based on race? (*APA/Grant/Pendergrass*)**
- **Draw less based on race? (*Ga. NAACP/Common Cause*)**
- **Draw more coalition districts and fewer majority-Black districts? (*Ga. NAACP*)**

# Shaw/Miller versus 2021 Georgia Congressional Districts



Enacted

# Racial v. Political County Splits

County	District	BVAP	BHVAP
Bibb	CD 2	.6349	.6710
	CD 8	.3098	.3394

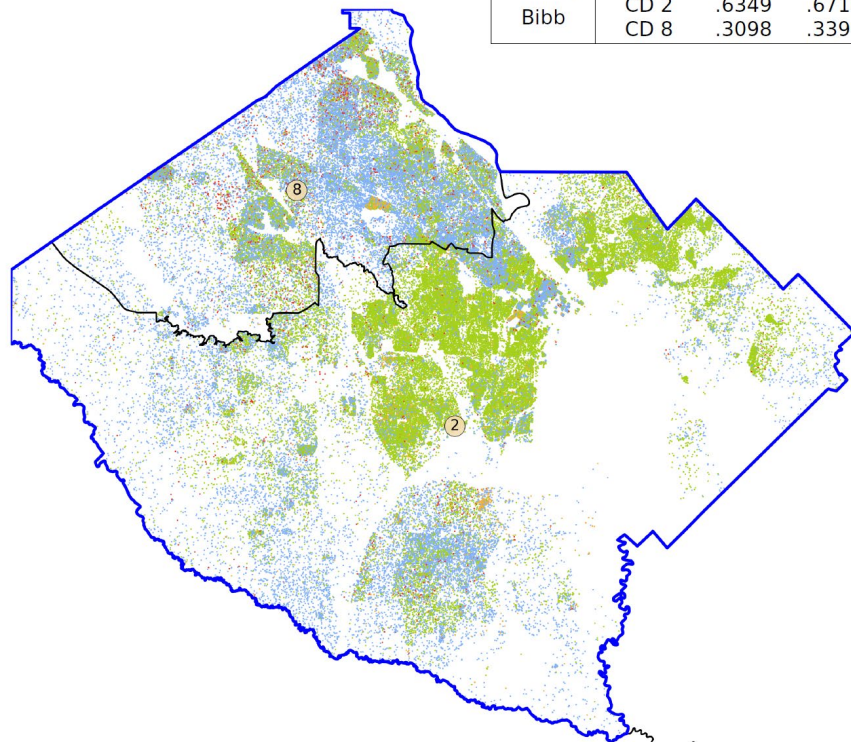


Figure 34: Minutely race-conscious decisions are evident along the boundary of CD 2 and CD 8 in Bibb County.

Duchin Report, page 101

## C Splits of geographical units

County	CD	TOTPOP	VAP	BVAP	BHVAP	Biden20	Abrams18
Bibb	2	108371	82489	0.6349	0.6710	0.7139	0.7250
Bibb	8	48975	38413	0.3098	0.3394	0.4596	0.4202
Cherokee	6	40881	31302	0.0304	0.0814	0.2172	0.1862

Duchin Report, page 72

# Legislative Plans

## 10.2.2 State Senate

Similarly, numerous counties are split into unnecessarily many pieces in the Senate plan. Fourteen counties have at least a 20-point disparity in the BHVAP across the splits: Fulton (10 pieces), Gwinnett (9 pieces), DeKalb (7 pieces), Cobb (6 pieces), Bibb, Chatham, Douglas, and Houston (3 pieces each), and Newton, Clarke, Hall, Muscogee, Fayette, and Richmond (2 pieces each). Thirteen state precincts are split with a significant racial disparity between the pieces placed in different districts.

Duchin Report, page 77

## 10.2.3 State House

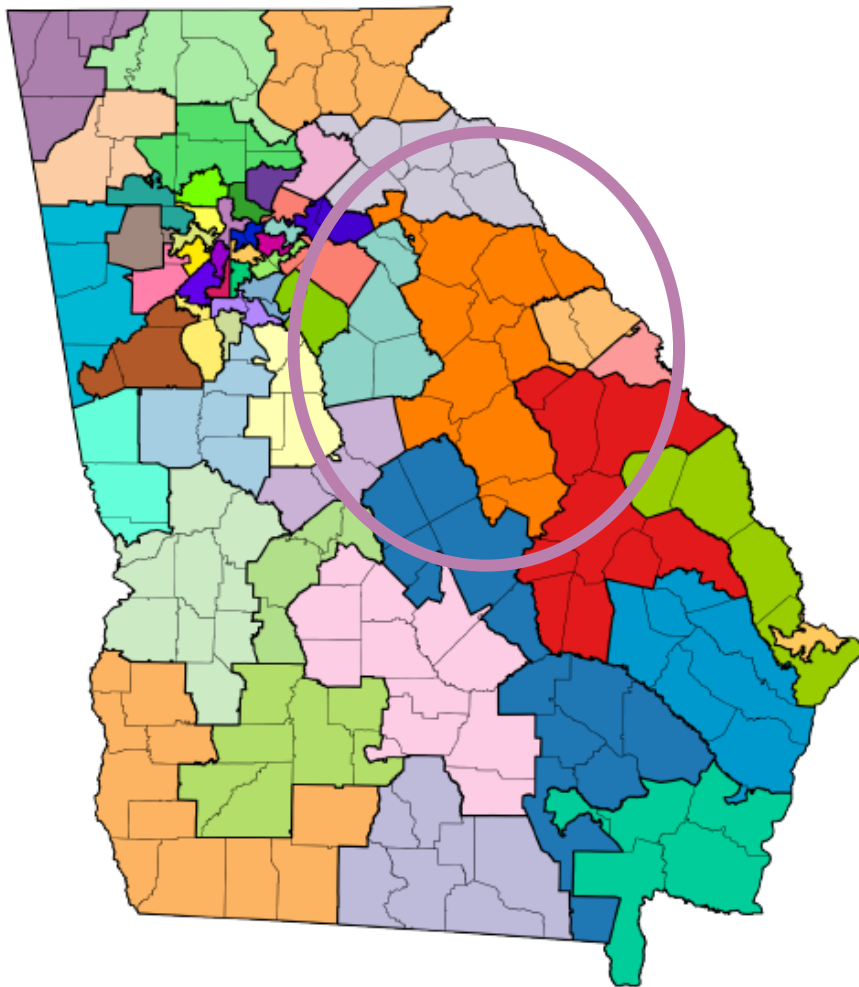
In the enacted House plan, thirty counties are fractured in a racially sorted way. Besides the large counties that take the brunt of the splitting—Fulton (22 pieces), Gwinnett (21 pieces), DeKalb (17 pieces), Cobb (14 pieces)—there are also Chatham, Henry, Muscogee, Richmond, Hall, Paulding, Houston, Bibb, Coweta, Douglas, Fayette, Lowndes, Newton, Whitfield, Floyd, Rockdale, Carroll, Dougherty, Troup, Thomas, Tift, Peach, Gradie, McDuffie, Lamar, and Telfair, each with 2-7 pieces.

A striking number of state precincts—47 of them—are split with a heavy racial disparity across the division. In the case of dividing up state precincts, legislators can't use cast votes to choose a splitting optimized for partisan performance, so racially distinctive precinct splits provide particularly strong evidence that race has predominated over other principles in the creation of the map.

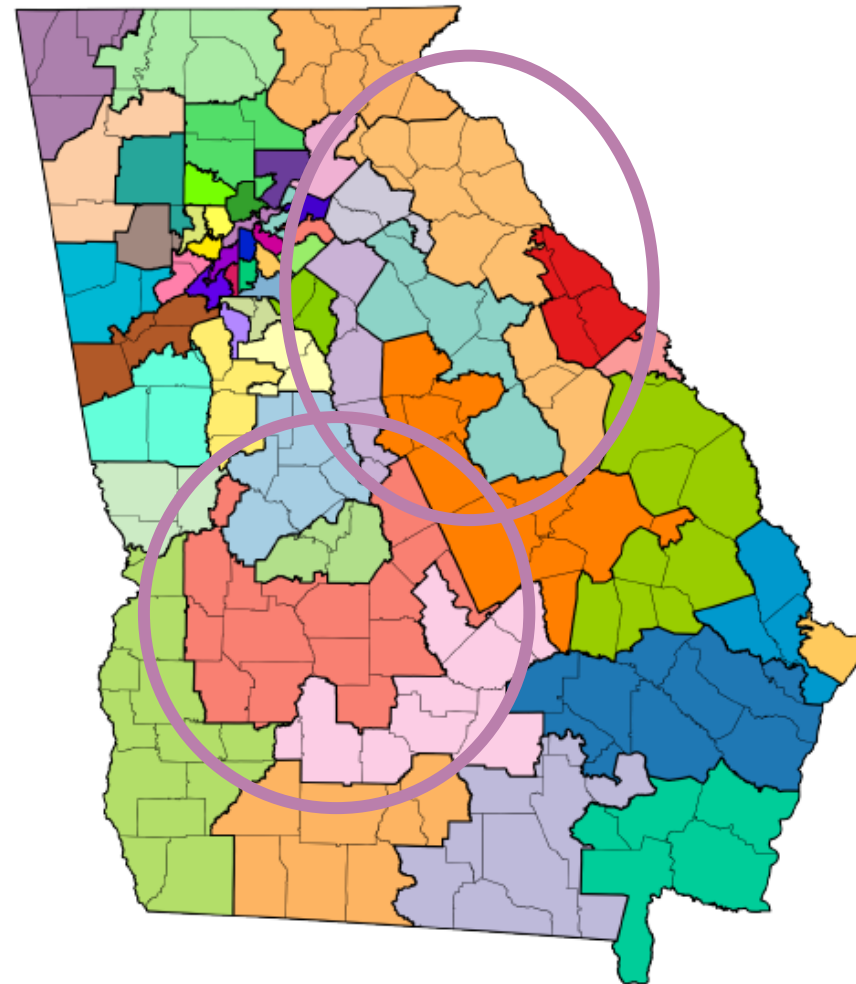
Duchin Report, page 79

## Partisan v. Racial Analysis Plans

Random5

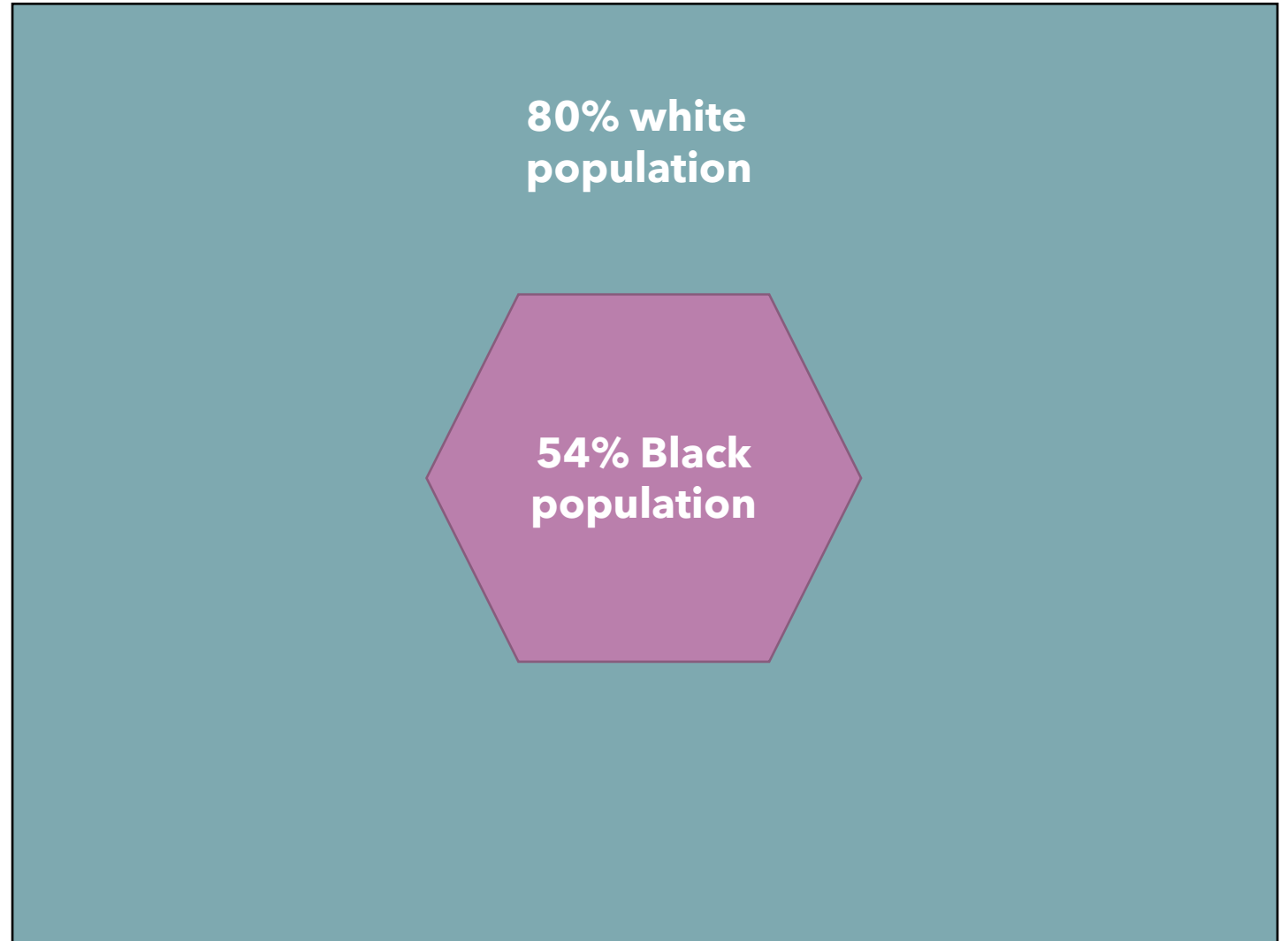


Random8



Traditional multi-member (at-large) Section 2 case

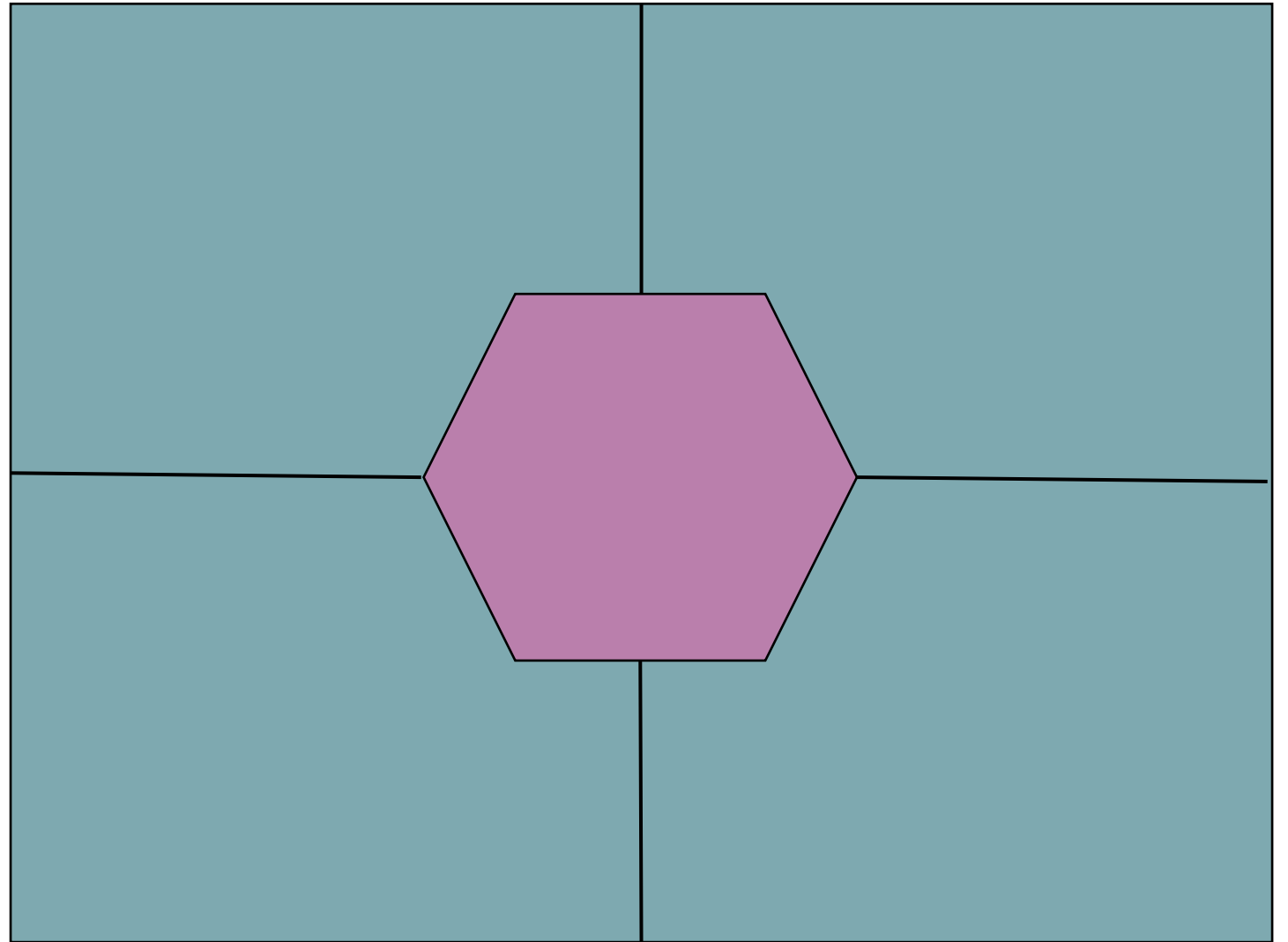
Five members





Traditional multi-member (at-large) Section 2 case

Solution: Five members elected in single-member districts



## Multi-member v. single-member challenges

"If the three *Gingles* factors may not be isolated as sufficient, standing alone, to prove dilution in every **multimember district challenge**, *a fortiori* they must not be **when the challenge goes to a series of single-member districts, where dilution may be more difficult to grasp**. Plaintiffs challenging single-member districts may claim, not total submergence, but partial submergence; not the chance for some electoral success in place of none, but **the chance for more success in place of some**."

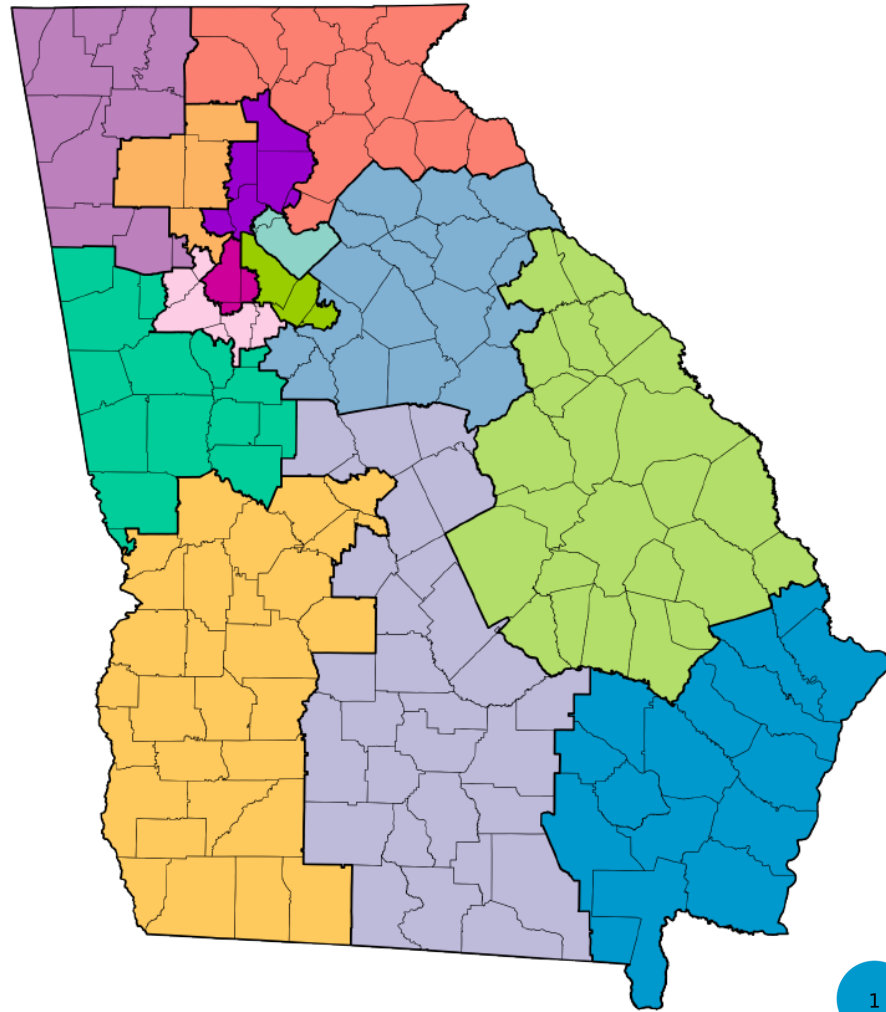
*Johnson v. De Grandy*, 512 U.S. 997, 1012-13, (1994).

# Legal Standard: Section 2

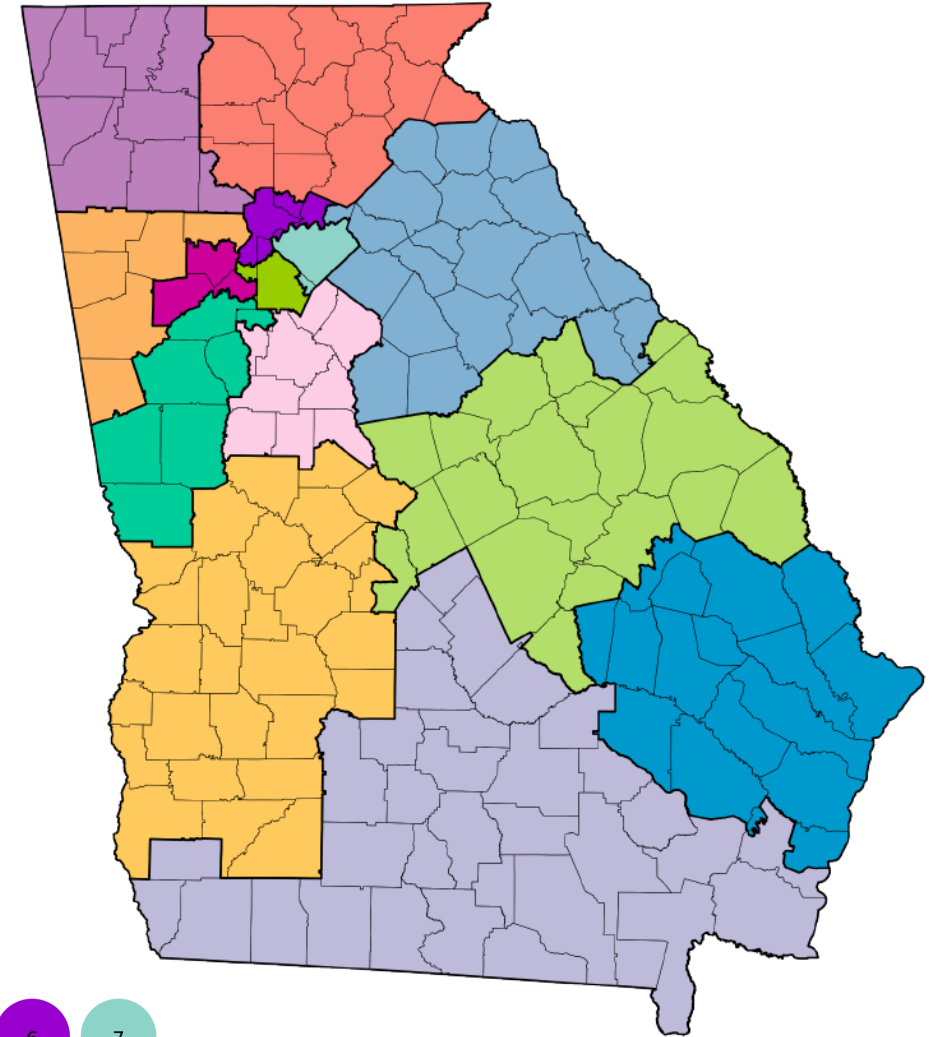
Is there a "denial or abridgement of the right of any citizen of the United States to vote on account of race or color"?

<b><i>Gingles 1</i></b>	Minority group	Is sufficiently large and geographically compact	Constitute a majority	In a single-member district
<b><i>Gingles 2</i></b>	Minority group	Is politically cohesive		
<b><i>Gingles 3</i></b>	Sufficient racial bloc voting exists	Such that the white majority	Usually defeats	The minority's preferred candidate
<b>Totality of the circumstances</b>				
	History of discrimination	Racially polarized voting	Discriminatory voting practices	Candidate slating
	Effects of discrimination	Racial appeals in campaigns	Elected minority candidates	Lack of responsiveness
	Justification is tenuous			

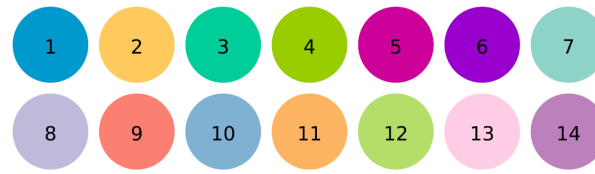
# Duchin Congressional



Enacted



Congress Alt



# Duchin Legislative

HD	HD Atlanta Enacted						HD Alt 1					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
61	74.3%	7.6%	81.9%	16.8%	0.198	0.247	50.1%	10.0%	60.1%	37.1%	0.229	0.265
64	30.7%	7.4%	38.1%	57.8%	0.361	0.365	50.9%	6.5%	57.4%	40.0%	0.132	0.263
65	62.0%	4.5%	66.5%	31.5%	0.172	0.454	81.7%	4.7%	86.4%	12.5%	0.222	0.350
66	53.4%	9.5%	62.9%	33.9%	0.246	0.356	51.0%	9.0%	60.0%	36.2%	0.256	0.386
67	58.9%	7.8%	66.7%	30.9%	0.122	0.357	89.9%	5.4%	95.3%	4.4%	0.195	0.515
68	55.7%	6.3%	62.0%	33.9%	0.172	0.318	13.7%	6.6%	20.3%	71.5%	0.310	0.518
69	63.6%	5.4%	69.0%	26.9%	0.247	0.403	51.9%	8.8%	60.7%	34.0%	0.339	0.409
71	19.9%	6.2%	26.1%	69.8%	0.352	0.441	19.9%	6.2%	26.1%	69.8%	0.350	0.441
73	12.1%	7.0%	19.1%	72.6%	0.198	0.278	11.8%	6.4%	18.2%	75.9%	0.335	0.417
74	25.5%	5.6%	31.1%	64.4%	0.247	0.496	50.8%	6.9%	57.7%	39.7%	0.205	0.461
75	74.4%	11.3%	85.7%	11.3%	0.285	0.420	54.2%	7.7%	61.9%	34.1%	0.133	0.230
76	67.2%	13.2%	80.4%	10.5%	0.509	0.524	61.0%	20.0%	81.6%	11.2%	0.460	0.409
77	76.1%	12.2%	88.3%	7.6%	0.211	0.397	89.6%	5.0%	94.6%	3.5%	0.211	0.292
78	71.6%	8.9%	80.5%	15.0%	0.194	0.210	84.2%	11.3%	75.5%	15.4%	0.256	0.414
79	71.6%	16.0%	87.6%	7.1%	0.209	0.498	73.3%	14.6%	87.9%	8.0%	0.370	0.444
90	58.5%	4.3%	62.8%	34.0%	0.286	0.359	58.5%	4.3%	62.8%	34.0%	0.286	0.359
91	70.0%	5.9%	75.9%	22.0%	0.202	0.447	50.3%	5.2%	55.5%	40.7%	0.245	0.384
92	68.8%	4.7%	73.5%	24.1%	0.198	0.367	87.6%	5.5%	91.1%	8.3%	0.260	0.543
93	65.4%	9.6%	75.0%	22.9%	0.112	0.260	62.1%	10.4%	72.5%	25.4%	0.160	0.232
112	19.2%	3.3%	22.5%	73.7%	0.522	0.619	19.2%	3.3%	22.5%	73.7%	0.522	0.619
113	59.5%	6.7%	66.2%	31.8%	0.318	0.501	51.0%	5.1%	56.1%	41.2%	0.338	0.425
114	24.7%	3.7%	28.4%	68.8%	0.283	0.502	32.8%	4.4%	37.2%	60.3%	0.267	0.438
115	52.1%	7.0%	59.1%	36.9%	0.226	0.436	50.2%	6.0%	56.2%	38.6%	0.193	0.282
116	58.1%	7.3%	65.4%	27.2%	0.280	0.407	54.8%	8.0%	62.8%	29.6%	0.333	0.478
117	36.6%	5.4%	42.0%	54.5%	0.275	0.408	51.0%	7.2%	58.2%	39.0%	0.409	0.511
Avg					0.257	0.402					0.281	0.403

Table 17: In HD Atlanta, the enacted plan has 10 county splits and 2221 cut edges. Alt 1 maintains 10 county splits and improves to 1988 cut edges.

# Duchin Legislative

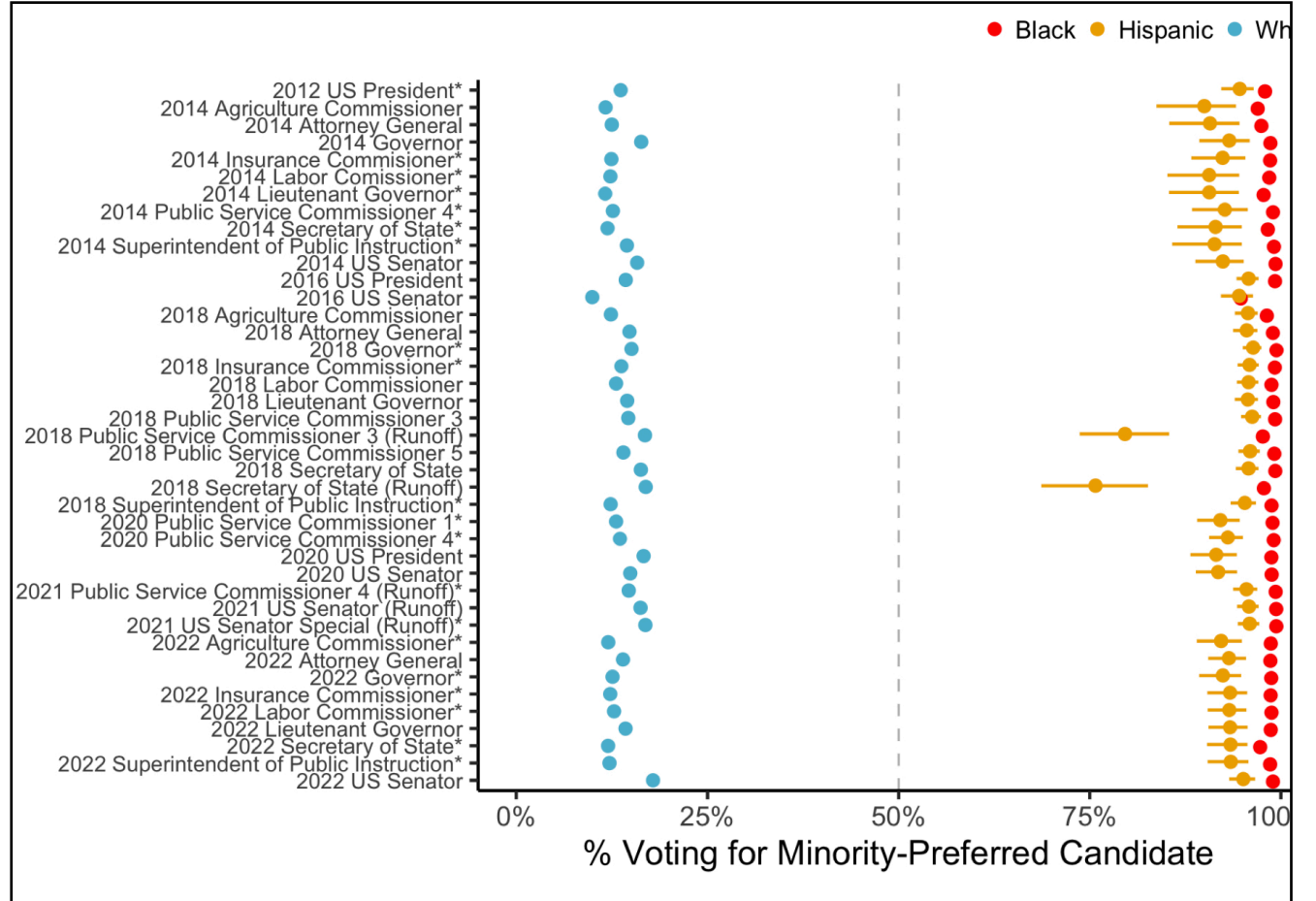
SD	SD Atlanta Enacted						SD Alt 2					
	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock	Black VAP	Hisp VAP	BH VAP	White VAP	Polsby Popper	Reock
6	23.9%	8.2%	32.1%	57.8%	0.236	0.405	28.0%	14.9%	42.9%	46.7%	0.256	0.477
10	71.5%	5.2%	76.7%	19.6%	0.231	0.281	59.7%	9.8%	69.5%	23.3%	0.307	0.416
16	22.7%	5.0%	27.7%	66.9%	0.314	0.368	48.4%	6.1%	54.5%	42.4%	0.258	0.366
28	19.5%	6.4%	25.9%	69.4%	0.246	0.445	15.8%	6.1%	21.9%	72.8%	0.347	0.371
30	20.9%	6.1%	27.0%	69.4%	0.407	0.597	15.7%	6.6%	22.3%	74.2%	0.473	0.508
31	20.7%	7.4%	28.1%	68.3%	0.379	0.366	25.9%	6.7%	32.6%	63.6%	0.591	0.636
33	43.0%	22.9%	65.9%	30.2%	0.215	0.401	50.6%	18.2%	68.8%	27.4%	0.224	0.463
34	69.5%	12.7%	82.2%	13.4%	0.335	0.451	54.4%	11.9%	66.3%	27.9%	0.246	0.381
35	71.9%	7.5%	79.4%	18.8%	0.263	0.472	60.9%	7.5%	68.4%	29.3%	0.206	0.490
36	51.3%	7.1%	58.4%	36.2%	0.305	0.321	54.0%	6.8%	60.8%	33.6%	0.263	0.466
38	65.3%	8.4%	73.7%	21.9%	0.208	0.361	51.0%	5.6%	56.6%	37.6%	0.154	0.260
39	60.7%	5.6%	66.3%	27.9%	0.128	0.160	86.5%	5.5%	92.0%	7.0%	0.118	0.271
42	30.8%	8.6%	39.4%	51.4%	0.321	0.479	11.8%	10.7%	27.7%	61.4%	0.144	0.282
44	71.3%	8.6%	79.9%	15.3%	0.185	0.180	76.3%	3.2%	79.5%	18.7%	0.374	0.456
Avg					0.270	0.378					0.283	0.417

Table 13: SD Atlanta Alt 2 splits 6 counties within the cluster and has just 1985 cut edges, better than the enacted plan's 7 and 2197, while also improving on both contour-based compactness scores.

# Dr. Schneer's Data

Statewide elections examined

(Black/Minority candidate indicated with asterisk)



# *Wright v. Sumter Co.*

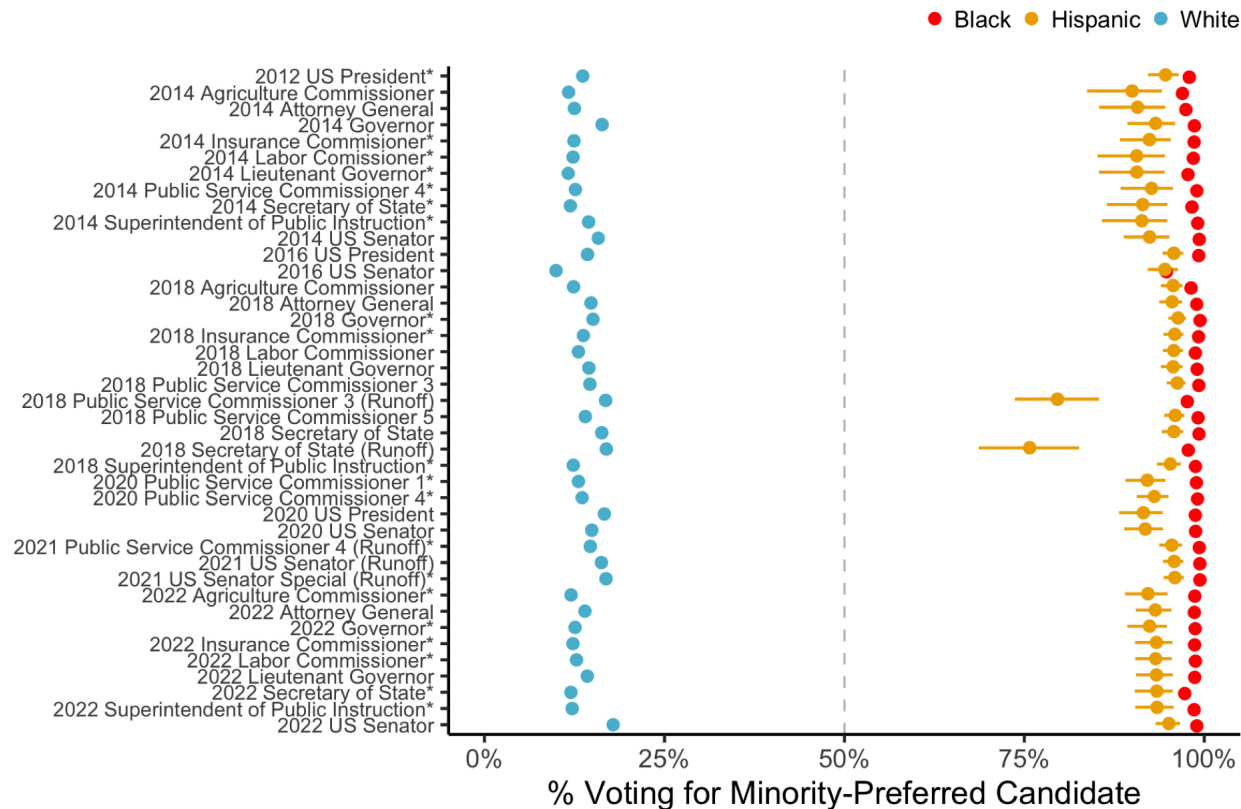
979 F. 3d 1282, 1292

<b>May 20, 2014 Elections</b>			
<b>District One</b>			
<b>Candidate</b>	<b>Overall Support</b>	<b>White Support</b>	<b>Black Support</b>
Alice Green*	52.8%	15.0%	94.2%
E. Lockhart	11.6%	21.2%	1.2%
Allen Smith	35.4%	66.8%	1.1%
<b>District Two</b>			
<b>[**14] Candidate</b>	<b>Overall Support</b>	<b>White Support</b>	<b>Black Support</b>
Everette Byrd	28.9%	30.1%	23.3%
Meda Krenson	48.7%	59.0%	0.0%
Sarah Pride*	22.2%	5.8%	99.3%
<b>District Three</b>			
<b>Candidate</b>	<b>Overall Support</b>	<b>White Support</b>	<b>Black Support</b>
W. Fitzpatrick*	30.5%	4.6%	92.3%
J.C. Reid	69.4%	95.0%	8.5%
<b>District Four</b>			
<b>Candidate</b>	<b>Overall Support</b>	<b>White Support</b>	<b>Black Support</b>
Rick Barnes	54.4%	54.7%	53.9%
Gary Houston	45.5%	44.9%	46.6%
<b>District Five</b>			



# Data Comparison

## Partisan Polarization vs. Racial Polarization



**Dr. Schneer's Data**

May 20, 2014 Elections			
District One			
Candidate	Overall Support	White Support	Black Support
Alice Green*	52.8%	15.0%	94.2%
E. Lockhart	11.6%	21.2%	1.2%
Allen Smith	35.4%	66.8%	1.1%
District Two			
[**14] Candidate	Overall Support	White Support	Black Support
Everette Byrd	28.9%	30.1%	23.3%
Meda Krenson	48.7%	59.0%	0.0%
Sarah Pride*	22.2%	5.8%	99.3%
District Three			
Candidate	Overall Support	White Support	Black Support
W. Fitzpatrick*	30.5%	4.6%	92.3%
J.C. Reid	69.4%	95.0%	8.5%
District Four			
Candidate	Overall Support	White Support	Black Support
Rick Barnes	54.4%	54.7%	53.9%
Gary Houston	45.5%	44.9%	46.6%
District Five			

**Wright v. Sumter Co.**

**In *Hall*, a panel of this court recognized that "the *Gingles* majority did not ... limit the manner in which the [second and third] factors may be proven [and that] the totality of the circumstances surrounding a § 2 claim may properly be considered when determining whether plaintiffs have established the [those two] *Gingles* preconditions."**

**Nipper v. Smith, 39 F.3d 1494, 1512, n. 37 (11th Cir. 1994) (en banc), quoting Hall v. Holder, 955 F.2d 1563, 1568 (11th Cir.1992)**



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