

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

ALABAMA LEGISLATIVE )  
BLACK CAUCUS, et al., )

Plaintiffs, )

v. )

THE STATE OF ALABAMA, et al., )

Defendants. )

CASE NO. 2:12-CV-691  
(Three-Judge Court)

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ALABAMA DEMOCRATIC )  
CONFERENCE, et al., )

Plaintiffs, )

v. )

THE STATE OF ALABAMA, et al., )

Defendants. )

CASE NO. 2:12-CV-1081  
(Three-Judge Court)

**ORDER**

In a Memorandum Opinion and Order entered on January 20, 2017 (Doc. # 316), the Court declared that twelve of Alabama’s legislative districts are unconstitutional and enjoined the State of Alabama from using those districts in future elections. With liability established, these consolidated cases proceed to the remedy phase. In an effort to streamline the implementation of a timely and effective remedy, the Court entered an Order (Doc. # 318), directing the parties to confer with

each other and, if possible, to submit a joint procedure for how they propose the Court should proceed in the remedy phase of this litigation.

In compliance with the Court's Order, on February 7, 2017, the parties submitted a Joint Proposed Remedy Phase Procedures. (Doc. # 326.) The Court is encouraged that the proposed procedures contemplate that the state legislature initially will take on the task of enacting redistricting plans during the 2017 Regular Session to remedy the unconstitutional components of its legislative redistricting plans. To reiterate, it is this Court's expectation that the state legislature will adopt a remedy in a timely and effective manner, correcting the constitutional deficiencies in its legislative redistricting plans in sufficient time for conducting the 2018 primary and general elections, without the need for court intervention. The parties' procedures propose a May 23, 2017 deadline, which coincides with the last day of the 2017 legislative session, for the state legislature to enact remedial legislative redistricting plans; a May 30, 2017 deadline for the State to file the enacted plans with the Court; and deadlines for Plaintiffs to file objections, if any, to the plans and for the State to reply.

Alternatively, in the event the state legislature fails in its task, the procedures set forth a schedule for Plaintiffs to file proposed remedial redistricting plans and deadlines for the State to file objections, if any, to the plans and for Plaintiffs to reply. These alternative deadlines commence on May 26, 2017, and end on June 30, 2017.

The procedures also specify the documents, data, and other information that will accompany the parties' respective submissions.

The proposed deadlines are satisfactory to all parties; however, the Alabama Democratic Conference Plaintiffs ("ADC Plaintiffs," formerly the *Newton* Plaintiffs) pose two objections to the proposed content of the parties' submissions. They object to the standard the parties must adhere to when explaining the "factual basis" for the drawing of certain districts in their respective plans, and the ADC Plaintiffs contend that the information Plaintiffs are required to submit with their proposed plans, in the event the state legislature fails to act, is too onerous. The objections are overruled. The ADC Plaintiffs should conform their plan submissions to the requirements set out in the proposed procedures, which the Court deems to be the minimum required. At the same time, any party is free to include with its submission the legal and factual bases of its objections or any other evidence it deems probative, all of which the Court will take under advisement when reviewing the proposed plans. Moreover, the parties may bind themselves to any other reasonable procedure for producing plans and evidence in support of or in explanation of any such plan. However, the Court will not be bound as to any burden of proof or production to which the parties may stipulate among themselves, nor to any party agreement that limits or restricts the Court's review of relevant evidence regarding any aspect of a plan. Finally, no plan under consideration will be subject to more or less scrutiny by the Court than any other plan.

The parties have worked together cooperatively. They have set out deadlines and procedures for accomplishing the remedy phase, and the Court is satisfied with those deadlines and procedures to the extent explained above, thus, obviating the need for a status conference. Accordingly, it is ORDERED as follows:

- (1) The status conference set on February 14, 2017, is CANCELLED;
- (2) The deadlines set out in the Joint Proposed Remedy Phase Procedures (Doc. # 326) are APPROVED and ADOPTED by the Court;
- (3) The ADC Plaintiffs' objections to the content of the submissions that the other parties propose should accompany the redistricting plans are OVERRULED to the extent and in the manner explained herein; and
- (4) Before the close of business on **May 24, 2017**, the State Defendants shall file a notice informing the Court whether legislative redistricting plans were passed or not, and, if so, identifying the respective bill numbers.

DONE this 10th day of February, 2017.

/s/ William H. Pryor Jr.  
UNITED STATES CIRCUIT JUDGE  
PRESIDING

/s/ W. Keith Watkins  
CHIEF UNITED STATES DISTRICT  
JUDGE

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE