

SUPREME COURT OF THE UNITED STATES

IN THE SUPREME COURT OF THE UNITED STATES

JOHN H. MERRILL, ALABAMA)
SECRETARY OF STATE, ET AL.,)
Appellants,)
v.) No. 21-1086
EVAN MILLIGAN, ET AL.,)
Appellees.)

JOHN H. MERRILL, ALABAMA)
SECRETARY OF STATE, ET AL.,)
Petitioners,)
v.) No. 21-1087
MARCUS CASTER, ET AL.,)
Respondents.)

Pages: 1 through 123

Place: Washington, D.C.

Date: October 4, 2022

HERITAGE REPORTING CORPORATION

Official Reporters

1220 L Street, N.W., Suite 206

Washington, D.C. 20005

(202) 628-4888

www.hrccourtreporters.com

1 IN THE SUPREME COURT OF THE UNITED STATES
2 - - - - -
3 JOHN H. MERRILL, ALABAMA)
4 SECRETARY OF STATE, ET AL.,)
5 Appellants,)
6 v.) No. 21-1086
7 EVAN MILLIGAN, ET AL.,)
8 Appellees.)

9 - - - - -
10 JOHN H. MERRILL, ALABAMA)
11 SECRETARY OF STATE, ET AL.,)
12 Petitioners,)
13 v.) No. 21-1087
14 MARCUS CASTER, ET AL.,)
15 Respondents.)

16 - - - - -
17 Washington, D.C.
18 Tuesday, October 4, 2022

19
20 The above-entitled matter came on for oral
21 argument before the Supreme Court of the United States
22 at 10:04 a.m.

23
24
25

1 APPEARANCES:
2 EDMUND G. LACOUR, JR., Solicitor General,
3 Montgomery, Alabama; on behalf of the
4 Appellants/Petitioners.
5 DEUEL ROSS, ESQUIRE, Washington, D.C.; on behalf of
6 the Appellees.
7 ABHA KHANNA, ESQUIRE, Seattle, Washington; on behalf
8 of the Respondents.
9 GEN. ELIZABETH B. PRELOGAR, Solicitor General,
10 Department of Justice, Washington, D.C.; for the
11 United States, as amicus curiae, supporting the
12 Appellees/Respondents.
13
14
15
16
17
18
19
20
21
22
23
24
25

1	C O N T E N T S	
2	ORAL ARGUMENT OF:	PAGE:
3	EDMUND G. LACOUR, JR., ESQ.	
4	On behalf of the Appellants/Petitioners	4
5	ORAL ARGUMENT OF:	
6	DEUEL ROSS, ESQ.	
7	On behalf of the Appellees	63
8	ORAL ARGUMENT OF:	
9	ABHA KHANNA, ESQ.	
10	On behalf of the Respondents	77
11	ORAL ARGUMENT OF:	
12	GEN. ELIZABETH B. PRELOGAR, ESQ.	
13	On behalf of the United States, as	
14	amicus curiae, supporting the	
15	Appellees/Respondents	98
16	REBUTTAL ARGUMENT OF:	
17	EDMUND G. LACOUR, JR., ESQ.	
18	On behalf of the Appellants/Petitioners	118
19		
20		
21		
22		
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

(10:04 a.m.)

CHIEF JUSTICE ROBERTS: We'll hear argument first this morning in Case 21-1086, Merrill versus Milligan, and the consolidated case.

Mr. LaCour.

ORAL ARGUMENT OF EDMUND G. LACOUR, JR.
ON BEHALF OF THE APPELLANTS/PETITIONERS

MR. LACOUR: Mr. Chief Justice, and may it please the Court:

Alabama conducted its 2021 redistricting in a lawful, race-neutral manner. The state largely retained its existing districts and made changes needed to equalize population. But that wasn't good enough for the plaintiffs. They argue that Section 2 of the Voting Rights Act requires Alabama to replace its map with a racially gerrymandered plan maximizing the number of majority-minority districts.

But Section 2 requires an electoral process equally open to all, not one that guarantees maximum political success for some over others. Section 2 does not and cannot

1 obligate Alabama to abandon district lines
2 enveloping the undisputed longstanding community
3 of interest in the Gulf to be replaced by
4 district lines dividing Black and white with
5 such racial precision that Alabama could never
6 have constitutionally drawn those lines in the
7 first place.

8 Yet, that is what Alabama has been
9 commanded to do here: redraw its districts to
10 subordinate traditional districting principles
11 to race. The only way to add a second
12 majority-minority district to Alabama's plan is
13 to make race the non-negotiable criterion.
14 Plaintiffs' illustrative plans prove the point.
15 They offer only one way to get that second
16 majority-Black district: Split Mobile County
17 and divide the Gulf by race. Their new versions
18 of Districts 1 and 2 then stretch the width of
19 the state to group together Black voters from
20 disparate areas as far west as Mobile and as far
21 east as the Georgia border.

22 The district court relied on these
23 outlier plans to invalidate the state's
24 neutrally drawn map. That was legal error.
25 Requiring states to scrap neutral plans in favor

1 of plans drawn on account of race set Section 2
2 at war with itself and with the Constitution.

3 The Court should make clear that if a
4 state's plan is the product of the state's
5 neutral districting principles, the plan is
6 equally open to all voters. Because Alabama's
7 2021 plan is such a plan, plaintiffs' claims
8 fail.

9 I welcome the Court's questions.

10 JUSTICE THOMAS: What would you use as
11 a comparator? I -- I assume that your problem
12 is that the comparator here was -- had race as a
13 non- -- as non-negotiable. What would you use
14 as a comparator if -- even if you thought that
15 there might be some vote dilution problems with
16 your plan?

17 MR. LACOUR: The -- the plan that
18 would be the adequate comparator would be one
19 that respects all of our traditional districting
20 principles as much as our own map but then has
21 some different racial outcome, similar to what
22 the Court has proposed in *Cromartie 2*, for
23 example. The -- that sort of map can actually
24 show that there's a problem with our map, but if
25 you are discriminating in favor of one racial

1 group, then that map cannot show that our map
2 was discriminating against that group. It --
3 it's a flawed control.

4 JUSTICE THOMAS: Well, don't you think
5 there's an overall problem with -- in these
6 dilution cases of determining at the beginning
7 what the comparator should be?

8 MR. LACOUR: Yes, Your Honor. I
9 think, as this Court noted both in the Holder v.
10 Hall plurality and in Brnovich, benchmarks are
11 critical in any Section 2 case.

12 And we proposed a benchmark to the
13 Court. Plaintiffs have not proposed any
14 benchmark other than perhaps maximization or
15 proportionality. But, of course, Section 2
16 rejects a proportionality baseline, and this
17 Court has wisely rejected maximization and
18 proportionality because they lead to
19 constitutional problems.

20 JUSTICE KAGAN: Do you agree that the
21 benchmark you propose has never been recognized
22 by this Court as the benchmark that's
23 appropriate in these kinds of cases?

24 MR. LACOUR: I -- I don't think so,
25 Justice Kagan. First, I mean, going back to

1 Gingles, I think the benchmark there even for
2 multi-member districts was neutrally drawn
3 single-member districts, not racially
4 gerrymandered single-member districts.

5 And then, when you continue --

6 JUSTICE KAGAN: Of course, you're
7 requiring that there be that kind of benchmark.
8 The question is not whether it's permissible.
9 You are requiring that there be a race-neutral
10 benchmark, and I'm asking whether that
11 requirement has ever been stated in our
12 precedents.

13 MR. LACOUR: I think that's what Bush
14 v. Vera, what Abrams, and what LULAC were all
15 pushing towards when they said you must account
16 for traditional districting principles. I don't
17 know why you would even account for them except
18 that if a plaintiff's failure to account for
19 them in their map -- if -- if plaintiffs fail to
20 account for them in their map, then their map
21 can't really shed any light --

22 JUSTICE SOTOMAYOR: Counsel --

23 MR. LACOUR: -- on whether the problem
24 --

25 JUSTICE KAGAN: I guess I ask because

1 what strikes me about this case is that under
2 our precedent it's kind of a slam dunk if you
3 just take our existing precedent the way it is,
4 and the three judges below all found this. The
5 three judges below said this is an easy case.
6 It's not one of the hard ones. It's not one of
7 the boundary line cases.

8 It was clear that the plaintiffs
9 satisfied the Gingles preconditions. It's -- in
10 -- and -- and past that, you know, you're
11 looking at a state where there are 27 --
12 7 percent of the population is African American
13 but only one of seven districts where there is
14 incredible racially polarized voting, where
15 there is a long history of racial discrimination
16 in the state.

17 Put all that together and it seems
18 clear that under our existing precedents, the
19 inquiry is complete in just the way that this --
20 that the -- that the -- that the court below
21 found.

22 And, you know, it seems to me that
23 you're coming here, and it's totally your right
24 to do it, but really saying, change the way we
25 look at Section 2 and its application.

1 MR. LACOUR: Absolutely not, Your
2 Honor. And, respectfully, I thought this was
3 the -- this is such an edge case. This is a
4 case where the plaintiffs have come forward with
5 an expert who said it's hard to draw a second
6 majority-minority district by accident. It's a
7 case where the named plaintiff, Evan Milligan
8 himself, showed it's hard to do it on purpose.

9 He runs an Alabama-focused
10 redistricting nonprofit. He had a team of
11 trained map drawers try to draw a second
12 majority-Black district in Alabama and they
13 couldn't do it. That's at page 511 of the Joint
14 Appendix.

15 JUSTICE JACKSON: So, I'm sorry, can I
16 just -- help -- I don't understand. Are you
17 saying that the Gingles preconditions as we
18 ordinarily understand them were not satisfied in
19 this case?

20 MR. LACOUR: Yes, Your Honor. I mean,
21 the -- LULAC says --

22 JUSTICE JACKSON: And how so? How so?

23 MR. LACOUR: LULAC says quite clearly:
24 Account for traditional districting principles,
25 such as maintaining communities of interest and

1 traditional boundaries. There's an undisputed
2 traditional -- rather an undisputed community of
3 interest in the Gulf, the district court found
4 that the Gulf community is a community of
5 interest, and it's not maintained. So I think
6 it's open and shut under LULAC.

7 JUSTICE JACKSON: No, I'm sorry. So
8 is -- so you're saying Step 1 was not satisfied
9 in this case because the ordinary redistricting
10 principles -- I thought this was about a
11 race-blind algorithm, so now I'm confused.

12 So what -- what is the problem? And
13 let me just -- let me tell you why I think that
14 matters, because much like what Justice Kagan
15 was suggesting, we have to figure out whether
16 you are claiming that we need to change Gingles
17 in some fundamental way or whether you're just
18 saying that these plaintiffs didn't satisfy
19 Gingles in the way that we normally understand
20 it.

21 I thought you were saying Gingles Step
22 1 needs to be retooled to require some showing
23 of a comparison with a race-neutral -- or,
24 excuse me, a race-blind algorithm.

25 And so then my question was: Okay,

1 well, you would bear the burden, I think, of
2 showing that there's a problem with the way that
3 we're doing it now, that -- the way that Gingles
4 is working, and that a race-blind algorithm
5 actually produces a better result insofar as
6 it's better implementing what Congress intended
7 or it is required by the Constitution.

8 All of those are pretty heavy burdens,
9 I think, in this situation. So are you asking
10 us to reconsider what is happening with Gingles
11 to require that challengers compare their
12 original map at Step 1 with a race-blind
13 algorithm?

14 MR. LACOUR: The -- the algorithms are
15 not essential. They're -- they're very helpful
16 and illuminating in this case because the
17 Milligan plaintiffs brought them themselves.

18 JUSTICE JACKSON: What do they
19 illuminate?

20 MR. LACOUR: They show that this is
21 what you would expect a race-neutral map drawer
22 to produce, and --

23 JUSTICE JACKSON: Why does that
24 matter? I thought Congress's statute said we
25 don't care about intent. So the race-neutral

1 nature of this goes to whether or not Alabama
2 intended the result, and I take your point that,
3 no, you didn't. So what difference does it make
4 what a race-neutral algorithm would do?

5 MR. LACOUR: It matters for at least
6 three reasons, Your Honor, and this Court -- I
7 mean, every time that a Section 2 case has be --
8 come before this Court and you've had to
9 consider that interaction between Section 2 and
10 the Equal Protection Clause, you've reversed for
11 someone using too much race and trying to --

12 JUSTICE KAGAN: Do you think that
13 Section 2 sets out an intent standard?

14 MR. LACOUR: Your Honor, I think that
15 obvious -- it's undisputed that intent is
16 relevant. Intent has not been rendered
17 irrelevant.

18 JUSTICE KAGAN: Sure. You know,
19 nobody disputes that intent isn't relevant. The
20 question is, is intent required? And when I
21 read your brief, the -- all over it, you suggest
22 that intent is required. And I thought that we
23 have said on numerous occasions that intent is
24 not required, and the reason we've said it on
25 numerous occasions is because that's what

1 Congress said.

2 We once long ago said that intent was
3 required in Voting Right -- in the Voting Right
4 -- Section 2 of the Voting Rights Act, and
5 Congress immediately slapped us down and said
6 no, we didn't mean that and made clear in the
7 language of the statute that it was
8 incorporating a results test, an effects test.

9 And yet your -- your -- your
10 arguments, as Justice Jackson has suggested,
11 really say that that's wrong and that there
12 needs to be a showing of intent in order to make
13 out a Section 2 violation.

14 MR. LACOUR: Two points on that. I --
15 I will recognize there -- there's certainly
16 dicta in the Court, Section 2 precedent
17 suggesting that there doesn't have to be a
18 showing of intent.

19 What we have laid out in the brief is
20 what we think the best reading of the text,
21 which, when the Court -- when Congress decided
22 to put in 2(b), that language from Whitcomb and
23 from White v. Regester, they were importing an
24 invidious discrimination test.

25 JUSTICE KAGAN: I -- I mean, to make

1 this a question of dicta in the cases when you
2 have Congress saying results in and then setting
3 out an entire subsection about what it means to
4 result in unequal access to the political
5 process, and then Gingles says, well, we
6 acknowledge that this was a response to Bolden,
7 where we held that proof of discriminatory
8 intent was required, and we say Congress revised
9 Section 2 to make clear that a violation could
10 be proved by showing discriminatory effect
11 alone.

12 And then we said it in Chisom. And
13 then we said it recently as a year ago -- I
14 dissented from this decision, but Brnovich says
15 the fact that Section 2 does not demand proof of
16 discriminatory purpose is one of the points of
17 law that nobody disputes.

18 MR. LACOUR: Correct. And, Your
19 Honor, our position we've laid out and the Court
20 obviously does not have to reach that in this
21 case because we do think that the plaintiffs
22 have brought such an edge case here that this
23 should be easy to resolve on narrower grounds,
24 but they imported from Whit and from White v.
25 Regester what the Senate fact -- what the Senate

1 report referred to as the White Results Test.

2 Well, if you look back at White and if
3 you look back at Whitcomb, they say invidious
4 discrimination half a dozen times. Justice
5 White explained in his dissent in Mobile that
6 they were requiring -- the plurality was
7 requiring some sort of smoking gun proof
8 identifying the exact official, and Justice
9 White's position was no. Circumstantial
10 evidence can be enough to infer invidious
11 discrimination --

12 JUSTICE SOTOMAYOR: Counsel --

13 MR. LACOUR: -- and that's exactly
14 what he said --

15 CHIEF JUSTICE ROBERTS: Well, I guess
16 in -- like --

17 MR. LACOUR: -- in Rogers v. Lodge.

18 CHIEF JUSTICE ROBERTS: -- do you --
19 do you agree with the solicitor general's
20 statement in the government -- the federal
21 government's brief that they -- you can take
22 into account the factors that you're most
23 concerned about, which is the computer
24 simulations that show the effects of
25 race-neutral criteria, that you can take those

1 into account under the totality of the
2 circumstances point, but they do not show any --
3 do not undermine the proposition that there's no
4 requirement of showing intent?

5 MR. LACOUR: I think you can certainly
6 take them into account at the totality of
7 circumstances stage. If you look at the
8 district court's opinion here, though -- and --
9 and one other thing I'd note, in Brnovich, when
10 this Court emphasized that the legitimate state
11 goals are critical at that totality of the
12 circumstances stage.

13 And I think, in a single-member
14 districting contest -- context, it's especially
15 important that the Court be putting those
16 legitimate goals front and center for at least
17 two reasons.

18 First, as this Court has said in every
19 redistricting opinion that you've issued,
20 redistricting is one of the most difficult and
21 complex things that a legislature has to
22 undertake and it's an area where courts are not
23 particularly well-suited to come in and
24 second-guess.

25 But second and even more importantly,

1 single-member districting is uniquely zero sum.

2 So, if someone brings a challenge to
3 an early voting period and says it's 10 days but
4 really should be 20 and they prevail and get 10
5 more days, no one is harmed on account of race.
6 The minority voters who prevailed and the
7 majority voters can both take advantage of that.
8 Similarly, if you challenge multi-member
9 districts and you replace them with neutral
10 single-member districts, no one's worse off on
11 account of race.

12 But, if you have a neutral plan and
13 someone comes in and upsets it to racially
14 gerrymander it in favor of one racial group,
15 well, necessarily you're going to be harming
16 some other group on account of race.

17 JUSTICE JACKSON: But, why are you
18 saying --

19 JUSTICE ALITO: Counsel --

20 JUSTICE JACKSON: -- it's a neutral
21 plan, counsel? I -- I don't understand. The
22 Gingles preconditions are designed to establish
23 that there may actually be race discrimination
24 working in this particular situation, right? We
25 have, as Justice Kagan pointed out, not just the

1 initial hypothesis, which, by the way, is how I
2 look at the first step. I don't think the first
3 step is, you know, creating some sort of a
4 comparator or anything of the sort.

5 The first step is a burden on the
6 plaintiff, on the challenger, to show that their
7 hypothesis that another district could be drawn,
8 another minority -- majority-minority district,
9 is even feasible given the empirical numbers in
10 the situation, all right?

11 So, if we accept that, that's step
12 number one, and it contains an assessment of
13 things like racial segregation in housing
14 because you have to have enough of these people
15 pushed in, compacted in this district, right?

16 MR. LACOUR: Mm-hmm.

17 JUSTICE JACKSON: So we already have
18 this idea that there's some problem because we
19 have racial segregation in housing at Step 1.

20 Then Step 2 is asking, do we have a
21 problem in the sense that people are voting in
22 racially polarized ways? Step 3 is also that
23 kind of dynamic. Do we have a situation in
24 which the, you know, majority group is always
25 voting in the same way?

1 These are really tough things to
2 establish, and, collectively, they show that
3 it's not neutral, the situation that we are
4 approaching in this situation. We're talking
5 about a situation in which race has already
6 infused the voting system.

7 So can you help me understand why you
8 think that the world of, you know, race-blind
9 redistricting is -- is really the starting point
10 in this situation?

11 MR. LACOUR: Well, let's think about
12 why you have a compactness inquiry in the first
13 place. It's to make sure that no one is being
14 harmed on account of a lack of compactness. And
15 that's why traditional districting principles
16 are part of this inquiry too, so no one is being
17 harmed --

18 JUSTICE JACKSON: I don't think so. I
19 think it's to show that you have racial
20 segregation in housing happening in this
21 situation, that you have enough people who are
22 in, you know, marginalized groups that another
23 district is possible.

24 And why is that happening? Because
25 people are being segregated in effect, in

1 effect, as Judge -- Justice Kagan pointed out,
2 right? We're not talking about intent. We're
3 talking about the effect of what's happening on
4 the ground in these jurisdictions.

5 MR. LACOUR: Two points.

6 First, on the segregation point, if --
7 if there really was that compact segregated part
8 of Alabama to draw that second Black district,
9 they wouldn't have had to have split Mobile for
10 the first time ever, gone 170 miles northeast up
11 to Montgomery, and then dipped a hundred miles
12 to the southeast to Dothan, Alabama.

13 JUSTICE KAGAN: Okay. So that's a
14 different kind of arguments. Those are --

15 JUSTICE ALITO: But, counsel, you
16 have a --

17 CHIEF JUSTICE ROBERTS: Justice Alito.

18 JUSTICE ALITO: Counsel, you have made
19 a number of arguments. Some of them are quite
20 far-reaching, and you've been questioned about
21 some of those already in the argument today, but
22 let me make sure I understand your -- your basic
23 argument, your least far-reaching argument.

24 And as I understood it, the argument
25 is that the first Gingles precondition requires

1 the showing that there can be a reasonably
2 configured majority-minority district. It's not
3 just any old majority-minority district. It has
4 to be reasonably configured. And reasonably
5 configured means something more than just
6 compact. It means a district that is the type
7 of district that would be drawn by an unbiased
8 mapmaker.

9 Now a plaintiff in a case like this
10 can attempt to satisfy that first condition
11 simply by coming forward with a district that is
12 majority-minority, but that doesn't end the
13 inquiry because, if it can be shown, as you
14 claim the computer simulations in this case
15 show, that that is not the kind of district that
16 an unbiased mapmaker would ever draw, then the
17 first Gingles precondition is not satisfied.

18 Now that's how I understood your --
19 your basic argument. Am I right on that?

20 MR. LACOUR: Yes. Yes, Your Honor.
21 But you could also consider that at the totality
22 of the circumstances --

23 JUSTICE ALITO: And you could consider
24 it at the totality of the circumstances.

25 MR. LACOUR: Mm-hmm.

1 JUSTICE ALITO: But your most basic
2 argument is not at war with Gingles. You have
3 quarrels with Gingles, but your most basic
4 argument fits right into Gingles.

5 MR. LACOUR: Absolutely. And in
6 LULAC, the Court recognized the compactness
7 inquiry lacked some precision. Obviously --

8 JUSTICE KAGAN: Well, Mr. LaCour --

9 JUSTICE SOTOMAYOR: Counsel --

10 MR. LACOUR: -- some precision was
11 needed.

12 JUSTICE KAGAN: -- it only fits with
13 Gingles if Gingles meant reasonably configured
14 in the way that Justice Alito suggests.

15 MR. LACOUR: Mm-hmm.

16 JUSTICE KAGAN: But there's no
17 indication in Gingles or in any of our cases
18 that the Court did mean reasonably configured in
19 the way that Justice Alito suggests.

20 Reasonably configured meant take a
21 look at a district. Does the district have sort
22 of reasonable lines, or are you doing something
23 totally crazy? Does the district, you know,
24 incorporate communities of interest? Does it --
25 you know, does it make sure that traditional

1 districting criteria are satisfied?

2 If you can come in with a map that
3 looks like that, which plaintiffs here did --
4 nobody contests that even, or maybe you do. I
5 don't know. Certainly, the judges below found
6 that question very easy.

7 Then you go on. This is just a
8 precondition to show that you have a map that
9 accords with traditional districting criteria.
10 They had that map.

11 MR. LACOUR: With -- with respect,
12 first, again, I'm not sure why the Court has
13 ever spoken about traditional districting
14 principles and reasonable configuration, or at
15 least the Court has never suggested that a map
16 that the state could never enact itself under
17 the Equal Protection Clause is somehow
18 reasonably configured. If they came forward
19 with a Cooper v. Harris map or the Bethune-Hill
20 map --

21 JUSTICE JACKSON: But why is that --

22 MR. LACOUR: -- surely, that's not
23 reasonably configured.

24 JUSTICE JACKSON: -- the question at
25 Step 1, counsel? Why is that the question -- at

1 Step 1, we're not even worried about the state's
2 map. We're asking the -- the -- the
3 challengers, it's a burden on the challengers,
4 can you sustain your hypothesis that under
5 traditional redistricting principles we can have
6 a map that is drawn the way we ordinarily draw
7 maps and in -- has a majority of minorities?

8 It's not about the state's map at 1.
9 So I don't understand why we would have to
10 ensure that the challengers' map conforms with
11 other legal requirements.

12 MR. LACOUR: With respect, this whole
13 case is about the state's map. The whole
14 Section 2 inquiry should be about the state's
15 map. And there's something bizarre with the
16 fact that, like, we have to somehow show that
17 there's something so wrong with their map --

18 JUSTICE JACKSON: No, counsel --

19 MR. LACOUR: -- so our map gets to
20 stand.

21 JUSTICE JACKSON: -- it's like -- it's
22 like -- it's like the burden-shifting tests that
23 this Court has in all kinds of other
24 discrimination. It's like McDonnell Douglas,
25 right? At Step 1, the challengers have to do

1 something.

2 MR. LACOUR: Mm-hmm.

3 JUSTICE JACKSON: And in -- in this
4 case, they have to do something really hard.
5 They have three different hurdles that they have
6 to jump over in order to even get us to question
7 Alabama's maps. And at Step 1, they have to
8 show this empirical thing. And I don't
9 understand why you are now suggesting that the
10 Step 1 has to also relate to the legality of
11 that map. That's not the ultimate map that it's
12 going to be, right? Even if they win, Alabama
13 has the opportunity to put out its own map. So
14 they're just doing a particular thing at Step 1.
15 And I don't understand your -- your argument.

16 MR. LACOUR: With -- with respect,
17 Your Honor, this Court has said account for
18 traditional districting principles, and if they
19 get to leave a few of those aside, then that
20 hurdle becomes very low. And -- and maps that
21 Evan Milligan himself couldn't have conceived of
22 somehow clear that hurdle --

23 JUSTICE SOTOMAYOR: Counsel, may I?

24 JUSTICE ALITO: Suppose --

25 MR. LACOUR: -- and then state and --

1 sorry, Justice Sotomayor.

2 JUSTICE SOTOMAYOR: Finish answering,
3 but then come to me.

4 MR. LACOUR: And, in effect, in this
5 case and in multiple circuits, lower courts are
6 treating Gingles 1, 2, and 3 as the whole ball
7 game. So, if you're going to leave Gingles 1 as
8 this very easy to satisfy precondition, well,
9 then all the more important for you to consider
10 the state's legitimate purposes --

11 JUSTICE SOTOMAYOR: Counsel?

12 MR. LACOUR: -- at the totality stage.

13 JUSTICE SOTOMAYOR: Now may I get to
14 that?

15 MR. LACOUR: Yes.

16 JUSTICE SOTOMAYOR: All right. First
17 of all, I followed the district court's
18 findings, the three judges, extensive record.
19 They found that the Respondents' maps -- or the
20 Respondents' map respected traditional
21 districting better than the state's map in
22 medium compactness, continuity, respect for
23 political subdivisions, and the desire to keep
24 together existing communities of interest.

25 You dispute that. We can go into the

1 record. There is a fight here, however, over
2 what's a continuing existing community of
3 interest. You sit -- or you've been arguing
4 that Mobile and what's the other county?

5 MR. LACOUR: Mobile and Baldwin
6 Counties.

7 JUSTICE SOTOMAYOR: Baldwin, that
8 they're a community of interest. Why? They
9 have a, I think it's French and Spanish
10 background. Just so happens that all of those
11 people are white. And you've never split those
12 communities. The Black Belt has all Black
13 people or not all but mostly Black people.

14 MR. LACOUR: Fifty-six --

15 JUSTICE SOTOMAYOR: So --

16 MR. LACOUR: -- 56.6 percent.

17 JUSTICE SOTOMAYOR: Yeah. Mobile and
18 Baldwin have a majority white. That Black
19 community, through the decades, has been split
20 three or four ways. Now the question is, why?

21 What the district court did was to
22 look at that community and say: It may be
23 Black, but that's irrelevant to what constitutes
24 a community of interest. It's not merely its
25 race. It's its socioeconomic background, it's

1 educational level, it's occupation. It's all of
2 the things that one would look at to define a
3 community of interest.

4 And that community of interest should
5 be held together because, just like Mobile and
6 Baldwin, assuming -- and the district court
7 didn't -- held that you hadn't met your burden
8 on that actually being a community of interest,
9 but even if you wanted to keep it that way, my
10 question to you is, assume I accept that as a
11 community of interest. Why isn't the maps that
12 the district court relying on race-neutral?

13 MR. LACOUR: There's a lot --

14 JUSTICE SOTOMAYOR: It's looking at
15 community of interest. If you -- and I think
16 what the district court said was that
17 historically it -- the maps you've drawn in the
18 past had discrimination sort of built in.

19 MR. LACOUR: Justice Sotomayor,
20 there's a lot to unpack there, a few premises I
21 think I need to clear up as a factual matter,
22 and then I'd be happy to get to the legal point.

23 First, the district court did find at
24 page 180 of the Milligan stay appendix that
25 there is a Gulf Coast community of interest.

1 They found Representative Bradley Byrne's
2 testimony to be helpful. That's at page 122.

3 So there's no dispute there that there
4 is a community of interest, nor -- nor could
5 there be.

6 Second --

7 JUSTICE SOTOMAYOR: I -- I think there
8 was a difference of opinion about that, but --

9 MR. LACOUR: I -- I think --

10 JUSTICE SOTOMAYOR: -- we can go -- we
11 can go --

12 MR. LACOUR: -- I think we have two --

13 JUSTICE SOTOMAYOR: -- further
14 assuming it is.

15 MR. LACOUR: -- we have two undisputed
16 communities of interest.

17 JUSTICE SOTOMAYOR: All right.

18 MR. LACOUR: We've got the Gulf.
19 We've got the Black Belt.

20 Second, there's --

21 JUSTICE SOTOMAYOR: So why can you not
22 -- why can you put precedence on keeping one
23 together but not keeping the other together --

24 MR. LACOUR: So --

25 JUSTICE SOTOMAYOR: -- breaking it up

1 by three or four?

2 MR. LACOUR: -- two responses to that.

3 One is I don't think courts are very
4 well-positioned to judge how -- which community
5 of interest should be weighed in which way --

6 JUSTICE SOTOMAYOR: Well, if -- if --

7 MR. LACOUR: -- in a particular map.

8 But, second --

9 JUSTICE SOTOMAYOR: -- if -- if the
10 Respondents' maps are better at compactness,
11 continuity, respect for political subdivision,
12 why are they worse than what the state has done
13 or suspect?

14 MR. LACOUR: They -- they are not
15 better. Their Districts 1 and 2 are far less
16 compact, and Dr. Duchin testified that the
17 reason for that --

18 JUSTICE SOTOMAYOR: And 1 or 2 might
19 be, but there's always going to be something
20 that's a little less. On medium they said it
21 was more compact.

22 MR. LACOUR: Well, on average, and
23 that's because they completely restructured the
24 north of the state, Districts 5 and 4, which are
25 not at issue at all here, to build up a

1 compactness budget that could then be spent at
2 the bottom of the state, which --

3 JUSTICE SOTOMAYOR: That -- that's not
4 what the district court found. I mean, but
5 putting this aside, let's go back to my
6 fundamental question.

7 I thought the issue under Section 2
8 was whether or not a particular racial minority
9 has a -- as a result, has -- can equally
10 participate. If that's the case, and on all the
11 factors the district court looked at, it
12 concluded that the Black Belt community, which
13 is a community of interest, was inappropriately
14 cracked --

15 MR. LACOUR: Your Honor --

16 JUSTICE SOTOMAYOR: -- in three or
17 four districts, why isn't that actionable under
18 Section 2?

19 MR. LACOUR: Your Honor, there is no
20 finding -- it shows up a lot in my friend's
21 briefs, but there is no finding that we cracked
22 the Belt -- Black Belt, absolutely not a finding
23 that we cracked the back -- Black Belt.

24 JUSTICE SOTOMAYOR: Well, how can it
25 not be if you're not keeping together a

1 community of interest the way you did --

2 MR. LACOUR: Because --

3 JUSTICE SOTOMAYOR: -- with Mobile and
4 Baldwin?

5 MR. LACOUR: -- Your Honor, the -- the
6 Black Belt, as both plaintiffs and their experts
7 testified, stretches from Texas to Virginia. We
8 can't keep the whole Black Belt together. And
9 those 18 --

10 JUSTICE SOTOMAYOR: You already have
11 one long district in your plan.

12 MR. LACOUR: Yes. And as Bill Cooper,
13 the plaintiffs' expert, the Caster plaintiffs'
14 expert explained, that's because the Tennessee
15 River runs east to west up there. It has always
16 been --

17 JUSTICE SOTOMAYOR: And the Black Belt
18 runs east to west as well.

19 MR. LACOUR: Correct, but the rivers
20 in the southwest of the state, the Tombigbee,
21 the Alabama, and the Mobile, they run north to
22 south and they drop off in the port. And that's
23 why Shalela Dowdy, one of the Milligan
24 plaintiffs, testified that when Mobile's doing
25 well, then everyone regardless of race in the

1 Mobile area and even in the Black Belt counties
2 directly north of there is doing well. So
3 they're -- they're proving our case for us.

4 JUSTICE ALITO: Are there enough
5 people in the Black Belt to constitute a
6 district by itself or --

7 MR. LACOUR: No, Justice --

8 JUSTICE ALITO: -- is it -- was it
9 necessary in their proposed District 7 to reach
10 up into -- into Montgomery and pick up Black
11 areas there in order to get over the 50 percent
12 mark?

13 MR. LACOUR: Yes. That's why it goes
14 up into Jefferson County. As I mentioned, the
15 18 core Black Belt counties are only
16 56.6 percent Black, only 566,000 people. So
17 it's very difficult to draw a district. Plus,
18 because it spans the state, you can't draw one
19 district that puts them all in there together.
20 Otherwise, you're going to strand too many
21 people south of there and you can't have
22 contiguous districts.

23 And on this point of who does better
24 or not in the Black Belt, the district court did
25 not find that their plans do better on the Black

1 Belt. They said they do at least as well. It
2 would have been clearly erroneous to find that
3 they do better because our plan puts those 18
4 core counties into three districts. Every one
5 of their plans puts them into at least three
6 districts, with the exceptions of --

7 JUSTICE KAGAN: General, may I ask you
8 for order?

9 CHIEF JUSTICE ROBERTS: Why don't we
10 wait until we get -- get back.

11 Counsel, you've -- you've been asked a
12 lot of questions on the nature of your
13 submission. I'm not sure you've had a full
14 opportunity to respond.

15 What exactly is your submission under
16 Section 2 that, in particular, the relation
17 between the computer analysis that you've
18 submitted and why your argument is not an effort
19 to resuscitate the intent test that Congress has
20 rejected under Section 2?

21 MR. LACOUR: Well, Your Honor, we
22 think that, as I mentioned before, intent is not
23 irrelevant. Even the Milligan plaintiffs agree
24 at page -- I don't have the page right in front
25 of me -- page 20 in their brief that Section 2

1 requires evidence relevant to the issue of
2 intentional discrimination.

3 Well, we've got phenomenal evidence
4 that -- that they brought forward, and this was
5 another fact I need to clear up because the
6 United States and both sets of plaintiffs got it
7 wrong in their briefs. But Dr. Imai, he was
8 their -- he was the Milligan plaintiffs' expert
9 who was working with the 2020 data.

10 And he drew 10,000 -- three sets of
11 10,000 maps. The third set guaranteed one
12 majority Black district of 50 to 51 percent,
13 razor thin, leaving as many Black voters as
14 possible to find in the other six districts and
15 form a second majority-minority district, then
16 contiguity equal population, keep counties
17 together, stay relatively compact, don't pair
18 incumbents and then prioritize communities of
19 interest.

20 And they've said again and again that
21 he didn't take into account communities of
22 interest. That is flatly wrong. He did. And
23 so what he was told to do by the Milligan
24 plaintiffs was to prioritize putting the Gulf
25 counties together and prioritize putting the 23

1 Black Belt counties together.

2 When he did that, he had one majority
3 Black district that was preprogrammed, and then
4 the second highest BVAP district averaged about
5 36 percent.

6 CHIEF JUSTICE ROBERTS: But I guess,
7 to get to the basic point, in what way do your
8 simulations, which you required to be
9 race-neutral, why does that seem to require an
10 intent test?

11 In other words, you seem to say what
12 was wrong with the other simulations is that
13 they took race into account. And the state
14 rejected that to look for the -- the neutral
15 plans.

16 That sounds to me like something
17 that's looking for intent. You say there was no
18 intent because every time we ran the simulation
19 without taking race into account, this is what
20 it came up with.

21 And my understanding of our -- our
22 cases is that you don't have to show intent. So
23 what is the significance of your computer
24 simulations?

25 MR. LACOUR: Well, a -- a few points,

1 Your Honor. I mean, if you inject race as a
2 traditional districting principle, which is what
3 both plaintiffs' map drawers said they did.
4 They treated race as a traditional districting
5 principle. It's going to have that hydraulic
6 effect and it's going to make it harder to
7 comport with traditional districting principles
8 and you're going to end up with a map that's not
9 going to do as well.

10 Also, I mean, this again, intent is
11 not irrelevant. If we've shown conclusively
12 that we're achieving our legitimate goals, that
13 has to factor in. I think even the dissent in
14 Brnovich said a Section 2 plaintiff needs to
15 show that it's not possible for the state to
16 achieve its legitimate goals in some way.

17 And -- and it's -- we've shown that.
18 It is impossible for us to achieve undisputably
19 legitimate goals of keeping the Gulf together,
20 of maintaining our preexisting district lines in
21 a large amount, and keeping relatively compact
22 districts that someone could look at from
23 Alabama and recognize why they were drawn that
24 way without looking and seeing the price.

25 CHIEF JUSTICE ROBERTS: Thank you.

1 JUSTICE JACKSON: But, counsel, what
2 about the --

3 CHIEF JUSTICE ROBERTS: Thank you,
4 counsel.

5 Justice Thomas, it's your turn.

6 Justice Alito?

7 JUSTICE ALITO: No.

8 CHIEF JUSTICE ROBERTS: Justice
9 Sotomayor?

10 JUSTICE SOTOMAYOR: I find it
11 interesting that you're touting Dr. Imai's
12 studies when, below, you vehemently objected to
13 his studies on the basis that the studies were
14 incomplete and didn't take into account all of
15 Alabama's guidelines.

16 MR. LACOUR: Yes, Your Honor. And
17 that's a very easy answer to give. We took into
18 account the preexisting district lines as
19 traditional boundaries, so to speak. He did
20 not. And so his map couldn't reveal --

21 JUSTICE SOTOMAYOR: Well, that begs
22 the --

23 MR. LACOUR: -- whether race was
24 driving things.

25 JUSTICE SOTOMAYOR: -- that begs --

1 MR. LACOUR: But --

2 JUSTICE SOTOMAYOR: -- the question.

3 MR. LACOUR: -- but plaintiffs, none
4 of their map drawers cared at all about
5 preexisting district lines. So they took into
6 account -- he took into account the same things
7 they were taking into account, and when he did,
8 without also putting race into account, that's
9 the one thing he didn't take into account, then
10 you come back with maps that come nowhere close
11 to creating a second majority-Black district,
12 which shows that race was the criteria and that
13 could not be compromised. I mean, it's textbook
14 predominance.

15 We could have never drawn those maps
16 constitutionally. And, again, just to get back
17 to, like, the general confusion here, it puts us
18 in an obvious rock and a hard place. They're
19 using maps we could have never drawn to force us
20 to draw maps that, like, again, we couldn't have
21 ever drawn.

22 So that cannot be how the equal
23 openness mandate of Section 2 works. It needs
24 to work in harmony with the equal protection
25 mandate of the Constitution, not in conflict.

1 CHIEF JUSTICE ROBERTS: Justice Kagan?

2 JUSTICE KAGAN: General, some of your
3 arguments, I think not all of them, but some of
4 your arguments would strongly indicate that
5 Alabama could enact a plan with no
6 majority-minority districts.

7 Do you think Alabama could do that?

8 MR. LACOUR: Under the current
9 guidelines, I don't think we would be able to
10 because core retention is one of those
11 principles.

12 JUSTICE KAGAN: But what do you mean,
13 under the current guidelines?

14 MR. LACOUR: The 2021 guidelines that
15 the bipartisan redistricting committee approved
16 and handed over to our -- for our --

17 JUSTICE KAGAN: On -- on your current
18 guidelines. I'm not interested in Alabama's
19 current guidelines. I'm interested in whether
20 you think, as a matter of federal law, as a
21 matter of the Voting Rights Act, you are
22 prohibited from enacting a plan that has zero
23 majority-minority districts.

24 MR. LACOUR: I think it would depend
25 on sort of the guidelines that are being

1 proposed there and the motivations. This Court
2 said in LULAC breaking up an existing district
3 is -- is inherently suspect. And so that would
4 be a much stronger case.

5 And I'll note LULAC is actually the
6 only published opinion of this Court where you
7 found a Section 2 violation, and --

8 JUSTICE KAGAN: So you think that
9 there are circumstances -- I mean, this is
10 important to me because some of your arguments
11 sweep extremely widely, maybe most of them --
12 that there are circumstances in which a
13 population that is 27 percent of the state's
14 population could essentially be foreclosed from
15 electing a candidate of their choice anywhere?

16 MR. LACOUR: Your Honor, there's
17 always going to be that intensely local
18 appraisal to see what was going on there.
19 Obviously, if we had had these guidelines and we
20 passed a map that took us from one down to zero,
21 where we retained the cores of Districts 1
22 through 6 but not District 7, that would be an
23 easy case. That would be LULAC all over again.
24 It would be an easy case to bring.

25 And, also, I -- I don't think --

1 JUSTICE KAGAN: So it all depends
2 on -- you know, just it all depends?

3 MR. LACOUR: Well, it all depends on
4 what Section 2 is trying to get at. And I don't
5 think --

6 JUSTICE KAGAN: Okay. Well, I think
7 what Section try -- is trying to get at is it's
8 trying to ensure equal political opportunities.
9 That's what -- so let me just use that as a
10 segue to my last question, which is that, you
11 know, this is an important statute. It's one of
12 the great achievements of American democracy to
13 achieve equal political opportunities regardless
14 of race, to ensure that African Americans could
15 have as much political power as -- as -- as
16 white Americans could. That's a pretty big
17 deal.

18 And it was strengthened, this statute,
19 in 1982 when this Court interpreted it too
20 narrowly for Congress's taste, and Congress said
21 no, we didn't mean that at all and made this
22 into a results test.

23 Now, in recent years, this statute has
24 fared not well in this Court. Shelby County
25 looks at Section 5 and it says no, Section 5, we

1 don't need that anymore, and one of the things
2 it says is we have Section 2.

3 And then Brnovich comes along, and
4 that's a Section 2 case, and the Court says:
5 You know what, Section 2, they're really
6 dilution claims. You know, this is a denial
7 claim, and -- and so we can construe that very
8 narrowly. But, of course, there's just all
9 these cases that are dilution claims. That's
10 really what Section 2 is about.

11 And now here we are, Section 2 is a
12 dilution claim, this -- you know, the classic
13 Section 2 dilution claim. And you're asking us
14 essentially to cut back substantially on our 40
15 years of precedent and to make this too
16 extremely difficult to prevail on.

17 So what's left?

18 MR. LACOUR: Justice Kagan, the Voting
19 Rights Act has achieved tremendous gains. In
20 2016, for example, Alabama, Black voters turned
21 out at 4.6 points higher than white voters, even
22 though nationwide that gap was 2.3 percent the
23 other direction. In 2018, much the same story.
24 We had the second highest Black registration in
25 the country, second only to Mississippi. So I

1 think we need to not lose sight of that.

2 In terms of what Section 2 is supposed
3 to be doing, I think the problem here is we're
4 kind of in like a third generation of vote
5 dilution claims. You have the multi-member
6 districts is generation 1. Generation 2 was
7 getting rid of the racial gerrymanders. But
8 generation 3 is let's impose the racial
9 gerrymanders, which I don't think Section 2 was
10 ever designed to do. It's what's led to all
11 this confusion and this tension between an equal
12 openness statute and equal protection mandate.

13 And we're just saying, like, that
14 cannot be what it means. What -- whatever it
15 means, it can't be that we have to obliterate
16 longstanding, unprecedented -- I mean undisputed
17 communities of interest in favor of districts
18 that sort of arch across the state to connect
19 people from Mobile and -- and Dothan, which no
20 neutral map drawer would ever do. And,
21 obviously, it was not the concerns of the 1982
22 Congress.

23 JUSTICE KAGAN: Thank you.

24 CHIEF JUSTICE ROBERTS: Justice
25 Gorsuch?

1 Justice Kavanaugh?

2 JUSTICE KAVANAUGH: I interpreted your
3 argument in the briefs similarly to Justice
4 Kagan and Justice Alito, that you had a broad
5 argument which struck me as asking us to rewrite
6 Gingles in -- in a variety of ways, and then a
7 narrower argument focused on compactness,
8 whether the new majority-minority district
9 proposed here was reasonably compact.

10 Assume just for the sake of argument
11 that we don't rewrite Gingles and then focus on
12 the compactness of the proposed
13 majority-minority district. I mean, you get to
14 this on page 66 of your brief, and you say with
15 respect to compactness, "the question is whether
16 the newly drawn district, alone, is sufficiently
17 compact or whether the minority population is so
18 sprawling that any majority-minority district
19 ... cannot be ... 'reasonably configured.'"

20 I agree completely that that is the
21 question. I did not find much help on the
22 answer. And this is your opportunity to -- to
23 -- to answer that question.

24 Why is it -- why do you think it's so
25 sprawling, given that it does respect a

1 community of interest in the Black Belt, that it
2 can't be a new majority-minority district?

3 MR. LACOUR: Two points on that,
4 Justice Kagan. As I was noting -- I mean
5 Justice Kavanaugh, I apologize.

6 Their maps actually don't do any
7 better for the Black Belt, and that wasn't their
8 goal. So, if you look at Duchin Plan B, I
9 believe it is, that's at 3a of the U.S. brief's
10 appendix, she splits the Black Belt four ways,
11 among four districts, those 18 core counties.
12 And not to be outdone, Mr. Cooper, the Caster
13 plaintiffs' map drawer, in his Plan 6, that's at
14 9a, he splits them five ways.

15 So we do just as well as them with the
16 Black Belt, but we also keep together --

17 JUSTICE KAVANAUGH: But isn't the
18 question --

19 MR. LACOUR: -- the Gulf Coast
20 community of interest.

21 JUSTICE KAVANAUGH: Sorry to
22 interrupt. Isn't the question whether the new
23 district is reasonably compact, reasonably
24 configured?

25 MR. LACOUR: Correct. And as this

1 Court has said --

2 JUSTICE KAVANAUGH: And -- and so, on
3 that, you look at respecting county lines, for
4 example, right? That's an important one. And
5 this did. This new district did just as well,
6 if not better, in respecting county lines. At
7 least that's the argument. So I want to hear
8 your response to that.

9 Then the overall shape of the new
10 district, the argument on the other side is:
11 Well, that looks similar in shape to a lot of
12 other districts that are in the state plan as
13 well.

14 So you don't have the kind of Shaw v.
15 Reno bizarre map, and you don't have county
16 lines being split more -- but respond to this if
17 you want -- split more than the state plan
18 already split county lines.

19 So then the question is, why is this
20 district not reasonably compact? And I will be
21 candid, for both sides, I don't really know how
22 to measure reasonably compact. That's why I'm
23 looking -- I mean, that's very -- there's been a
24 lot written about it and I've read a lot. It's
25 very hard to measure. But county lines are one

1 of the -- one of the measures.

2 MR. LACOUR: Well, three of the Duchin
3 plans split more counties than necessary. The
4 Cooper plans keep them together but the same
5 number of splits. Six is the minimum --

6 JUSTICE KAVANAUGH: Okay. If it's --

7 MR. LACOUR: -- you have to have.

8 JUSTICE KAVANAUGH: -- the same number
9 of splits, why is it not reasonably compact?

10 MR. LACOUR: Because they ignore other
11 traditional districting principles. So --

12 JUSTICE KAVANAUGH: Oh.

13 MR. LACOUR: -- like we -- as we've
14 noted, preexisting district lines, a core
15 retention has been something the state has given
16 effect to for a long time. This Court in
17 Karcher said that is a legitimate goal in
18 redistricting.

19 And the district court said: Well,
20 you don't have to account for that traditional
21 districting principle because that would make it
22 really hard to satisfy Gingles. Well, but
23 that's the whole point of the traditional
24 districting principles inquiry, is -- is -- is
25 not to make it easy. It's to make sure that

1 what they come up with is essentially playing by
2 similar rules as the state.

3 And -- and they just got to set aside
4 the ones that they didn't like that got in the
5 way. That can't be what reasonably configured
6 means or what account for traditional
7 districting principles means.

8 And they say, well, there's no
9 precedent for taking into account core
10 retention. That's not true. If you go back to
11 Abrams, I mean, after Miller, with the max back
12 -- max Black plan foisted upon Georgia in the --
13 after the 1990 census, it was sent back to the
14 district court, who was forced to end up drawing
15 a map for Georgia's 11 congressional districts.

16 Georgia at that time, just like
17 Alabama today, was 20 percent -- 27 percent
18 Black population. And the judge was trying to
19 comply with Section 2, including this
20 compactness inquiry, and so he said let's look
21 at the traditional districting principles of the
22 state. And one of those was retaining the cores
23 of preexisting districts.

24 And so he built that into his
25 compactness analysis and, as a result, concluded

1 it's only possible in Georgia --

2 JUSTICE KAVANAUGH: Doesn't that make
3 it a bit of a non-retrogression principle, which
4 Section 2 really was not designed to do?

5 MR. LACOUR: No, Your Honor. I -- I
6 think, if you can find something wrong with
7 those preexisting cores, then -- then maybe you
8 get to set them aside, and there are some states
9 who don't care about preexisting cores and they
10 couldn't take advantage of this.

11 But, in Georgia, they indisputably did
12 take into account preexisting cores. In
13 Alabama, we indisputably do too. When the
14 Democrats controlled the legislature in 2002 and
15 Senator Hank Sanders from Selma, Alabama,
16 proposed the 2002 map, it looked a lot like the
17 1992 map.

18 JUSTICE KAVANAUGH: Last -- last
19 question. You've referred a couple times to
20 maximization and proportionality, but my
21 understanding is that compactness, the
22 compactness requirement, was the critical part
23 of this inquiry under Gingles that prevents the
24 statute from being maximization or
25 proportionality because you can't just group

1 together people throughout the state in an
2 attempt to maximize or seek proportionality. It
3 has to be reasonably compact.

4 So doesn't the compactness requirement
5 mean that it's not a simple maximization or
6 proportionality requirement if the compactness
7 requirement is properly applied?

8 MR. LACOUR: If it's properly applied
9 and they actually have to take into account our
10 traditional districting principles, but I'd like
11 you to imagine yourself as a legislator --

12 JUSTICE KAVANAUGH: I think I should
13 -- I should let others question now. Thanks.

14 CHIEF JUSTICE ROBERTS: Justice
15 Barrett?

16 JUSTICE BARRETT: Mr. LaCour, I think
17 I'm struggling in the same way that some others
18 have about narrowing down exactly what your
19 argument is. You know, I -- I disagree with you
20 and agree with Justice Kagan's characterization
21 of the intent point. Our precedent and the
22 statute itself says that you don't have to show
23 discriminatory intent, so put that aside.

24 MR. LACOUR: Mm-hmm.

25 JUSTICE BARRETT: I had understood

1 your argument, your primary argument, to be much
2 narrower, and I want to make sure now that I'm
3 understanding it because now I'm questioning
4 exactly where you're going.

5 I had understood you to be saying that
6 the first Gingles factor requiring reasonably
7 configure -- a reasonably configured map that
8 showed more majority-minority districts, that
9 that had to be race-neutral, that it was not
10 reasonably configured if it wasn't, and that our
11 precedents have never -- have left the question
12 open, they've never said one way or another
13 whether you could use race as a prerequisite.

14 Here, you know, there was testimony
15 below that it was impossible to get the two
16 majority-minority districts if you didn't take
17 race into account. There's the quote from the
18 plaintiffs' expert saying that you can't get
19 there on accident, which is why it's important
20 to do it on purpose.

21 MR. LACOUR: Yes.

22 JUSTICE BARRETT: I understood your
23 argument to be that the first Gingles factor
24 required the plaintiffs to come forward with a
25 racially neutral map showing an increase in

1 majority-minority districts because that was the
2 way to establish a baseline from which equal
3 opportunity could be judged in the totality of
4 the circumstances test.

5 MR. LACOUR: Mm-hmm.

6 JUSTICE BARRETT: And I understood you
7 to be saying that you are being asked, all
8 states are being asked to navigate the rock and
9 the hard place of the Fourteenth Amendment and
10 the Voting Rights Act and that if you were
11 forced to adopt a map proposed by the plaintiffs
12 that was racially gerrymandered because race was
13 predominant in its drawing, that you would be
14 violating the Fourteenth Amendment.

15 Therefore, the first factor of Gingles
16 required to get past the hurdle that Justice
17 Jackson was talking about, to get past that
18 hurdle, it required race neutrality.

19 Is that your central argument?
20 Because you've been talking a lot about the --
21 the farther-reaching arguments.

22 MR. LACOUR: Yes, that -- that is our
23 core argument that it -- it cannot be that they
24 can come forward with a map that we would never
25 be allowed to draw, call it reasonably

1 configured and then force us to draw a map we
2 would never be allowed to constitutionally draw.

3 You can think of that either -- the
4 problem is either race predominance or the
5 problem is, when race enters in to the equation,
6 then traditional districting principles
7 necessarily have to yield, which is what the
8 district court found on page 214 of the Milligan
9 stay appendix, non-racial considerations had to
10 yield to race.

11 So you -- you -- you can look at
12 either as the problem is race predominance or
13 the problem is you can't maintain -- you can't
14 account -- properly account for traditional
15 districting principles if you treat race as one
16 of those principles and necessarily force the
17 other ones to yield, but I think it's six in one
18 hand, half a dozen in the other.

19 JUSTICE BARRETT: What about our
20 precedents that say that satisfying the Voting
21 Rights Act is a compelling interest on the part
22 of the states? Doesn't that get you out of the
23 Fourteenth Amendment problem?

24 MR. LACOUR: This Court has tellingly
25 only ever assumed that compliance with Section 2

1 is a compelling interest. And we don't think
2 that race-based remedies would be a narrowly
3 tailored remedy for whatever --

4 JUSTICE BARRETT: What if -- what if
5 we -- well, I think we might have done more than
6 assume it. So if -- if we -- let's just stay
7 with me and assume that we have so held.

8 If we have so held, do you lose?

9 MR. LACOUR: I -- I don't think we
10 lose. I think -- I mean, I think there are
11 going to be some cases where Section 2 violation
12 lines up with an Equal Protection Clause
13 violation and might satisfy strict scrutiny.
14 So, for example, if there's race in the lines,
15 then, yeah, you have to have a race-based remedy
16 to take the race out of the lines.

17 But I don't think there's a
18 sufficiently compelling interest here based on,
19 for example, the showing that they made, where
20 they really just showed sort of broad-based
21 societal discrimination. They didn't show
22 anything wrong with our maps. So it -- it
23 cannot be that that is specifically identified
24 discrimination that could justify using race to
25 change our map.

1 I mean, you can go through that entire
2 250-plus pages of opinion from the district
3 court and really kind of miss our map
4 altogether, other than the fact that it doesn't
5 produce a second Black district. And that just
6 shows how far afield the Section 2 inquiry
7 really has come in this case.

8 JUSTICE BARRETT: Thank you.

9 CHIEF JUSTICE ROBERTS: Justice
10 Jackson?

11 JUSTICE JACKSON: Yes. I am so, so
12 glad for Justice Barrett's clarification because
13 I had the same thought about what you were
14 arguing, and I'm glad that you clarified that
15 your core point is that the Gingles test has to
16 have a race-neutral baseline or that the -- the
17 first step has to be race-neutral.

18 And -- and what I guess I'm a little
19 confused about in light of that argument is why,
20 given our normal assessment of the Constitution,
21 why is it that you think that there's a
22 Fourteenth Amendment problem? And let me just
23 clarify what I mean by that.

24 I don't think we can assume that just
25 because race is taken into account that that

1 necessarily creates an equal protection problem,
2 because I understood that we looked at the
3 history and traditions of the Constitution at
4 what the Framers and the Founders thought about
5 and when I drilled down to that level of
6 analysis, it became clear to me that the Framers
7 themselves adopted the Equal Protection Clause,
8 the Fourteenth Amendment, the Fifteenth
9 Amendment, in a race-conscious way.

10 That they were, in fact, trying to
11 ensure that people who had been discriminated
12 against, the freedmen in -- during the
13 reconstructive -- Reconstruction period were
14 actually brought equal to everyone else in the
15 society.

16 So I looked at the report that was
17 submitted by the Joint Committee on
18 Reconstruction, which drafted the Fourteenth
19 Amendment, and that report says that the entire
20 point of the amendment was to secure rights of
21 the freed former slaves.

22 The legislator who introduced that
23 amendment said that "unless the Constitution
24 should restrain them, those states will all, I
25 fear, keep up this discrimination and crush to

1 death the hated freedmen."

2 That's not -- that's not a
3 race-neutral or race-blind idea in terms of the
4 remedy. And -- and even more than that, I don't
5 think that the historical record establishes
6 that the Founders believed that race neutrality
7 or race blindness was required, right? They
8 drafted the Civil Rights Act of 1866, which
9 specifically stated that citizens would have the
10 same civil rights as enjoyed by white citizens.
11 That's the point of that Act, to make sure that
12 the other citizens, the Black citizens, would
13 have the same as the white citizens. So they
14 recognized that there was unequal treatment,
15 that people, based on their race, were being
16 treated unequally.

17 And, importantly, when there was a
18 concern that the Civil Rights Act wouldn't have
19 a constitutional foundation, that's when the
20 Fourteenth Amendment came into play. It was
21 drafted to give a foundational -- a
22 constitutional foundation for a piece of
23 legislation that was designed to make people who
24 had less opportunity and less rights equal to
25 white citizens.

1 So with that as the framing and the
2 background, I'm trying to understand your
3 position that Section 2, which by its plain text
4 is doing that same thing, is saying you need to
5 identify people in this community who have less
6 opportunity and less ability to participate and
7 ensure that that's remedied, right? It's a
8 race-conscious effort, as you have indicated.
9 I'm trying to understand why that violates the
10 Fourteenth Amendment, given the history and --
11 and background of the Fourteenth Amendment?

12 MR. LACOUR: The Fourteenth Amendment
13 is a prohibition on discriminatory state action.
14 It is not an obligation to engage in affirmative
15 discrimination in favor of some groups vis-à-vis
16 others.

17 JUSTICE JACKSON: No, but I -- as --
18 the record shows that the reason why the
19 Fourteenth Amendment was enacted was to give a
20 constitutional foundation for that kind of
21 effort, for the Civil Rights Act of 1866, which
22 was doing what the Section 2 is doing here.

23 MR. LACOUR: Right. Which -- your --

24 JUSTICE JACKSON: Which said, by its
25 terms, that other citizens have to be made equal

1 to white citizens, and people were concerned
2 that that didn't have a constitutional basis, so
3 they enacted the Fourteenth Amendment.

4 MR. LACOUR: Well, this Court has
5 specified -- and I don't take the plaintiffs to
6 be arguing that Shaw should be overruled or that
7 Adarand should be overruled. That -- you have
8 to have -- before the government goes forward
9 and -- and actually uses race to, like, move
10 people around into districts, for example, you
11 have to have specific identified discrimination
12 to justify that. And --

13 JUSTICE JACKSON: And isn't that the
14 work of the Gingles factors? That's what all
15 the factors are trying to do.

16 MR. LACOUR: Not if they're allowed to
17 sacrifice our principles to come up with their
18 maps. And if they're allowed to use race --
19 this is the point I was making earlier -- if
20 they're allowed to use race to create their
21 maps, then their maps can't show discrimination
22 in our map.

23 If you're trying to show that -- that
24 Black Alabamians are being treated unequally
25 through the 2021 plan, well, you need a plan

1 that is neutral so you can -- it can be that
2 control group and show you what's wrong with our
3 plan. But if you're coming forth --

4 JUSTICE JACKSON: You're saying you
5 need that as a constitutional matter because
6 that's what the Fourteenth Amendment requires?

7 MR. LACOUR: As an evidentiary matter.
8 So --

9 JUSTICE JACKSON: So we don't have a
10 problem that the Constitution is creating. It's
11 as an evidentiary matter, we have to have
12 neutrality.

13 MR. LACOUR: Well, no, Your Honor, if
14 -- if their evidence is bad, then you run the
15 risk of replacing a neutral plan with a plan
16 drawn on account of race, which would create its
17 own Section 2 violations. I think a white
18 Republican in Mobile or a Black Republican in
19 Mobile, for that matter, who's gerrymandered
20 into the new District 2 and connected with
21 people on the Georgia border would have a
22 Section 2 claim himself because his vote has
23 been abridged on account of race.

24 So you can't read Section 2 that way.
25 Equal openness and equal protection need to line

1 up. And they don't under plaintiffs' approach.
2 And we need a benchmark because obviously we
3 need some clarity in this space. We've offered
4 a benchmark. I have seen no benchmark in the
5 briefs from the United States or the plaintiffs,
6 and -- and maybe they can illuminate that for us
7 in just a moment.

8 CHIEF JUSTICE ROBERTS: Thank you,
9 counsel.

10 Mr. Ross.

11 ORAL ARGUMENT OF DEUEL ROSS
12 ON BEHALF OF THE APPELLEES

13 MR. ROSS: Mr. Chief Justice, and may
14 it please the Court:

15 There is nothing race-neutral about
16 Alabama's map. The district court's unanimous
17 and thorough intensely local analysis did not
18 err in finding that the Black Belt is a historic
19 and extremely poor community of substantial
20 significance. Yet, Alabama's map cracks that
21 community and allows white block voting to deny
22 Black voters the opportunity to elect
23 representation responsive to their needs.

24 Rather than argue clear error, Alabama
25 asks us to ignore statutory stare decisis and to

1 rewrite Section 2's text. But the Voting Rights
2 Act is a remedial statute that Congress has
3 twice reenacted since Gingles, and its
4 application here raises no constitutional
5 concerns.

6 That is because plaintiffs' maps show,
7 consistent with Bartlett, that it is possible to
8 draw maps that look very similar to Alabama's
9 own Board of Education map and that increase
10 opportunities for minority voters, while
11 satisfying traditional and state redistricting
12 criteria at least as well as Alabama's map.

13 Nothing in the text of Section 2
14 allows Alabama to avoid liability by offering up
15 these post hoc rationalizations of simulations
16 and core retention for maps that result in
17 discrimination. In fact, Alabama called
18 simulations fundamentally flawed for not
19 reproducing its own map and for not
20 incorporating all traditional redistricting
21 criteria.

22 At Gingles 1, this Court requires us
23 to use sample plans that Alabama is not
24 ultimately obligated to adopt, but those plans
25 need not be the ultimate remedy. And that's

1 because, as this Court said in Brnovich, Section
2 2 looks at the totality of the circumstances,
3 not, as Alabama would have it, the totality of
4 just one.

5 Section 2 is not an intent test or
6 about putting on racial blinders. It is about
7 equal opportunity, opportunity that Alabama's
8 map denies Black voters. Thank you.

9 CHIEF JUSTICE ROBERTS: Counsel, do
10 you agree with the Solicitor General's statement
11 in -- in her brief -- I don't know exactly what
12 the page is -- that the argument that your
13 friend on the other side makes about the -- the
14 race-neutral simulations, that argument can be
15 taken into account under the totality of the
16 circumstances?

17 MR. ROSS: Your Honor, I think
18 simulations are about intent and they're not
19 about results. But if it were to be taken into
20 account as a part of the totality of the
21 circumstances, I think it could be a factor that
22 goes to the -- an issue of remedy. And here we
23 know that Dr. Duchin conducted simulations using
24 race as one factor among many others and said
25 that she could create literally thousands of two

1 districts with majority-minority districts. And
2 even Imai, where he used race-blind simulations,
3 came out with plans that looked very similar to
4 the Singleton plan, which allowed for two
5 crossover districts where minority voters would
6 have a fair chance to elect their candidates of
7 choice in at least two districts.

8 JUSTICE ALITO: Can I ask you about --
9 can I ask you about the first Gingles
10 precondition? What the Court -- what the Court
11 said exactly in Gingles was that there must be a
12 sufficiently large -- that the minority group
13 must be "sufficiently large and compact to
14 constitute a majority in a reasonably configured
15 district." It didn't say in a reasonably
16 compact district. It said reasonably
17 configured.

18 So would you agree that whether a
19 district is reasonably configured takes into
20 account more than simply whether it is compact
21 but also whether it is a -- the kind of district
22 that a -- an unbiased mapmaker would draw?

23 MR. ROSS: Your Honor, again, Section
24 2, as you know, is about intent and not --
25 doesn't speak -- or, excuse me, is about results

1 and doesn't speak to intent. And so, you know,
2 with respect to the biases of a mapmaker, I'm
3 not sure if that's relevant.

4 But I will say, as this Court has
5 acknowledged, that Gingles 1 does take into
6 consideration compliance with traditional
7 redistricting criteria. And those redistricting
8 criteria that the state -- that this Court has
9 listed are compactness, contiguity, respect for
10 communities of interest and political
11 subdivisions. And the district court found on
12 all of those that plaintiffs' plans meet or beat
13 Alabama.

14 JUSTICE ALITO: So even if a computer
15 simulation that takes into account all of the
16 traditional districting standards would almost
17 never, in a million simulations, it would never
18 produce a second majority-minority district,
19 this first Gingles factor is satisfied?

20 MR. ROSS: Your Honor, I -- I --
21 that's not the case here. Again, plaintiffs'
22 expert said --

23 JUSTICE ALITO: Yeah, it's a
24 hypothetical. But if that were the --

25 MR. ROSS: I understand, Your Honor.

1 JUSTICE ALITO: If that were the case.
2 Would the first Gingles criteria be --
3 requirement be satisfied?

4 MR. ROSS: Your Honor, I -- I'm not
5 sure because this Court said in Bartlett that
6 plaintiffs were required to draw an additional
7 majority-minority district. And so perhaps it
8 would go to the fact that -- you know, that
9 maybe you can't have a remedy that meets Gingles
10 1, but I would also say that you have the option
11 of drawing a narrowly tailored district that --
12 where race may predominate, as this Court
13 recognized in Bethune-Hill.

14 JUSTICE ALITO: So you think that the
15 first factor is satisfied, the first requirement
16 is satisfied, if it's possible -- you set out to
17 draw this Second District, you want to maximize,
18 and if you can do that, you satisfy the first
19 factor?

20 MR. ROSS: Not at all, Your Honor.
21 We're -- we -- we're not saying that satisfying
22 Gingles 1 requires maximization. And as I said,
23 you know, it's certainly possible that if you
24 can show that it's truly impossible to draw a
25 compact district, then, no, you wouldn't get a

1 second -- you wouldn't satisfy Gingles 1.

2 And I think what's important here is,
3 you know, plaintiffs' expert said it's possible,
4 numerically, to draw three districts, but she
5 didn't set out to do that. What she set out to
6 do was to draw districts that look very much
7 like Alabama's map. And this is not, again, the
8 map that anyone has to adopt. It's an
9 illustrative map. There are maps out there in
10 the Campaign Legal Center amicus brief, in -- in
11 the Singleton plan that -- that don't require
12 maximization.

13 JUSTICE ALITO: Well, if you could --
14 if she could draw three, then why wasn't -- why
15 isn't that required?

16 MR. ROSS: Because this Court has --

17 JUSTICE ALITO: Because that would
18 exceed the proportion of Black voters in
19 Alabama?

20 MR. ROSS: Not at all, Your Honor. My
21 point was merely that numerically it's possible
22 to draw more, but plaintiffs aren't asking for
23 that. Plaintiffs aren't even asking for a map
24 --

25 JUSTICE ALITO: Well, suppose you did.

1 Would you satisfy the first Gingles factor?

2 MR. ROSS: I don't think you could.

3 JUSTICE ALITO: Here is a map -- we
4 come forward, here is a map, it produces three
5 majority-minority districts, and it's compact.
6 It's reasonably -- there -- reasonably compact.
7 So you've got to -- you satisfied the first
8 factor.

9 MR. ROSS: No, Your Honor, because you
10 need to look at -- perhaps you could satisfy the
11 first factor, but I don't -- it's unlikely that
12 you would be able to -- to meet the other
13 factors.

14 JUSTICE ALITO: What if you could?

15 MR. ROSS: In De Grandy, this Court
16 said --

17 JUSTICE ALITO: What -- what if you
18 could?

19 MR. ROSS: Your Honor, I don't think
20 that Section 2 of the Voting Rights Act at all
21 requires maximization. And, here, you couldn't
22 meet Gingles 1 and so we're not in any way
23 suggesting that.

24 And one other -- Your Honor, you know,
25 what plaintiffs are really looking for is not

1 any sort of guarantee of a second
2 majority-minority district. As I said, we'd be
3 satisfied with something like the Singleton
4 plan, which Alabama's expert said would give
5 Black voters at least a fair chance, not even a
6 guaranteed chance to elect their candidates of
7 choice in a Second District. That's merely
8 what -- what plaintiffs are looking for.

9 JUSTICE SOTOMAYOR: Counsel, if we
10 were to say, as opposing counsel is now
11 claiming, that you have to show the possibility
12 of a Second District on a race-neutral map, do
13 we vacate and remand? Do you have enough below
14 to win even under that standard?

15 MR. ROSS: Your Honor, you know, I'm
16 not sure what Mr. LaCour means by a race-neutral
17 standard. I think, certainly, it is -- this is
18 up on a preliminary injunction. And so, if
19 there were a standard that became a new
20 standard, then we would, you know, like it to be
21 remanded.

22 I think that any standard that
23 requires some sort of race blindness, as Alabama
24 is saying, would not only make it difficult for
25 plaintiffs to satisfy Gingles 1 but would make

1 it for -- difficult for states to draw, you
2 know, the 435 congressional maps that we have.

3 JUSTICE SOTOMAYOR: Now opposing
4 counsel in his summation was talking about the
5 idea of race neutrality. Section 2 was really
6 at a -- aimed at a results test, equal
7 opportunity or participation.

8 Section 2 is not being used that
9 widely, is it? I read Amici Chen's brief, and
10 he says that there's only been 31 vote dilution
11 cases that resulted in merits decision over the
12 last two redistricting cycles, that's out of 435
13 plans, and that only eight were successful.

14 MR. ROSS: I believe that that's true.

15 JUSTICE SOTOMAYOR: And Gingles itself
16 makes this remedy available only in an extreme
17 circumstance where voters are polarized
18 completely and where there's no crossover
19 between the races, correct?

20 MR. ROSS: That's correct, Your Honor,
21 and --

22 JUSTICE SOTOMAYOR: And --

23 MR. ROSS: -- where you meet the
24 totality.

25 JUSTICE SOTOMAYOR: -- so Alabama

1 itself is unique in that regard, isn't it?

2 MR. ROSS: Absolutely, Your Honor.

3 There's racially polarized voting in Democratic
4 and Republican primaries, there's racially
5 polarized voting in general elections, and
6 there's a very recent history of racial
7 discrimination in Alabama that may not exist in
8 other states.

9 JUSTICE SOTOMAYOR: That was --

10 JUSTICE JACKSON: And, counsel -- oh.

11 JUSTICE SOTOMAYOR: -- that was part
12 of the totality of circumstances, the district
13 court found --

14 MR. ROSS: Yes, Your Honor.

15 JUSTICE SOTOMAYOR: -- to suggest your
16 describing Alabama's cracking of the Black
17 district for decades, correct?

18 MR. ROSS: Yes, Your Honor. And I do
19 want to point out that on -- on the stay
20 appendix at page 177, the district court did
21 find that Alabama cracked the Black Belt.

22 CHIEF JUSTICE ROBERTS: Thank you,
23 counsel.

24 Justice Thomas?

25 MR. ROSS: Thank you.

1 CHIEF JUSTICE ROBERTS: Justice Alito?
2 Justice Sotomayor, anything further?
3 Justice Kagan?
4 Justice Gorsuch?
5 Justice Kavanaugh?

6 JUSTICE KAVANAUGH: The -- the other
7 side says that the proposed districts are not
8 reasonably compact, and, as I was mentioning, I
9 think compactness is the key under our
10 precedents to interpreting Section 2 correctly
11 and the equal protection requirements.

12 And they say the district is too
13 sprawling to be considered reasonably compact or
14 reasonably configured. And I just want to get
15 your response to that because I think that's the
16 critical point here.

17 MR. ROSS: Yes, Your Honor. Again, I
18 think the district court's findings, which are
19 subject to clear error, made clear that
20 plaintiffs' plans met or beat Alabama on the
21 compactness requirement.

22 With respect to, you know, Alabama's
23 allegation that our map goes -- that our plan
24 goes across the state, so does some of Alabama's
25 plan. And, again, Alabama's own Board of

1 Education map, which was drawn at the same time
2 using the same redistricting criteria, which in
3 Alabama's guidelines includes race, created
4 virtually the same district that also spreads
5 across the state.

6 And then, Your Honor, you -- you had a
7 question earlier about, you know, what these
8 traditional redistricting guidelines are. This
9 Court in Perry versus Perez recognized that, you
10 know, they -- when you're drawing remedial maps,
11 that you have to take in consideration state and
12 local redistricting criteria, except those -- to
13 the extent those criteria violate Section 2.

14 And, here, core retention is -- is
15 nearly always going to violate Section 2.
16 And -- and our plans tried to take those into --
17 that factor into account as much as possible
18 without perpetuating the violation.

19 JUSTICE KAVANAUGH: Thank you.

20 CHIEF JUSTICE ROBERTS: Justice
21 Barrett?

22 JUSTICE BARRETT: Just one question.
23 If we interpret Gingles Step 1 as you propose,
24 is the result of the test to say that a state
25 must maximize so long as it can do so in

1 reasonably compact districts?

2 MR. ROSS: Not at all, Your Honor.
3 This Court has recognized for 30 years that
4 maximization is not necessary. And just because
5 you can draw an additional district doesn't mean
6 that you would satisfy any of the other
7 traditional -- or, excuse me, any of the other
8 racial polarization, a totality of the
9 circumstances, and that's why this Court in
10 De Grandy added in proportionality as -- as a
11 part of the totality so that it prevented
12 maximization from being a -- a goal of Section
13 2.

14 JUSTICE BARRETT: Thank you.

15 CHIEF JUSTICE ROBERTS: Justice
16 Jackson?

17 JUSTICE JACKSON: And I would take it
18 that that is why this whole Gingles scheme has
19 been thought of as self-liquidating in a way.
20 It's because, you know, it -- it only triggers
21 in situations in which you have this
22 compactness, you know, presumably due to the
23 racial polarization or stratification of this
24 kind of district and people are continuing to
25 vote in racial block -- racially blocked ways,

1 but if that stopped happening, if what we all
2 want, which would be people to spread out and
3 live among one another and vote based on their,
4 you know, own views as opposed to along racial
5 lines, then we wouldn't have a Section 2
6 violation, is that correct?

7 MR. ROSS: That's exactly correct,
8 Your Honor. And, you know, I think it's really
9 important to take a look at the Stephanopoulos
10 brief, which -- which makes that point, and also
11 the Computational Redistricting amicus brief,
12 which makes the point of how, you know, using
13 computer simulations are really not the way to
14 get at the issues that Gingles 1 is -- is
15 concerned with.

16 CHIEF JUSTICE ROBERTS: Thank you,
17 counsel.

18 MR. ROSS: Thank you, Your Honor.

19 CHIEF JUSTICE ROBERTS: Ms. Khanna.

20 ORAL ARGUMENT OF ABHA KHANNA
21 ON BEHALF OF THE RESPONDENTS

22 MS. KHANNA: Mr. Chief Justice, and
23 may it please the Court:

24 Alabama seeks to upend the Section 2
25 standard that has governed redistricting for

1 nearly 40 years. But Alabama's novel theories
2 not only defy statutory text and precedent, they
3 would cause profound upheaval for courts,
4 states, and minority voters.

5 Requiring a race-blind demonstration
6 at Gingles 1 would bury courts in litigation, in
7 new litigation challenging maps created in
8 reliance on the existing standard. Make no
9 mistake, nearly every majority-minority district
10 would become a litigation target.

11 Alabama's reliance on untested
12 simulations would unravel decades of progress
13 and take us back to a time with little to no
14 minority representation at the state -- federal,
15 state, and local levels.

16 This Court should reaffirm its
17 established Section 2 standard because it works.
18 It limits the scope of liability and it ensures
19 that with increased progress comes decreased
20 enforcement. In many places, racially polarized
21 voting and racial segregation are declining,
22 making satisfaction of Gingles impossible, but
23 as three judges agreed, that is not yet the case
24 in Alabama.

25 I welcome the Court's questions. And

1 I'll pick up where --

2 JUSTICE KAGAN: Ms. Khanna --

3 MS. KHANNA: Yes?

4 JUSTICE KAGAN: -- is there some
5 scholarship or -- or empirical evidence of,
6 if -- if this -- if the Alabama argument about
7 having to produce a race-neutral map at Gingles
8 1, if that's their core argument, as General
9 LaCour said, and you just suggested that that
10 would lead to a very substantial decrease in
11 majority-minority districts, how substantial?
12 Is there good evidence about that?

13 MS. KHANNA: I believe that the -- the
14 amicus brief from Professors Chen and
15 Stephanopoulos talks about various studies that
16 have been done that would show that if we were
17 to apply these -- these race-blind simulations,
18 they would obliterate a number of
19 majority-minority districts.

20 JUSTICE KAGAN: A number, like how
21 many?

22 MS. KHANNA: I -- I -- I --

23 JUSTICE KAGAN: Or -- or what -- you
24 know, is it half? Is it a quarter? Does
25 anybody know?

1 MS. KHANNA: I don't have the exact
2 numbers in front of me, unfortunately. I do
3 know that at least in the -- for instance, in
4 one of the -- the state houses of Alabama, they
5 mentioned that it would cause a decrease of
6 some, you know, three to seven majority-Black
7 districts.

8 JUSTICE KAGAN: Why -- why is it that
9 that happens? I mean, I -- I think, you know,
10 one way, when you read these briefs, that you
11 might react to them is, like, how hard could it
12 be to come up with a race-neutral map, given all
13 these computer simulations? I think that that's
14 a kind of understandable reaction to it.

15 So what's the answer to that?

16 MS. KHANNA: I think there is a couple
17 of answers, Your Honor. First of all, the --
18 when a lot of these districts were drawn
19 pursuant to the Voting Rights Act, including in
20 Alabama itself, 1992 was a Court-ordered plan
21 where CD 7 was created for the first time.

22 So these districts were not
23 necessarily drawn in this -- in idea that they
24 were -- had to be race-blind or race-neutral.
25 They were solving a problem of racial

1 discrimination that they were looking at race in
2 order to solve that problem. They were not
3 necessarily drawn in a race-neutral way.

4 I also think that these -- the fact
5 that these simulations are not capturing these
6 existing -- these communities and these
7 districts, many of which have been in place for
8 many -- for a long time, goes to the fundamental
9 flaw of overly relying on these simulations.
10 And I think that it's important to recognize,
11 you know, a lot of the -- a lot of stock has
12 been put in these simulations in the course of
13 this appellate argument, but as -- as my friend
14 recognized, there were fun -- these were deemed
15 by the state to be fundamentally flawed below.

16 And there's a few reasons why it is
17 just -- both impractical as a -- as a -- as a
18 practical matter and a policy matter, these
19 simulations just are not any kind of gold
20 standard. They are not this objective
21 race-neutral benchmark that -- that anyone might
22 think that they are. They are the result of a
23 host of very subjective decisions going into the
24 process about which considerations to take into
25 account and how to quantify them.

1 JUSTICE ALITO: Did --

2 JUSTICE BARRETT: But then wouldn't
3 the plaintiff --

4 JUSTICE ALITO: -- you understand
5 Alabama's argument to be that the plaintiffs
6 have to show that the map they come forward with
7 is race-neutral or that if the state -- I mean,
8 the -- it may be that this -- the plaintiff can
9 satisfy its burden of production with respect to
10 the first Gingles requirement by coming up with
11 any map that is reasonably -- that -- that can
12 be proffered as reasonably configured, but that
13 if the state then comes up with the sort of
14 simulations that occurred here, which were done,
15 by the way, by plaintiffs' experts, right, not
16 by the state's experts, then when the Court has
17 to decide whether the first Gingles factor is
18 satisfied, it can take those into account?

19 MS. KHANNA: To answer the question of
20 what do I understand the state's position to be,
21 I have to say I'm not entirely sure. I think it
22 did -- it varies. Perhaps maybe my
23 understanding varies depending on the brief and
24 on what has been argued here today.

25 JUSTICE ALITO: Okay. Well, suppose

1 it is what I just said, that it's not the burden
2 of production; it's the ultimate burden of proof
3 if the state chooses to come forward with this
4 kind of evidence.

5 MS. KHANNA: I think that the -- the
6 problem with this kind of evidence, and -- and
7 setting aside for a second the fact that it
8 doesn't actually purport to do what the state
9 might think it purports to do, is -- is that it
10 really has nothing to do with the Gingles
11 inquiry in some ways. Gingles inquiry is a
12 basic demographic question about how big is the
13 back -- Black population and where are they
14 located?

15 And when this Court discussed the
16 Gingles 1 standard in -- in Bartlett, it
17 emphasized that the point of the Gingles 1
18 standard was to create an objective
19 administrable rule not just for courts and
20 litigants but also for states themselves.

21 JUSTICE ALITO: But you think
22 reasonably configured -- this is an important
23 distinction to me, at least, between
24 compactness, which I understand to mean just
25 geography, and configuration. Do you think that

1 the first Gingles factor is just about
2 compactness, or does it take into account other
3 things?

4 MS. KHANNA: I believe the first
5 Gingles factor takes into account a variety of
6 traditional districting criteria --

7 JUSTICE ALITO: Okay.

8 MS. KHANNA: -- just as the district
9 court mentioned below. And here on those --
10 almost every single metric, the illustrative
11 plans meet or beat the enacted plan.

12 Whether or not some hypothetical
13 simulations, many of which are not even in the
14 record, may or may not have come up with that
15 exact configuration doesn't answer the question
16 that -- that plaintiffs are tasked with, which
17 is, is it possible? We came into court and
18 showed yes, it is possible based on the
19 demography of Alabama.

20 And, again, that is just the initial
21 threshold screening, after which we have to go
22 through a gauntlet of objective and -- and
23 qualitative and quantitative --

24 JUSTICE ALITO: Well -- okay. Put
25 aside whether or not these are good simulations.

1 But if you have a simulation that takes into
2 account all of the traditional districting
3 factors but does not take into account race or
4 any proxy for race, such as a community of
5 interest that is defined by race, and you can't
6 get a majority -- an additional
7 majority-minority district when you do that
8 simulation, what's the consequence?

9 MS. KHANNA: I don't believe there is
10 a consequence at Gingles 1. That would be a
11 wholesale rewrite of the standard just all of a
12 sudden to say that mere -- that coming into
13 court with a map that a district court is able
14 to find is reasonably configured on a variety of
15 metrics is not enough.

16 JUSTICE ALITO: Well, how can it be
17 reasonably configured if you can't get that map
18 with a computer simulation that takes into
19 account all of the traditional race-neutral
20 districting factors? That's -- that's kind of
21 my -- what -- what I don't get -- I -- I can't
22 understand. How can that be reasonably
23 configured?

24 MS. KHANNA: Well, certainly -- I
25 understand the hypothetical is that this -- this

1 is some kind of perfect simulation that is able
2 to separate out race -- race-based criteria or
3 racial proxies. Even if we existed in that
4 world, and I -- I think it's clear we do not,
5 ultimately the -- the -- the test is to show --
6 can you come in with a map, not a million maps,
7 not 10 percent of a million maps; it's what is
8 possible, not necessarily what is probable.

9 And as long as plaintiffs are able to
10 show, as to -- to meet that -- that basic
11 demographic threshold question, making -- I
12 think turning Gingles 1 into its own trial
13 within a trial, making it a battle of the
14 simulations experts would be entirely contrary
15 to what this Court intended in Bartlett.

16 JUSTICE JACKSON: Ms. Khanna, I
17 thought -- I thought your answer was going to be
18 that the reason why we don't have those
19 simulations or need those simulations or that
20 they have nothing to do with Gingles is because
21 the question of configuration is not about the
22 intent of the mapmaker, that when Justice Alito
23 says we're looking at the configuration that
24 could be drawn by an unbiased mapmaker, the
25 suggestion, I think, is that we care about

1 whether or not the person who's drawing the map
2 is trying to discriminate against the people who
3 are being reconfigured or -- do you understand
4 what I'm saying?

5 MS. KHANNA: Yes, Your Honor.

6 JUSTICE JACKSON: And so the reason
7 why it's irrelevant at Gingles Step 1 is because
8 intent is not being considered at Gingles Step 1
9 per what Congress has told us about how the
10 Section 2 is supposed to work. Am I right about
11 that?

12 MS. KHANNA: That's absolutely
13 correct, Your Honor. The intent behind a
14 Gingles 1 demonstration has nothing to do with
15 the ultimate finding of liability --

16 JUSTICE ALITO: Well, wait. Well,
17 forget about intent. So you -- we're looking at
18 results. What are the results when you do a
19 computer simulation that takes into account all
20 race-neutral districting factors that have been
21 accepted by this Court? And the result is --
22 not the intent. This is a computer. It doesn't
23 have any intent. The result is that you don't
24 get the second minority -- majority-minority
25 district.

1 MS. KHANNA: I think the reason why
2 that doesn't actually answer the question, Your
3 Honor, is because the simulations actually
4 generate more questions than they answer. Even
5 if you were to charge it with taking into
6 account race-neutral criteria, there is a lot of
7 subjectivity in going into how you even code
8 that.

9 The -- Alabama's expert here below
10 acknowledged that that -- did not testify that
11 our maps were not reasonably compact and
12 acknowledged there is no bright-line rule. So
13 even inputting those criteria into a computer
14 algorithm requires coming up with some
15 bright-line rules that don't currently exist.

16 Instead, what we have is a reasonable
17 -- reasonableness inquiry that the district
18 court provided here by looking at a variety of
19 criteria to determine whether or not the Gingles
20 1 test is satisfied.

21 CHIEF JUSTICE ROBERTS: Thank you,
22 counsel.

23 Justice Thomas, anything further?

24 Justice Alito?

25 JUSTICE SOTOMAYOR: I do, counsel.

1 Justice Alito gave the game away when
2 he said race-neutral means don't look at
3 community of interest because it's a proxy for
4 race. Regrettably, that is what it is in many
5 situations. That's why Mobile and Baldwin are
6 together, no matter what they talk about being
7 around a river or not. That has very little to
8 do with anything other than race, that they come
9 generations later from Germany -- from France or
10 Spain.

11 But the point that he's making turns
12 Section 2 on its head, doesn't it, because
13 there's no such thing as racial neutrality in
14 Section 2. It's explicitly saying that a
15 protected group must be given equal
16 participation, correct?

17 MS. KHANNA: Yes, Your Honor.

18 JUSTICE SOTOMAYOR: And so
19 indifference to racial inequality is exactly
20 what Section 2 is barring or prohibiting,
21 correct?

22 MS. KHANNA: Yes, Your Honor.

23 JUSTICE SOTOMAYOR: Having said that,
24 assuming that you could draw a racially neutral
25 map that did take into account true community of

1 interest, do you believe that the maps, that you
2 didn't meet that burden below?

3 MS. KHANNA: I don't believe that
4 question was ever asked because it's never been
5 posed to plaintiffs, states, or courts that the
6 Gingles 1 standard required a race-blind
7 showing.

8 The Gingles 1 question is a
9 demographic question about where is the minority
10 population, and I think it would be -- it would
11 certainly be the first time this Court has
12 instructed that plaintiffs actually have to tie
13 one hand behind their demographer's back and
14 blind him to the actual demography of the state.

15 JUSTICE SOTOMAYOR: I do -- I do
16 remember the Milligan expert testifying as to
17 whether he could draw a race-blind algorithm and
18 whether it could produce a map with two
19 majority-Black districts. And the expert
20 testified it certainly could, correct?

21 MS. KHANNA: I think that's right,
22 Your Honor, and that's the -- what goes to show
23 that these algorithms, and as we hear from the
24 Milligan plaintiffs' expert, as well as several
25 of the amici here, the algorithms, when properly

1 interpreted, will -- will encompass what is
2 possible.

3 JUSTICE SOTOMAYOR: The problem you
4 can't do is keep core -- the historically core
5 districts because that's infused with the racial
6 inequality, correct?

7 MS. KHANNA: Yes. The problem with
8 the core preservation is somehow this trump
9 card, is both a practical one and a policy one.

10 As a practical matter, when Gingles
11 and Bartlett require plaintiffs to come into
12 court with an -- with an -- with a new district,
13 it's -- it's by nature a district that has not
14 yet been drawn. It is a new map that's going to
15 be different.

16 And as a policy matter, this goes
17 precisely to why Congress adopted a results test
18 in 1982 to begin with, which was so that we --
19 the states could not utilize old ways of doing
20 things and entrench discriminatory schemes just
21 by perpetuating them over the course.

22 JUSTICE SOTOMAYOR: Thank you.

23 CHIEF JUSTICE ROBERTS: Justice Kagan?
24 Justice Gorsuch?

25 Justice Kavanaugh?

1 Justice Barrett?

2 JUSTICE BARRETT: I just want to
3 return to the questions about the computer
4 simulators. So you were saying that they're
5 inherently subjective because it depends on how
6 you weight factors and what factors you put in.

7 I just want to be sure I understand
8 what you mean by that, because it seems to me
9 that, if you can generate, if there's no limit
10 on how many maps the computer simulator can
11 generate, surely that gives them the option to
12 weigh in all kinds of different ways.

13 And it also seems to me, and maybe I'm
14 misunderstanding Alabama's proposal, but it also
15 seems to me that under Alabama's view of the
16 statute, the plaintiff satisfies Gingles 1 by
17 coming in with one map that was drawn without
18 taking race into account.

19 So why, if there's no limit to the
20 number of maps you can generate and the
21 different factors you can weigh so long as race
22 isn't one, why would that be an unreasonable
23 burden for a plaintiff to shoulder?

24 MS. KHANNA: For several reasons, Your
25 Honor.

1 First, I think it's important to
2 recognize that there are a handful of college
3 professors who even have the expertise to run
4 these race -- these -- these simulations in the
5 first place.

6 So, if you're all of a sudden going to
7 infuse what was supposed to be an objective and
8 administrable test at the outset with this
9 highly specific and highly technical
10 requirement, that would essentially be
11 delegating VRA enforcement to the handful of --

12 JUSTICE BARRETT: Well -- well, let me
13 just be clear. I don't -- I would not propose
14 and I don't understand Alabama to propose either
15 that you have to use these maps at Step 1.

16 I mean, it seems to me that you could
17 satisfy that race-neutral test by just having a
18 map drawer come in and say, I drew this and I
19 didn't do it in an effort to get two
20 majority-minority districts. That wasn't my
21 non-negotiable goal. So I don't -- I don't -- I
22 wasn't suggesting that.

23 I was just asking the technical
24 question. You said that these computer
25 simulations are not neutral by definition

1 because they require subjective judgments in the
2 programming. So if you could answer that.

3 MS. KHANNA: Yes, Your Honor.

4 The subjective judgments in the
5 programming are basically about what
6 considerations to have in the first place. We
7 know that the ones at issue here did not include
8 a host of considerations. How do you quantify
9 some of those considerations, like communities
10 of interest and compactness?

11 It's not like we have a bright-line
12 rule that says a point 3 district is or is not
13 compact. You have to come to some kind of
14 agreement or decision among the experts or among
15 the Court on what these factors are.

16 How do we weight the various factors?
17 Do some get more importance depending on
18 their fall -- where they fall in the state's
19 traditional districting criteria, as well
20 affected in their guidelines or something else?

21 How do we interpret the results? Does
22 it need to be a million, 2 million, 3 trillion?
23 As we learned from the computer scientists'
24 amicus brief, there could be trillions and
25 trillions, that certainly will at some point

1 come up with at least one possible
2 configuration.

3 Or we can just use this test that this
4 Court has always established, which is as long
5 as you come into court with a map that shows the
6 potential to draw a majority-Black district that
7 is reasonably configured according to the
8 state's traditional districting principles, then
9 that is sufficient to get past just the first
10 post and not the gauntlet of remaining factors
11 after that.

12 JUSTICE BARRETT: Thank you.

13 CHIEF JUSTICE ROBERTS: Justice
14 Jackson?

15 JUSTICE JACKSON: Yes. So following
16 up on Justice Barrett's question, setting aside
17 the practicalities of the map-making process,
18 which is basically what you've been focusing on,
19 I think the question is, why should we make the
20 Gingles 1 challengers do that?

21 In other words, it seems as though
22 some of my colleagues are asking the question
23 if -- you know, if you have a million maps and
24 you can generate a million maps, why shouldn't
25 we require that one map be drawn in a

1 race-neutral way?

2 And I actually think the question is,
3 why should we require at Gingles Step 1 that a
4 map be drawn in a race-neutral way? And there
5 are two possibilities, right?

6 It's -- one possibility is because
7 that's what Congress would have wanted, but when
8 I read Section 2, I don't see that Congress is
9 requiring race neutrality.

10 In fact, the language beyond equally
11 open is equally open by participation of members
12 in a particular class of citizens in that its
13 members have less opportunity than other
14 members. So it seems as though Congress is
15 authorizing the consideration of race.

16 And then the second question is, all
17 right, why should we do this? Because the
18 Constitution requires some sort of race
19 neutrality, and based on my colloquy with --
20 with -- with your friend on the other side, I
21 think that the Constitution doesn't require it.

22 So am I -- do I have the question
23 right, why should we require this, or does
24 Justice Barrett have the question right, why
25 shouldn't we?

1 MS. KHANNA: I -- I think all of the
2 questions are correct. Fundamentally, there's
3 no basis --

4 (Laughter.)

5 MS. KHANNA: -- for -- there's no
6 basis for injecting this new -- this new
7 simulation standard or race-neutral standard
8 into Gingles 1. It was not the purpose of -- of
9 the Section 2 standard that's created by
10 Congress. It is not at all required under the
11 Constitution.

12 It would be a brand-new principle that
13 really doesn't serve any end, the end result
14 is -- the end result gets us to the exact same
15 place that we have right now, which is, is it
16 possible to show up in court with a district
17 that meets these criteria?

18 And to the -- you know -- and, here,
19 where we talk about what does -- what does the
20 usual map drawer in Alabama draw, what gets
21 considered a sprawling district in Alabama, the
22 best place to look is to the very guidelines
23 that -- that my friend on the other side
24 specifically mentioned.

25 And those guidelines take into account

1 contiguity, compactness, political subdivision
2 boundaries, precincts, all of these things that
3 our maps performed as good or better and they
4 also take into account race, and they say that
5 you -- complying with the Voting Rights Act
6 shall come before anything else and specifically
7 including core preservations and communities of
8 interest.

9 CHIEF JUSTICE ROBERTS: Thank you,
10 counsel.

11 MS. KHANNA: Thank you, Your Honor.

12 CHIEF JUSTICE ROBERTS: General
13 Prelogar.

14 ORAL ARGUMENT OF GEN. ELIZABETH B. PRELOGAR
15 FOR THE UNITED STATES, AS AMICUS CURIAE,
16 SUPPORTING THE APPELLEES/RESPONDENTS

17 GENERAL PRELOGAR: Mr. Chief Justice,
18 and may it please the Court:

19 The district court's factual findings
20 make this an extreme and atypical case of vote
21 dilution. Voting in Alabama is intensely
22 racially polarized, about as stark as anywhere
23 in the country.

24 The history and effects of racial
25 discrimination in the state are severe. Black

1 voters are significantly underrepresented and
2 they're sufficiently numerous and compact to
3 form a majority in a reasonably configured
4 district, as the district court specifically
5 found.

6 Section 2's results test was designed
7 for this kind of case. For that reason, Alabama
8 isn't asking the Court to apply Section 2 as
9 it's been applied for the past 40 years.
10 Instead, Alabama is asking the Court to
11 radically change the law by inserting this
12 concept of race neutrality and effectively
13 limiting Section 2 to intentional
14 discrimination.

15 That approach would delete the text
16 that Congress added in 1982 to cover results.
17 It disregards nearly four decades of this
18 Court's precedent, and it would have drastic
19 real-world consequences.

20 Under the state's approach, nothing
21 would stop Alabama and many other states from
22 dismantling their existing majority-minority
23 districts, leaving Black voters and entire
24 swaths of the country with no ability to elect
25 their preferred representatives.

1 The Court should reject that
2 destabilizing and atextual interpretation of
3 Section 2.

4 I'd like to turn if I could to the
5 questions that Justice Barrett and Justice
6 Jackson were just asking about the narrower form
7 of Alabama's argument and specifically whether
8 it makes sense to put plaintiffs to the burden
9 of showing that they can draw their maps in a
10 race-neutral way.

11 And I think the problem with that
12 approach is that it's contrary to the text,
13 would be unworkable in practice, and it also is
14 unnecessary to address the concern Alabama's
15 raising about unconstitutional districts.

16 So if I could just unpack that a
17 little bit. Specifically, with respect to the
18 text, the problem with using race neutrality as
19 the touchstone here is that's inherently focused
20 on motives or purposes in designing the
21 districts, and I think one thing that has been
22 clear for the past four decades, ever since
23 Congress amended the statute, is that that is no
24 longer the necessary requirement under Section
25 2.

1 JUSTICE BARRETT: But, what about
2 equal opportunity? So that's my concern. You
3 know, as Judge Easterbrook said in the Seventh
4 Circuit, that you have to have a baseline.
5 Equal as to what? And if the vote is going to
6 be diluted, you know, it's diluted as compared
7 to what, to the opportunity? I mean, I think --
8 I think that's the part of the statute that
9 concerns me, thinking about neutrality.

10 Because I -- I agree with you that it
11 does not require intent. I agree with you about
12 the results test. But the equal opportunity is
13 what I'm thinking of.

14 GENERAL PRELOGAR: So I think -- to
15 focus on that in particular, the statute goes on
16 specifically to define what it means by equal
17 opportunity, Justice Barrett. And it's setting
18 up a comparison between two groups of voters.
19 Specifically, do minority voters have less
20 opportunity than other members of the
21 electorate? So it's right there in the statute
22 creating the by -- the baseline or the
23 comparison group.

24 Now, I get that that's what I think is
25 the easy part of the equation, and then it just

1 raises the question of when you can say that
2 minority voters have less opportunity within the
3 terms of the statute. And there I think the
4 Gingles framework already guides courts to the
5 relevant factors to take into account. It's the
6 three preconditions and then the rigorous
7 analysis of the totality of the circumstances
8 that's critical to making that quintessentially
9 legal judgment of when there's less opportunity.

10 But if I could pick up on the idea as
11 well of why I think it would be so unworkable in
12 practice to try to inject this idea of race
13 neutrality, you know, the whole function of the
14 first Gingles precondition is to require
15 plaintiffs to show that you can intentionally
16 create a majority-minority district. And if
17 they have to do that without taking any account
18 of race, then they effectively have to kind of
19 stumble into the district by accident.

20 And I think that will inevitably lead
21 to running these kinds of simulations that have
22 been discussed at length this morning that are
23 incredibly complicated to try to operationalize
24 --

25 CHIEF JUSTICE ROBERTS: What --

1 GENERAL PRELOGAR: -- in practice.

2 CHIEF JUSTICE ROBERTS: If -- if the
3 race-neutral simulations are as bad as you say,
4 why do you say they should be taken into account
5 at the totality of the circumstances inquiry?

6 GENERAL PRELOGAR: Well, I think it's
7 a really critical distinction, Mr. Chief
8 Justice, because what I'm pushing back on here
9 is the idea that you should transform Gingles 1
10 by always requiring this as necessary evidence
11 in every case. But -- but --

12 CHIEF JUSTICE ROBERTS: Yeah, but you
13 haven't really --

14 GENERAL PRELOGAR -- as we explained in
15 our brief --

16 CHIEF JUSTICE ROBERTS: -- said you
17 shouldn't make this necessary but you can still
18 consider it because it shows this or this.
19 You've really said it doesn't show anything at
20 all and, in fact, it is bad.

21 So how does it -- it -- in other
22 words, it's not much of a sop to them to say,
23 oh, we'll look at that in the totality of the
24 circumstances case.

25 GENERAL PRELOGAR: Well, I think it

1 can be relevant in the totality of the
2 circumstances specifically to push back against
3 any allegations of intentional discrimination
4 that might have been made in a case and because
5 it tracks the factor that this Court already
6 enumerated as one relevant consideration, which
7 is whether the state's policy is tenuous.

8 So this is a totality test, a
9 statutorily prescribed totality test. We're not
10 suggesting that the evidence would be wholly
11 irrelevant, but I do think that it would be a --
12 an incredibly complicated obstacle to trying to
13 litigate these cases if it were necessary at
14 Gingles Step 1 for the plaintiffs to duke it out
15 among their experts and debate about all of the
16 things to feed into the algorithm to -- to -- to
17 identify whether it's --

18 JUSTICE ALITO: You're --

19 GENERAL PRELOGAR: -- truly race
20 neutral.

21 JUSTICE ALITO: You're suggesting that
22 the -- the -- the argument is that the plaintiff
23 has to run these simulations and show that the
24 district that they proffer is race neutral. But
25 why is that the argument? Why isn't -- why --

1 why isn't the argument that the plaintiff can
2 satisfy its burden of production by coming
3 forward with the kind of maps that they came
4 forward here, but that's not the end of the
5 court's consideration of the first Gingles
6 factor? And if there is other evidence showing
7 that this map is not the kind of map that would
8 be drawn based on other traditional -- based on
9 race-neutral factors, then the Gingles -- and
10 the court is persuaded of that, then the
11 Gingles -- the first Gingles condition is not
12 satisfied?

13 GENERAL PRELOGAR: Well, our concern
14 is with packing this into the first Gingles
15 precondition itself because that is meant to
16 function as a relatively straightforward
17 threshold screen on the plaintiffs' allegations,
18 essentially to pressure test whether the
19 plaintiffs can even draw a reasonably configured
20 district --

21 JUSTICE ALITO: Well, isn't --

22 GENERAL PRELOGAR: -- and so to ask --

23 JUSTICE ALITO: As -- as a practical
24 matter, in every place in the South, and maybe
25 in other places, if the first Gingles factor,

1 first Gingles condition, can be satisfied, will
2 not the plaintiffs always run the table? Where
3 -- where can they win? They're not going to win
4 on whether the minority group is politically
5 cohesive. They're not going to win on whether
6 the majority votes as a bloc, which may be due
7 to ideology and not have anything to do with
8 race. It may be that Black voters and white
9 voters prefer different candidates now because
10 they have different ideas about what the
11 government should do. Where -- where is the --
12 you know -- where can the state win once it gets
13 past -- once it loses on the first Gingles
14 condition?

15 GENERAL PRELOGAR: I think the state
16 can win on any other of the relevant factors in
17 the totality of the circumstances. And I want
18 to resist strongly this idea that any time
19 plaintiffs have been able to satisfy that first
20 Gingles precondition, they automatically prove
21 their case.

22 This is a rigorous burden on
23 plaintiffs. Of course, they have to show the
24 patterns of racially polarized voting in the
25 second and third preconditions, and courts then

1 go on to look at all of the relevant
2 circumstances in the totality analysis.

3 And if you actually look at actual
4 results in these cases, there are -- are
5 steadily decreasing Section 2 claims that are
6 filed in the first place. And then it's not as
7 though plaintiffs always prevail in those
8 claims. Courts routinely reject them because
9 the other factors aren't satisfied.

10 So I think it would just be incorrect
11 to suggest at the outset that simply by virtue
12 of showing that first threshold screen the
13 plaintiffs are -- are going to be able to run
14 the table. And I -- I want to make clear that
15 the Gingles preconditions only screen out
16 meritless cases. They're never dispositive of
17 liability in and of themselves.

18 JUSTICE KAVANAUGH: You -- you -- I'm
19 sorry.

20 GENERAL PRELOGAR: Go ahead, Justice
21 Kavanaugh.

22 JUSTICE KAVANAUGH: You said the
23 Gingles first precondition is straightforward.
24 Compactness is, I think, the central issue in
25 the first precondition, and I find that not

1 always so straightforward. And I wanted you to
2 tell me why you think this proposed district or
3 they've proposed something that is reasonably
4 compact or reasonably configured.

5 In your brief on 16 and 17, I think
6 you identify it lacks the bizarre shapes that
7 the Court has found problematic and performs at
8 least as well as the plan in respecting existing
9 political subdivisions, so kind of a comparison
10 to the state's plan.

11 Anything else you would identify that
12 should be part of the compactness inquiry?
13 Because the states and the plaintiffs and the
14 district courts are all struggling, I think,
15 with how do you measure compactness? And that's
16 why I think this is such a difficult inquiry
17 under -- just taking current law.

18 GENERAL PRELOGAR: I think it is
19 certainly the case that it's an inherently
20 factual question, and it requires, as this Court
21 has said, an intensely local appraisal of all
22 the facts and circumstances in the jurisdiction.

23 But I would point, in particular, to
24 the district court's comprehensive analysis of
25 this. And what the court did is look at every

1 traditional redistricting criteria in Alabama,
2 compactness, contiguity, equalizing population
3 across districts, respect for the political
4 subdivision boundary lines, municipalities, not
5 splitting counties, as you mentioned, and
6 protecting communities of interest as --

7 JUSTICE KAVANAUGH: When you --

8 GENERAL PRELOGAR: -- well as --

9 JUSTICE KAVANAUGH: When you use
10 "compactness" there as the first of those, were
11 you referring to how big the district is?

12 GENERAL PRELOGAR: Yes, it's generally
13 a geographic compactness inquiry, both of the
14 district itself but also of the minority
15 population that would be drawn together within
16 that district. And the -- the court here
17 applied a number of different measures.

18 As your question indicated, there are
19 several different metrics in how to measure
20 compactness in redistricting litigation. The
21 court here went through all of them, and it said
22 that down the line looking at the traditional
23 districting criteria, these districts, as my
24 friend said, performed as well or better than
25 the enacted plan on nearly all of the relevant

1 criteria.

2 And that's, of course, something this
3 Court has recognized as reviewable only for
4 clear error. So to the extent that you think
5 that this is a tough question and maybe a
6 different fact finder could have reached a
7 different result, I think that's precisely why
8 the Court has recognized that the district
9 court's decision merits a substantial amount of
10 deference in this kind of area.

11 I'd like to, if I could, try to
12 complete my answer on why I think trying to
13 incorporate race neutrality into the first
14 Gingles precondition is also unnecessary. If I
15 understand the state's argument correctly, the
16 state is suggesting that this is the way to
17 ensure that a state is not required to draw an
18 unconstitutional racial gerrymander on the back
19 end at the remedial stage.

20 And I think the problem with that
21 argument is it ignores that there are already, I
22 would say, four independent checks in existing
23 doctrine that ensure the state will never be put
24 in that position.

25 The first thing is the fact that the

1 Gingles first precondition already requires that
2 the district not be bizarrely shaped. It has to
3 be reasonably configured. So we're in a world
4 where there would never be a -- a illustrative
5 plan that itself constituted that kind of
6 behemoth district that the Court disapproved in
7 cases like Shaw.

8 The second thing I would point to is
9 that the state is wrongly equating any use of
10 race in the redistricting process with an
11 unconstitutional action. And -- and that
12 ignores the careful lines this Court has drawn
13 in the Shaw line of cases to make clear that
14 it's only when race predominates, when it's the
15 overriding and dominant rationale, that the
16 state has to justify its map under strict
17 scrutiny. And -- and here it bears emphasis the
18 district court specifically found race did not
19 predominate. And that's another thing that's
20 reviewed for clear error.

21 JUSTICE ALITO: Well, if -- if a
22 computer simulation can produce this second
23 majority-minority district only by insisting
24 that -- this -- that that district be created,
25 subordinating all the other districting factors

1 to race, isn't that predominance?

2 GENERAL PRELOGAR: Well, the way that
3 this Court has described the predominance
4 standard is that the -- the state has basically
5 subjugated all other traditional districting
6 criteria. It's often revealed by the fact that
7 the district is bizarre by any measure and is
8 irregularly shaped, although that's not an
9 absolute requirement.

10 But I think that the first Gingles
11 precondition already guards against that
12 because, of course, to satisfy Step 1 of the
13 framework, the plaintiff has to come in with a
14 reasonably configured district at the outset.

15 JUSTICE ALITO: I -- I don't really
16 understand your answer to my question. If a
17 computer program can produce this district only
18 by making the creation of that district the sine
19 qua non and subordinating everything else, isn't
20 that the very definition of -- of predominance?

21 GENERAL PRELOGAR: I -- I think not as
22 this Court has articulated the standard. So the
23 Court has recognized, for example, or has never
24 suggested that simply because you intentionally
25 create a majority-minority district, that

1 automatically means in every case that race
2 predominated. And in the Bethune-Hill case, the
3 Court specifically remanded a case where there
4 had been a 55 percent target used for the
5 district court to make a finding on
6 predominance.

7 So I don't think that that is
8 inevitably the answer. And the reason for that
9 is because it's often possible to give great
10 attention and weight to other districting
11 criteria. That's specifically what the
12 plaintiffs' experts did here according to the
13 district court's factual findings.

14 JUSTICE JACKSON: And not just
15 possible, required. I mean, we're -- there --
16 there's not a subordination of the other
17 districting criteria. It's as if -- you know,
18 in a hypothetical world, it's as if there are 50
19 normal, you know, regular traditional criteria,
20 and the computer runs the 50, and the
21 challenger's experts run the 50 and they add
22 race, and the question -- as -- as criteria 51.

23 And the question I would think from
24 the standpoint of predominance would be, is the
25 consideration of that one additional factor,

1 which would necessarily produce different maps
2 because, if you change one small part of an
3 algorithm, you would see that you might have
4 different results.

5 So, fine, we have different results
6 because the experts use 51 criteria and the
7 computer used 50, but the question I think is
8 whether just the use of that extra one, because
9 it differentiates, means that it predominates.
10 And I don't think that's what -- what Shaw means
11 when it says predominant.

12 Am I right about that or --

13 GENERAL PRELOGAR: Yes, I think you're
14 exactly right, Justice Jackson. And the Court,
15 in fact, in this line of cases has said that
16 legislators are always aware of race when they
17 draw district lines.

18 That alone isn't a basis to condemn
19 their maps or even subject it to strict scrutiny
20 specifically to ensure that federal courts
21 aren't too readily called in to superintend the
22 state line-drawing process.

23 And so I think that this Court's
24 precedents rightly recognize that states deserve
25 a measure of flexibility in managing all of the

1 competing interests that go into districting
2 decisions, and that can quite properly include
3 obligations under the Voting Rights Act.

4 CHIEF JUSTICE ROBERTS: Thank you,
5 counsel.

6 Justice Thomas?

7 Justice Alito, anything further?

8 Justice Sotomayor?

9 Justice Kagan?

10 JUSTICE KAGAN: Do you -- do you --
11 I'm going to ask you a question about Alabama's
12 argument, and maybe I should have asked it to
13 Alabama's lawyer, but he can listen, and you're
14 there. So --

15 (Laughter.)

16 GENERAL PRELOGAR: I'll do what I can.

17 JUSTICE KAGAN: -- do you understand
18 why Alabama should be satisfied with this idea
19 of if you can just produce one race-neutral map?
20 I mean, if the theory here is that you can run
21 millions of these programs and that we care
22 about race neutrality for any of the reasons
23 that Alabama suggests we ought to at the first
24 step of Gingles, at the first precondition, why
25 would one be enough?

1 If you ran one, shouldn't the state
2 come back and say, well, you need more than one
3 in a million? Surely, like, you should have a
4 hundred. Surely, you should have a thousand.
5 Surely, it should be the median map. I mean,
6 why one?

7 GENERAL PRELOGAR: I think this is as
8 -- exactly the undertheorized aspect of
9 Alabama's approach here because they don't try
10 to answer any of those questions either about
11 how you operationalize the standard and agree
12 upon how to program the algorithm to take
13 account of all of the complex constellation of
14 redistricting criteria or how you interpret the
15 results along the lines you were suggesting.
16 Is -- is one map enough? Do you need a hundred,
17 a thousand? They don't say.

18 And I think that that just
19 demonstrates that this is an incredibly untested
20 form of evidence. It's never been required in
21 Section 2 litigation. And I think trying to
22 insert this as an insuperable requirement in
23 Gingles Step 1 would cause all kinds of
24 complicated litigation and battles of the
25 experts about how to even interpret and run

1 those types of simulations.

2 CHIEF JUSTICE ROBERTS: Justice
3 Gorsuch?

4 Justice Kavanaugh?

5 JUSTICE KAVANAUGH: Are you aware of
6 any efforts in Congress to alter how the first
7 Gingles precondition applies in redistricting
8 cases?

9 GENERAL PRELOGAR: I'm not aware of
10 any current proposals in Congress to do that.
11 And, actually, I think this is a critically
12 important point, Justice Kavanaugh, because, of
13 course, this is a statutory interpretation case.

14 This Court has emphasized that stare
15 decisis considerations have their greatest force
16 here. And it's the Voting Rights Act. It's not
17 an area where the Court's decisions have flown
18 under the radar or escaped notice.

19 Congress has not hesitated to step in
20 and alter the statute when it's been
21 dissatisfied with this Court's interpretation.
22 That was the whole point of the 1982 amendments.
23 So I think that's Exhibit A of the principle
24 here.

25 And far from disrupting or disturbing

1 the Gingles framework in any way, Congress has
2 repeatedly left Section 2 untouched while it's
3 amended other aspects of the statute.

4 And in the 2006 amendments, the House
5 report specifically noted that Congress did not
6 intend any departure from Gingles or its
7 progeny.

8 So I think that those stare decisis
9 considerations really weigh heavily in the
10 balance here.

11 JUSTICE KAVANAUGH: Thank you.

12 CHIEF JUSTICE ROBERTS: Justice
13 Barrett?

14 Justice Jackson?

15 Thank you, counsel.

16 Mr. LaCour, rebuttal?

17 REBUTTAL ARGUMENT OF EDMUND G. LACOUR, JR.

18 ON BEHALF OF THE APPELLANTS/PETITIONERS

19 MR. LACOUR: Thank you. I've got
20 about five quick points. I'll try to get
21 through all of them.

22 Justice Kavanaugh, to your point, it
23 is not a departure from Gingles to clarify.
24 This Court didn't depart from Gingles and
25 De Grandy when it recognized the importance of

1 proportionality. You didn't depart from Gingles
2 when you added traditional districting
3 principles to the analysis when the Court
4 started focusing on single-member districts. So
5 we are not asking for Gingles to be overruled or
6 changed in any dramatic way. We just need some
7 clarification.

8 And a couple points about the clear
9 error or the standard of review. When it comes
10 to compactness, that was a legal error because
11 they left out important traditional districting
12 principles and -- and said that's fine, you only
13 have to account for some of the traditional
14 districting principles, not all of them.

15 It's -- it's very easy to satisfy
16 Gingles if you get to play by completely
17 different rules, and Gingles just isn't going to
18 do anything useful if that's the case.

19 When it comes to predominance, that's
20 a legal error. Just like in Bethune-Hill, just
21 like in ALBC, that's reviewed de novo.

22 Now the main point, I mean, courts can
23 -- the Court can resolve this case by clarifying
24 that race cannot be the non-negotiable principle
25 as part of Section 2 liability.

1 Simulations are not required. We just
2 need to make sure that plaintiffs are coming
3 forward with some sort of evidence that
4 resembles what you would think a race-neutral
5 map drawer would do within the confines of the
6 Equal Protection Clause because, if you read
7 Section 2 to be inconsistent with Cooper and
8 Bethune-Hill, then our maps are always going to
9 be in court.

10 And we've got a real live example of
11 this with the Louisiana case that's pending
12 before this Court as well. Back in the '90s,
13 they drew two majority-Black districts. Twice
14 district courts said that's racial
15 gerrymandering and tossed them out. So then
16 they drew one majority-Black district, and now
17 this year they were -- their -- their map is
18 again preliminarily enjoined for failure to draw
19 two majority-Black districts. I think it's a
20 perfect example of just how the states are
21 caught in the middle here.

22 And it's because the plaintiffs don't
23 have a clear test. We -- we -- maximization is
24 not the test. Proportionality is not the test.
25 Some smattering of seven factors doesn't provide

1 sort of guidance we need either. That only
2 identifies broad societal discrimination, not
3 the sort of discrimination needed to justify
4 race-based map drawing.

5 So, if you return to the text, there
6 really is no better test that ensures equal
7 opportunity and equal openness than a map that
8 looks like what you would expect a neutral map
9 drawer to draw, consistent with the Equal
10 Protection Clause.

11 I mean, imagine for a second that you
12 are a member of the Georgia legislature and all
13 your guidance on Section 2 and the Equal
14 Protection Clause comes from the district court
15 opinion below. You would be completely in the
16 dark.

17 You know that you can account for
18 traditional districting principles, but,
19 apparently, one of your most important
20 communities of interest down in the Gulf is not
21 a sufficient community of interest to justify
22 drawing a neutral map.

23 You know that you've maintained cores
24 of your districts and that Supreme Court in
25 Abrams even said that's fine as part of the --

1 the Gingles 1 analysis, but the district court
2 said, well, here, it's not going to be the case.

3 So your map is going to end up in
4 court again and again. That -- that cannot be
5 the case. We need some sort of guidance from
6 this Court.

7 In sum, the purpose of the Voting
8 Rights Act is to prevent discrimination and to
9 foster our transformation to a society that is
10 no longer fixated on race, but plaintiffs would
11 transform that statute into one that requires
12 racial discrimination in districting and carries
13 us further from the goal of a political system
14 in which race no longer matters.

15 Neither the text nor purpose of the
16 Act supports that balkanizing approach, and the
17 Constitution forbids it. If Section 2 is to
18 apply to single-member districts, then only a
19 race-neutral benchmark furthers the VRA's goals
20 of -- and its equal openness touchstone.

21 And because Alabama's neutrally drawn
22 plan is equally open to all voters, it complies
23 with Section 2. Thank you.

24 CHIEF JUSTICE ROBERTS: Thank you,
25 counsel. Thank you, other counsel. The case is

1 submitted.

2 (Whereupon, at 11:58 a.m., the case
3 was submitted.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Official

<p>1</p> <p>1 [49] 5:18 11:8,22 12:12 19:19 24:25 25:1,8,25 26:7,10,14 27:6,7 31:15,18 42:21 45:6 64:22 67:5 68:10,22 69:1 70:22 71:25 75:23 77:14 78:6 79:8 83:16,17 85:10 86:12 87:7,8,14 88:20 90:6,8 92:16 93:15 95:20 96:3 97:8 103:9 104:14 112:12 116:23 122:1</p> <p>10 [3] 18:3,4 86:7</p> <p>10,000 [2] 36:10,11</p> <p>10:04 [2] 1:22 4:2</p> <p>11 [1] 50:15</p> <p>11:58 [1] 123:2</p> <p>118 [1] 3:18</p> <p>122 [1] 30:2</p> <p>16 [1] 108:5</p> <p>17 [1] 108:5</p> <p>170 [1] 21:10</p> <p>177 [1] 73:20</p> <p>18 [4] 33:9 34:15 35:3 47:11</p> <p>180 [1] 29:24</p> <p>1866 [2] 59:8 60:21</p> <p>1982 [5] 43:19 45:21 91:18 99:16 117:22</p> <p>1990 [1] 50:13</p> <p>1992 [2] 51:17 80:20</p>	<p>250-plus [1] 57:2</p> <p>27 [3] 9:11 42:13 50:17</p> <p>3</p> <p>3 [5] 19:22 27:6 45:8 94:12,22</p> <p>30 [1] 76:3</p> <p>31 [1] 72:10</p> <p>36 [1] 37:5</p> <p>3a [1] 47:9</p> <p>4</p> <p>4 [3] 1:18 3:4 31:24</p> <p>4.6 [1] 44:21</p> <p>40 [3] 44:14 78:1 99:9</p> <p>435 [2] 72:2,12</p> <p>5</p> <p>5 [3] 31:24 43:25,25</p> <p>50 [6] 34:11 36:12 113:18,20,21 114:7</p> <p>51 [3] 36:12 113:22 114:6</p> <p>511 [1] 10:13</p> <p>55 [1] 113:4</p> <p>56.6 [2] 28:16 34:16</p> <p>566,000 [1] 34:16</p> <p>6</p> <p>6 [2] 42:22 47:13</p> <p>63 [1] 3:7</p> <p>66 [1] 46:14</p>	<p>6,7,8,9 49:20 50:6,9 51:12 52:9 53:17 55:14,14 57:25 62:16,23 65:15,20 66:20 67:15 75:17 81:25 82:18 84:2,5 85:2,3,19 87:19 88:6 89:25 92:18 97:25 98:4 102:5,17 103:4 116:13 119:13 121:17</p> <p>achieve [3] 38:16,18 43:13</p> <p>achieved [1] 44:19</p> <p>achievements [1] 43:12</p> <p>achieving [1] 38:12</p> <p>acknowledge [1] 15:6</p> <p>acknowledged [3] 67:5 88:10,12</p> <p>across [4] 45:18 74:24 75:5 109:3</p> <p>Act [18] 4:18 14:4 41:21 44:19 54:10 55:21 59:8,11,18 60:21 64:2 70:20 80:19 98:5 115:3 117:16 122:8,16</p> <p>action [2] 60:13 111:11</p> <p>actionable [1] 32:17</p> <p>actual [2] 90:14 107:3</p> <p>actually [16] 6:23 12:5 18:23 29:8 42:5 47:6 52:9 58:14 61:9 83:8 88:2,3 90:12 96:2 107:3 117:11</p> <p>Adarand [1] 61:7</p> <p>add [2] 5:11 113:21</p> <p>added [3] 76:10 99:16 119:2</p> <p>additional [4] 68:6 76:5 85:6 113:25</p> <p>address [1] 100:14</p> <p>adequate [1] 6:18</p> <p>administrable [2] 83:19 93:8</p> <p>adopt [3] 54:11 64:24 69:8</p> <p>adopted [2] 58:7 91:17</p> <p>advantage [2] 18:7 51:10</p> <p>affected [1] 94:20</p> <p>affirmative [1] 60:14</p> <p>afield [1] 57:6</p> <p>African [2] 9:12 43:14</p> <p>ago [2] 14:2 15:13</p> <p>agree [10] 7:20 16:19 35:23 46:20 52:20 65:10 66:18 101:10,11 116:11</p> <p>agreed [1] 78:23</p> <p>agreement [1] 94:14</p> <p>ahead [1] 107:20</p> <p>aimed [1] 72:6</p> <p>AL [4] 1:4,7,11,14</p> <p>ALABAMA [49] 1:3,10 2:3 4:12,18 5:1,5,8 10:12 13:1 21:8,12 26:12 33:21 38:23 41:5,7 44:20 50:17 51:13,15 63:24 64:14,17,23 65:3 67:13 69:19 71:23 72:25 73:7,21 74:20 77:24 78:24 79:6 80:4,20 84:19 93:14 97:20,21 98:21 99:7,10,21 109:1 115:18,23</p>	<p>Alabama's [29] 5:12 6:6 26:7 39:15 41:18 63:16,20 64:8,12 65:7 69:7 71:4 73:16 74:22,24,25 75:3 78:1,11 82:5 88:9 92:14,15 100:7,14 115:11,13 116:9 122:21</p> <p>Alabama-focused [1] 10:9</p> <p>Alabamians [1] 61:24</p> <p>ALBC [1] 119:21</p> <p>algorithm [10] 11:11,24 12:4,13 13:4 88:14 90:17 104:16 114:3 116:12</p> <p>algorithms [3] 12:14 90:23,25</p> <p>ALITO [44] 18:19 21:15,17,18 22:23 23:1,14,19 26:24 34:4,8 39:6,7 46:4 66:8 67:14,23 68:1,14 69:13,17,25 70:3,14,17 74:1 82:1,4,25 83:21 84:7,24 85:16 86:22 87:16 88:24 89:1 104:18,21 105:21,23 111:21 112:15 115:7</p> <p>allegation [1] 74:23</p> <p>allegations [2] 104:3 105:17</p> <p>allowed [6] 54:25 55:2 61:16,18,20 66:4</p> <p>allows [2] 63:21 64:14</p> <p>almost [2] 67:16 84:10</p> <p>alone [3] 15:11 46:16 114:18</p> <p>already [10] 19:17 20:5 21:21 33:10 48:18 102:4 104:5 110:21 111:1 112:11</p> <p>alter [2] 117:6,20</p> <p>although [1] 112:8</p> <p>altogether [1] 57:4</p> <p>amended [2] 100:23 118:3</p> <p>Amendment [16] 54:9,14 55:23 57:22 58:8,9,19,20,23 59:20 60:10,11,12,19 61:3 62:6</p> <p>amendments [2] 117:22 118:4</p> <p>American [2] 9:12 43:12</p> <p>Americans [2] 43:14,16</p> <p>Amici [2] 72:9 90:25</p> <p>amicus [7] 2:11 3:14 69:10 77:11 79:14 94:24 98:15</p> <p>among [6] 47:11 65:24 77:3 94:14,14 104:15</p> <p>amount [2] 38:21 110:9</p> <p>analysis [9] 35:17 50:25 58:6 63:17 102:7 107:2 108:24 119:3 122:1</p> <p>another [7] 19:7,8 20:22 36:5 53:12 77:3 111:19</p> <p>answer [14] 39:17 46:22,23 80:15 82:19 84:15 86:17 88:2,4 94:2 110:12 112:16 113:8 116:10</p>	<p>answering [1] 27:2</p> <p>answers [1] 80:17</p> <p>anybody [1] 79:25</p> <p>apologize [1] 47:5</p> <p>apparently [1] 121:19</p> <p>APPEARANCES [1] 2:1</p> <p>Appellants [1] 1:5</p> <p>Appellants/Petitioners [5] 2:4 3:4,18 4:9 118:18</p> <p>appellate [1] 81:13</p> <p>Appellees [4] 1:8 2:6 3:7 63:12</p> <p>Appellees/Respondents [3] 2:12 3:15 98:16</p> <p>Appendix [5] 10:14 29:24 47:10 55:9 73:20</p> <p>application [2] 9:25 64:4</p> <p>applied [4] 52:7,8 99:9 109:17</p> <p>applies [1] 117:7</p> <p>apply [3] 79:17 99:8 122:18</p> <p>appraisal [2] 42:18 108:21</p> <p>approach [6] 63:1 99:15,20 100:12 116:9 122:16</p> <p>approaching [1] 20:4</p> <p>appropriate [1] 7:23</p> <p>approved [1] 41:15</p> <p>arch [1] 45:18</p> <p>area [4] 17:22 34:1 110:10 117:17</p> <p>areas [2] 5:20 34:11</p> <p>aren't [4] 69:22,23 107:9 114:21</p> <p>argue [2] 4:17 63:24</p> <p>argued [1] 82:24</p> <p>arguing [3] 28:3 57:14 61:6</p> <p>argument [47] 1:21 3:2,5,8,11,16 4:4,8 21:21,23,23,24 22:19 23:2,4 26:15 35:18 46:3,5,7,10 48:7,10 52:19 53:1,1,23 54:19,23 57:19 63:11 65:12,14 77:20 79:6,8 81:13 82:5 98:14 100:7 104:22,25 105:1 110:15,21 115:12 118:17</p> <p>arguments [7] 14:10 21:14,19 41:3,4 42:10 54:21</p> <p>around [2] 61:10 89:7</p> <p>articulated [1] 112:22</p> <p>aside [8] 26:19 32:5 50:3 51:8 52:23 83:7 84:25 95:16</p> <p>asks [1] 63:25</p> <p>aspect [1] 116:8</p> <p>aspects [1] 118:3</p> <p>assessment [2] 19:12 57:20</p> <p>assume [6] 6:11 29:10 46:10 56:6,7 57:24</p> <p>assumed [1] 55:25</p> <p>assuming [3] 29:6 30:14 89:24</p> <p>atextual [1] 100:2</p>
---	--	--	---	---

Official

<p>attempt [2] 22:10 52:2</p> <p>attention [1] 113:10</p> <p>atypical [1] 98:20</p> <p>authorizing [1] 96:15</p> <p>automatically [2] 106:20 113:1</p> <p>available [1] 72:16</p> <p>average [1] 31:22</p> <p>averaged [1] 37:4</p> <p>avoid [1] 64:14</p> <p>aware [3] 114:16 117:5,9</p> <p>away [1] 89:1</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>back [20] 7:25 16:2,3 32:5, 23 35:10 40:10,16 44:14 50:10,11,13 78:13 83:13 90:13 103:8 104:2 110:18 116:2 120:12</p> <p>background [4] 28:10,25 60:2,11</p> <p>bad [3] 62:14 103:3,20</p> <p>balance [1] 118:10</p> <p>Baldwin [6] 28:5,7,18 29:6 33:4 89:5</p> <p>balkanizing [1] 122:16</p> <p>ball [1] 27:6</p> <p>Barrett [21] 52:15,16,25 53: 22 54:6 55:19 56:4 57:8 75:21,22 76:14 82:2 92:1, 2 93:12 95:12 96:24 100:5 101:1,17 118:13</p> <p>Barrett's [2] 57:12 95:16</p> <p>barring [1] 89:20</p> <p>Bartlett [5] 64:7 68:5 83:16 86:15 91:11</p> <p>based [7] 56:18 59:15 77:3 84:18 96:19 105:8,8</p> <p>baseline [5] 7:16 54:2 57: 16 101:4,22</p> <p>basic [7] 21:22 22:19 23:1, 3 37:7 83:12 86:10</p> <p>basically [3] 94:5 95:18 112:4</p> <p>basis [5] 39:13 61:2 97:3,6 114:18</p> <p>battle [1] 86:13</p> <p>battles [1] 116:24</p> <p>bear [1] 12:1</p> <p>bears [1] 111:17</p> <p>beat [3] 67:12 74:20 84:11</p> <p>became [2] 58:6 71:19</p> <p>become [1] 78:10</p> <p>becomes [1] 26:20</p> <p>begin [1] 91:18</p> <p>beginning [1] 7:6</p> <p>begs [2] 39:21,25</p> <p>behalf [12] 2:3,5,7 3:4,7,10, 13,18 4:9 63:12 77:21 118: 18</p> <p>behemoth [1] 111:6</p> <p>behind [2] 87:13 90:13</p> <p>believe [7] 47:9 72:14 79: 13 84:4 85:9 90:1,3</p>	<p>believed [1] 59:6</p> <p>below [12] 9:4,5,20 24:5 39: 12 53:15 71:13 81:15 84:9 88:9 90:2 121:15</p> <p>Belt [21] 28:12 30:19 32:12, 22,22,23 33:6,8,17 34:1,5, 15,24 35:1 37:1 47:1,7,10, 16 63:18 73:21</p> <p>benchmark [12] 7:12,14, 21,22 8:1,7,10 63:2,4,4 81: 21 122:19</p> <p>benchmarks [1] 7:10</p> <p>best [2] 14:20 97:22</p> <p>Bethune-Hill [5] 24:19 68: 13 113:2 119:20 120:8</p> <p>better [13] 12:5,6 27:21 31: 10,15 34:23,25 35:3 47:7 48:6 98:3 109:24 121:6</p> <p>between [6] 13:9 35:17 45: 11 72:19 83:23 101:18</p> <p>beyond [1] 96:10</p> <p>biases [1] 67:2</p> <p>big [3] 43:16 83:12 109:11</p> <p>Bill [1] 33:12</p> <p>bipartisan [1] 41:15</p> <p>bit [2] 51:3 100:17</p> <p>bizarre [4] 25:15 48:15 108: 6 112:7</p> <p>bizarrely [1] 111:2</p> <p>Black [49] 5:4,19 21:8 28: 12,12,13,18,23 30:19 32: 12,22,23 33:6,8,17 34:1,5, 10,15,16,24,25 36:12,13 37:1,3 44:20,24 47:1,7,10, 16 50:12,18 57:5 59:12 61: 24 62:18 63:18,22 65:8 69: 18 71:5 73:16,21 83:13 98: 25 99:23 106:8</p> <p>blind [1] 90:14</p> <p>blinders [1] 65:6</p> <p>blindness [2] 59:7 71:23</p> <p>bloc [1] 106:6</p> <p>block [2] 63:21 76:25</p> <p>blocked [1] 76:25</p> <p>Board [2] 64:9 74:25</p> <p>Bolden [1] 15:6</p> <p>border [2] 5:21 62:21</p> <p>both [9] 7:9 18:7 33:6 36:6 38:3 48:21 81:17 91:9 109: 13</p> <p>bottom [1] 32:2</p> <p>boundaries [3] 11:1 39:19 98:2</p> <p>boundary [2] 9:7 109:4</p> <p>Bradley [1] 30:1</p> <p>brand-new [1] 97:12</p> <p>breaking [2] 30:25 42:2</p> <p>brief [15] 13:21 14:19 16:21 35:25 46:14 65:11 69:10 72:9 77:10,11 79:14 82:23 94:24 103:15 108:5</p> <p>briefs [1] 47:9</p> <p>briefs [5] 32:21 36:7 46:3 63:5 80:10</p>	<p>bright-line [3] 88:12,15 94: 11</p> <p>bring [1] 42:24</p> <p>brings [1] 18:2</p> <p>Brnovich [6] 7:10 15:14 17:9 38:14 44:3 65:1</p> <p>broad [2] 46:4 121:2</p> <p>broad-based [1] 56:20</p> <p>brought [4] 12:17 15:22 36: 4 58:14</p> <p>budget [1] 32:1</p> <p>build [1] 31:25</p> <p>built [2] 29:18 50:24</p> <p>burden [12] 12:1 19:5 25:3 29:7 82:9 83:1,2 90:2 92: 23 100:8 105:2 106:22</p> <p>burden-shifting [1] 25:22</p> <p>burdens [1] 12:8</p> <p>bury [1] 78:6</p> <p>Bush [1] 8:13</p> <p>BVAP [1] 37:4</p> <p>Byrne's [1] 30:1</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>call [1] 54:25</p> <p>called [2] 64:17 114:21</p> <p>came [7] 1:20 24:18 37:20 59:20 66:3 84:17 105:3</p> <p>Campaign [1] 69:10</p> <p>candid [1] 48:21</p> <p>candidate [1] 42:15</p> <p>candidates [3] 66:6 71:6 106:9</p> <p>cannot [9] 4:25 7:1 40:22 45:14 46:19 54:23 56:23 119:24 122:4</p> <p>capturing [1] 81:5</p> <p>card [1] 91:9</p> <p>care [4] 12:25 51:9 86:25 115:21</p> <p>cared [1] 40:4</p> <p>careful [1] 111:12</p> <p>carries [1] 122:12</p> <p>Case [47] 4:4,6 7:11 9:1,5 10:3,4,7,19 11:9 12:16 13: 7 15:21,22 22:9,14 25:13 26:4 27:5 32:10 34:3 42:4, 23,24 44:4 57:7 67:21 68: 1 78:23 98:20 99:7 103:11, 24 104:4 106:21 108:19 113:1,2,3 117:13 119:18, 23 120:11 122:2,5,25 123: 2</p> <p>cases [16] 7:6,23 9:7 15:1 23:17 37:22 44:9 56:11 72: 11 104:13 107:4,16 111:7, 13 114:15 117:8</p> <p>CASTER [3] 1:14 33:13 47: 12</p> <p>caught [1] 120:21</p> <p>cause [3] 78:3 80:5 116:23</p> <p>CD [1] 80:21</p> <p>census [1] 50:13</p> <p>center [2] 17:16 69:10</p>	<p>central [2] 54:19 107:24</p> <p>certainly [10] 14:15 17:5 24:5 68:23 71:17 85:24 90: 11,20 94:25 108:19</p> <p>challenge [2] 18:2,8</p> <p>challenger [1] 19:6</p> <p>challenger's [1] 113:21</p> <p>challengers [5] 12:11 25:3, 3,25 95:20</p> <p>challengers' [1] 25:10</p> <p>challenging [1] 78:7</p> <p>chance [3] 66:6 71:5,6</p> <p>change [5] 9:24 11:16 56: 25 99:11 114:2</p> <p>changed [1] 119:6</p> <p>changes [1] 4:15</p> <p>characterization [1] 52: 20</p> <p>charge [1] 88:5</p> <p>checks [1] 110:22</p> <p>Chen [1] 79:14</p> <p>Chen's [1] 72:9</p> <p>CHIEF [39] 4:3,10 16:15,18 21:17 35:9 37:6 38:25 39: 3,8 41:1 45:24 52:14 57:9 63:8,13 65:9 73:22 74:1 75:20 76:15 77:16,19,22 88:21 91:23 95:13 98:9,12, 17 102:25 103:2,7,12,16 115:4 117:2 118:12 122: 24</p> <p>Chisom [1] 15:12</p> <p>choice [3] 42:15 66:7 71:7</p> <p>chooses [1] 83:3</p> <p>Circuit [1] 101:4</p> <p>circuits [1] 27:5</p> <p>circumstance [1] 72:17</p> <p>circumstances [20] 17:2, 7,12 22:22,24 42:9,12 54:4 65:2,16,21 73:12 76:9 102: 7 103:5,24 104:2 106:17 107:2 108:22</p> <p>Circumstantial [1] 16:9</p> <p>citizens [9] 59:9,10,12,12, 13,25 60:25 61:1 96:12</p> <p>Civil [4] 59:8,10,18 60:21</p> <p>claim [5] 22:14 44:7,12,13 62:22</p> <p>claiming [2] 11:16 71:11</p> <p>claims [6] 6:7 44:6,9 45:5 107:5,8</p> <p>clarification [2] 57:12 119: 7</p> <p>clarified [1] 57:14</p> <p>clarify [2] 57:23 118:23</p> <p>clarifying [1] 119:23</p> <p>clarity [1] 63:3</p> <p>class [1] 96:12</p> <p>classic [1] 44:12</p> <p>Clause [7] 13:10 24:17 56: 12 58:7 120:6 121:10,14</p> <p>clear [21] 6:3 9:8,18 14:6 15:9 26:22 29:21 36:5 58: 6 63:24 74:19,19 86:4 93:</p>	<p>13 100:22 107:14 110:4 111:13,20 119:8 120:23</p> <p>clearly [2] 10:23 35:2</p> <p>close [1] 40:10</p> <p>Coast [2] 29:25 47:19</p> <p>code [1] 88:7</p> <p>cohesive [1] 106:5</p> <p>colleagues [1] 95:22</p> <p>collectively [1] 20:2</p> <p>college [1] 93:2</p> <p>colloquy [1] 96:19</p> <p>come [27] 10:4 13:8 17:23 24:2 27:3 40:10,10 50:1 53:24 54:24 57:7 61:17 70: 4 80:12 82:6 83:3 84:14 86:6 89:8 91:11 93:18 94: 13 95:1,5 98:6 112:13 116: 2</p> <p>comes [7] 18:13 44:3 78: 19 82:13 119:9,19 121:14</p> <p>coming [9] 9:23 22:11 62:3 82:10 85:12 88:14 92:17 105:2 120:2</p> <p>commanded [1] 5:9</p> <p>committee [2] 41:15 58:17</p> <p>communities [14] 10:25 23:24 27:24 28:12 30:16 36:18,21 45:17 67:10 81:6 94:9 98:7 109:6 121:20</p> <p>community [29] 5:2 11:2,4, 4 28:2,8,19,22,24 29:3,4,8, 11,15,25 30:4 31:4 32:12, 13 33:1 47:1,20 60:5 63: 19,21 85:4 89:3,25 121:21</p> <p>compact [26] 21:7 22:6 31: 16,21 36:17 38:21 46:9,17 47:23 48:20,22 49:9 52:3 66:13,16,20 68:25 70:5,6 74:8,13 76:1 88:11 94:13 99:2 108:4</p> <p>compactness [1] 19:15</p> <p>compactness [31] 20:12, 14 23:6 27:22 31:10 32:1 46:7,12,15 50:20,25 51:21, 22 52:4,6 67:9 74:9,21 76: 22 83:24 84:2 94:10 98:1 107:24 108:12,15 109:2,10, 13,20 119:10</p> <p>comparator [6] 6:11,12,14, 18 7:7 19:4</p> <p>compare [1] 12:11</p> <p>compared [1] 101:6</p> <p>comparison [4] 11:23 101: 18,23 108:9</p> <p>compelling [3] 55:21 56:1, 18</p> <p>competing [1] 115:1</p> <p>complete [2] 9:19 110:12</p> <p>completely [5] 31:23 46: 20 72:18 119:16 121:15</p> <p>complex [2] 17:21 116:13</p> <p>compliance [2] 55:25 67:6</p> <p>complicated [3] 102:23 104:12 116:24</p>
---	--	---	---	--

Official

<p>complies [1] 122:22 comply [1] 50:19 complying [1] 98:5 comport [1] 38:7 comprehensive [1] 108:24 compromised [1] 40:13 Computational [1] 77:11 computer [19] 16:23 22:14 35:17 37:23 67:14 77:13 80:13 85:18 87:19,22 88:13 92:3,10 93:24 94:23 111:22 112:17 113:20 114:7 conceived [1] 26:21 concept [1] 99:12 concern [4] 59:18 100:14 101:2 105:13 concerned [3] 16:23 61:1 77:15 concerns [3] 45:21 64:5 101:9 concluded [2] 32:12 50:25 conclusively [1] 38:11 condemn [1] 114:18 condition [4] 22:10 105:11 106:1,14 conducted [2] 4:12 65:23 configuration [6] 24:14 83:25 84:15 86:21,23 95:2 configure [1] 53:7 configured [28] 22:2,4,5 23:13,18,20 24:18,23 47:24 50:5 53:7,10 55:1 66:14,17,19 74:14 82:12 83:22 85:14,17,23 95:7 99:3 105:19 108:4 111:3 112:14 configured.' [1] 46:19 confines [1] 120:5 conflict [1] 40:25 conforms [1] 25:10 confused [2] 11:11 57:19 confusion [2] 40:17 45:11 Congress [23] 12:6 14:1,5, 21 15:2,8 35:19 43:20 45:22 64:2 87:9 91:17 96:7,8, 14 97:10 99:16 100:23 117:6,10,19 118:1,5 Congress's [2] 12:24 43:20 congressional [2] 50:15 72:2 connect [1] 45:18 connected [1] 62:20 consequence [2] 85:8,10 consequences [1] 99:19 consider [5] 13:9 22:21,23 27:9 103:18 consideration [6] 67:6 75:11 96:15 104:6 105:5 113:25 considerations [7] 55:9 81:24 94:6,8,9 117:15 118:</p>	<p>9 considered [3] 74:13 87:8 97:21 consistent [2] 64:7 121:9 consolidated [1] 4:5 constellation [1] 116:13 constitute [2] 34:5 66:14 constituted [1] 111:5 constitutes [1] 28:23 Constitution [11] 6:2 12:7 40:25 57:20 58:3,23 62:10 96:18,21 97:11 122:17 constitutional [7] 7:19 59:19,22 60:20 61:2 62:5 64:4 constitutionally [3] 5:6 40:16 55:2 construe [1] 44:7 contains [1] 19:12 contest [1] 17:14 contests [1] 24:4 context [1] 17:14 contiguity [4] 36:16 67:9 98:1 109:2 contiguous [1] 34:22 continue [1] 8:5 continuing [2] 28:2 76:24 continuity [2] 27:22 31:11 contrary [2] 86:14 100:12 control [2] 7:3 62:2 controlled [1] 51:14 Cooper [5] 24:19 33:12 47:12 49:4 120:7 core [15] 34:15 35:4 41:10 47:11 49:14 50:9 54:23 57:15 64:16 75:14 79:8 91:4, 4,8 98:7 cores [6] 42:21 50:22 51:7, 9,12 121:23 Correct [14] 15:18 33:19 47:25 72:19,20 73:17 77:6, 7 87:13 89:16,21 90:20 91:6 97:2 correctly [2] 74:10 110:15 couldn't [6] 10:13 26:21 39:20 40:20 51:10 70:21 Counsel [29] 8:22 16:12 18:19,21 21:15,18 23:9 24:25 25:18 26:23 27:11 35:11 39:1,4 63:9 65:9 71:9, 10 72:4 73:10,23 77:17 88:22,25 98:10 115:5 118:15 122:25,25 Counties [10] 28:6 34:1,15 35:4 36:16,25 37:1 47:11 49:3 109:5 country [3] 44:25 98:23 99:24 County [9] 5:16 28:4 34:14 43:24 48:3,6,15,18,25 couple [3] 51:19 80:16 119:8 course [9] 7:15 8:6 44:8 81:12 91:21 106:23 110:2</p>	<p>112:12 117:13 COURT [115] 1:1,21 4:11 5:22 6:3,22 7:9,13,17,22 9:20 11:3 13:6,8 14:16,21 15:19 17:10,15,18 23:6,18 24:12,15 25:23 26:17 28:21 29:6,12,16,23 32:4,11 34:24 42:1,6 43:19,24 44:4 48:1 49:16,19 50:14 55:8,24 57:3 61:4 63:14 64:22 65:1 66:10,10 67:4,8,11 68:5,12 69:16 70:15 73:13, 20 75:9 76:3,9 77:23 78:16 82:16 83:15 84:9,17 85:13,13 86:15 87:21 88:18 90:11 91:12 94:15 95:4,5 97:16 98:18 99:4,8,10 100:1 104:5 105:10 108:7,20, 25 109:16,21 110:3,8 111:6,12,18 112:3,22,23 113:3, 5 114:14 117:14 118:24 119:3,23 120:9,12 121:14, 24 122:1,4,6 Court's [15] 6:9 17:8 27:17 63:16 74:18 78:25 98:19 99:18 105:5 108:24 110:9 113:13 114:23 117:17,21 Court-ordered [1] 80:20 courts [14] 17:22 27:5 31:3 78:3,6 83:19 90:5 102:4 106:25 107:8 108:14 114:20 119:22 120:14 cover [1] 99:16 cracked [4] 32:14,21,23 73:21 cracking [1] 73:16 cracks [1] 63:20 crazy [1] 23:23 create [6] 61:20 62:16 65:25 83:18 102:16 112:25 created [5] 75:3 78:7 80:21 97:9 111:24 creates [1] 58:1 creating [4] 19:3 40:11 62:10 101:22 creation [1] 112:18 criteria [29] 16:25 24:1,9 40:12 64:12,21 67:7,8 68:2 75:2,12,13 84:6 86:2 88:6,13,19 94:19 97:17 109:1, 23 110:1 112:6 113:11,17, 19,22 114:6 116:14 criterion [1] 5:13 critical [6] 7:11 17:11 51:22 74:16 102:8 103:7 critically [1] 117:11 Cromartie [1] 6:22 crossover [2] 66:5 72:18 crush [1] 58:25 curiae [3] 2:11 3:14 98:15 current [6] 41:8,13,17,19 108:17 117:10 currently [1] 88:15 cut [1] 44:14</p>	<p>cycles [1] 72:12 <hr/> D D.C [3] 1:17 2:5,10 dark [1] 121:16 data [1] 36:9 days [2] 18:3,5 De [4] 70:15 76:10 118:25 119:21 deal [1] 43:17 death [1] 59:1 debate [1] 104:15 decades [5] 28:19 73:17 78:12 99:17 100:22 decide [1] 82:17 decided [1] 14:21 decision [4] 15:14 72:11 94:14 110:9 decisions [3] 81:23 115:2 117:17 decisive [3] 63:25 117:15 118:8 declining [1] 78:21 decrease [2] 79:10 80:5 decreased [1] 78:19 decreasing [1] 107:5 deemed [1] 81:14 deference [1] 110:10 define [2] 29:2 101:16 defined [1] 85:5 definition [2] 93:25 112:20 defy [1] 78:2 delegating [1] 93:11 delete [1] 99:15 demand [1] 15:15 democracy [1] 43:12 Democratic [1] 73:3 Democrats [1] 51:14 demographer's [1] 90:13 demographic [3] 83:12 86:11 90:9 demography [2] 84:19 90:14 demonstrates [1] 116:19 demonstration [2] 78:5 87:14 denial [1] 44:6 denies [1] 65:8 deny [1] 63:21 depart [2] 118:24 119:1 Department [1] 2:10 departure [2] 118:6,23 depend [1] 41:24 depending [2] 82:23 94:17 depends [4] 43:1,2,3 92:5 described [1] 112:3 describing [1] 73:16 deserve [1] 114:24 designed [5] 18:22 45:10 51:4 59:23 99:6 designing [1] 100:20 desire [1] 27:23 destabilizing [1] 100:2 determine [1] 88:19</p>	<p>determining [1] 7:6 DEUEL [3] 2:5 3:6 63:11 dicta [2] 14:16 15:1 difference [2] 13:3 30:8 different [16] 6:21 21:14 26:5 91:15 92:12,21 106:9, 10 109:17,19 110:6,7 114:1,4,5 119:17 differentiates [1] 114:9 difficult [6] 17:20 34:17 44:16 71:24 72:1 108:16 diluted [2] 101:6,6 dilution [9] 6:15 7:6 44:6,9, 12,13 45:5 72:10 98:21 dipped [1] 21:11 direction [1] 44:23 directly [1] 34:2 disagree [1] 52:19 disapproved [1] 111:6 discriminate [1] 87:2 discriminated [1] 58:11 discriminating [2] 6:25 7:2 discrimination [24] 9:15 14:24 16:4,11 18:23 25:24 29:18 36:2 56:21,24 58:25 60:15 61:11,21 64:17 73:7 81:1 98:25 99:14 104:3 121:2,3 122:8,12 discriminatory [6] 15:7,10, 16 52:23 60:13 91:20 discussed [2] 83:15 102:22 dismantling [1] 99:22 disparate [1] 5:20 dispositive [1] 107:16 dispute [2] 27:25 30:3 disputes [2] 13:19 15:17 disregards [1] 99:17 disrupting [1] 117:25 dissatisfied [1] 117:21 dissent [2] 16:5 38:13 dissented [1] 15:14 distinction [2] 83:23 103:7 district [128] 5:1,4,12,16,22 10:6,12 11:3 17:8 19:7,8, 15 20:23 21:8 22:2,3,6,7, 11,15 23:21,21,23 27:17 28:21 29:6,12,16,23 32:4, 11 33:11 34:6,9,17,19,24 36:12,15 37:3,4 38:20 39:18 40:5,11 42:2,22 46:8,13, 16,18 47:2,23 48:5,10,20 49:14,19 50:14 55:8 57:2, 5 62:20 63:16 66:15,16,19, 21 67:11,18 68:7,11,17,25 71:2,7,12 73:12,17,20 74:12,18 75:4 76:5,24 78:9 84:8 85:7,13 87:25 88:17 91:12,13 94:12 95:6 97:16, 21 98:19 99:4,4 102:16,19 104:24 105:20 108:2,14,24 109:11,14,16 110:8 111:2, 6,18,23,24 112:7,14,17,18,</p>
---	---	---	--	---

Official

25 113:5,13 114:17 120:14,16 121:14 122:1 districting [42] 5:10 6:5,19 8:16 10:24 17:14 18:1 20:15 24:1,9,13 26:18 27:21 38:2,4,7 49:11,21,24 50:7,21 52:10 55:6,15 67:16 84:6 85:2,20 87:20 94:19 95:8 109:23 111:25 112:5 113:10,17 115:1 119:2,11,14 121:18 122:12 districts [59] 4:15,21 5:9,18 8:2,3,4 9:13 18:9,10 31:15,24 32:17 34:22 35:4,6 36:14 38:22 41:6,23 42:21 45:6,17 47:11 48:12 50:15,23 53:8,16 54:1 61:10 66:1,1,5,7 69:4,6 70:5 74:7 76:1 79:11,19 80:7,18,22 81:7 90:19 91:5 93:20 99:23 100:15,21 109:3,23 119:4 120:13,19 121:24 122:18 disturbing [1] 117:25 divide [1] 5:17 dividing [1] 5:4 doctrine [1] 110:23 doing [10] 12:3 23:22 26:14 33:24 34:2 45:3 60:4,22,22 91:19 dominant [1] 111:15 done [4] 31:12 56:5 79:16 82:14 Dothan [2] 21:12 45:19 Douglas [1] 25:24 Dowdy [1] 33:23 down [6] 14:5 42:20 52:18 58:5 109:22 121:20 dozen [2] 16:4 55:18 drafted [3] 58:18 59:8,21 dramatic [1] 119:6 drastic [1] 99:18 draw [32] 10:5,11 21:8 22:16 25:6 34:17,18 40:20 54:25 55:1,2 64:8 66:22 68:6,17,24 69:4,6,14,22 72:1 76:5 89:24 90:17 95:6 97:20 100:9 105:19 110:17 114:17 120:18 121:9 drawer [7] 12:21 45:20 47:13 93:18 97:20 120:5 121:9 drawers [3] 10:11 38:3 40:4 drawing [7] 50:14 54:13 68:11 75:10 87:1 121:4,22 drawn [27] 5:6,24 6:1 8:2 19:7 22:7 25:6 29:17 38:23 40:15,19,21 46:16 62:16 75:1 80:18,23 81:3 86:24 91:14 92:17 95:25 96:4 105:8 109:15 111:12 122:21 drew [4] 36:10 93:18 120:13,16	drilled [1] 58:5 driving [1] 39:24 drop [1] 33:22 Duchin [4] 31:16 47:8 49:2 65:23 due [2] 76:22 106:6 duke [1] 104:14 dunk [1] 9:2 during [1] 58:12 dynamic [1] 19:23 <hr/> E earlier [2] 61:19 75:7 early [1] 18:3 east [3] 5:21 33:15,18 Easterbrook [1] 101:3 easy [10] 9:5 15:23 24:6 27:8 39:17 42:23,24 49:25 101:25 119:15 edge [2] 10:3 15:22 EDMUND [5] 2:2 3:3,17 4:8 118:17 Education [2] 64:9 75:1 educational [1] 29:1 effect [7] 15:10 20:25 21:1,3 27:4 38:6 49:16 effectively [2] 99:12 102:18 effects [3] 14:8 16:24 98:24 effort [4] 35:18 60:8,21 93:19 efforts [1] 117:6 eight [1] 72:13 either [6] 55:3,4,12 93:14 116:10 121:1 elect [4] 63:22 66:6 71:6 99:24 electing [1] 42:15 elections [1] 73:5 electoral [1] 4:22 electorate [1] 101:21 ELIZABETH [3] 2:9 3:12 98:14 emphasis [1] 111:17 emphasized [3] 17:10 83:17 117:14 empirical [3] 19:9 26:8 79:5 enact [2] 24:16 41:5 enacted [4] 60:19 61:3 84:11 109:25 enacting [1] 41:22 encompass [1] 91:1 end [9] 22:12 38:8 50:14 97:13,13,14 105:4 110:19 122:3 enforcement [2] 78:20 93:11 engage [1] 60:14 enjoined [1] 120:18 enjoyed [1] 59:10 enough [9] 4:16 16:10 19:14 20:21 34:4 71:13 85:15	115:25 116:16 ensure [8] 25:10 43:8,14 58:11 60:7 110:17,23 114:20 ensures [2] 78:18 121:6 enters [1] 55:5 entire [4] 15:3 57:1 58:19 99:23 entirely [2] 82:21 86:14 entrench [1] 91:20 enumerated [1] 104:6 enveloping [1] 5:2 Equal [32] 13:10 24:17 36:16 40:22,24 43:8,13 45:11,12 54:2 56:12 58:1,7,14 59:24 60:25 62:25,25 65:7 72:6 74:11 89:15 101:2,5,12,16 120:6 121:6,7,9,13 122:20 equalize [1] 4:15 equalizing [1] 109:2 equally [6] 4:23 6:6 32:9 96:10,11 122:22 equating [1] 111:9 equation [2] 55:5 101:25 err [1] 63:18 erroneous [1] 35:2 error [8] 5:24 63:24 74:19 110:4 111:20 119:9,10,20 escaped [1] 117:18 especially [1] 17:14 ESQ [5] 3:3,6,9,12,17 ESQUIRE [2] 2:5,7 ESSENTIAL [1] 12:15 essentially [5] 42:14 44:14 50:1 93:10 105:18 establish [3] 18:22 20:2 54:2 established [2] 78:17 95:4 establishes [1] 59:5 ET [4] 1:4,7,11,14 EVAN [3] 1:7 10:7 26:21 even [30] 6:14 8:1,17 17:25 19:9 24:4 25:1 26:6,12 29:9 34:1 35:23 38:13 44:21 59:4 66:2 67:14 69:23 71:5,14 84:13 86:3 88:4,7,13 93:3 105:19 114:19 116:25 121:25 everyone [2] 33:25 58:14 everything [1] 112:19 evidence [13] 16:10 36:1,3 62:14 79:5,12 83:4,6 103:10 104:10 105:6 116:20 120:3 evidentiary [2] 62:7,11 exact [4] 16:8 80:1 84:15 97:14 exactly [10] 16:13 35:15 52:18 53:4 65:11 66:11 77:7 89:19 114:14 116:8 example [9] 6:23 44:20 48:4 56:14,19 61:10 112:23 120:10,20	exceed [1] 69:18 except [2] 8:17 75:12 exceptions [1] 35:6 excuse [3] 11:24 66:25 76:7 Exhibit [1] 117:23 exist [2] 73:7 88:15 existed [1] 86:3 existing [11] 4:14 9:3,18 27:24 28:2 42:2 78:8 81:6 99:22 108:8 110:22 expect [2] 12:21 121:8 expert [12] 10:5 33:13,14 36:8 53:18 67:22 69:3 71:4 88:9 90:16,19,24 expertise [1] 93:3 experts [10] 33:6 82:15,16 86:14 94:14 104:15 113:12,21 114:6 116:25 explained [3] 16:5 33:14 103:14 explicitly [1] 89:14 extensive [1] 27:18 extent [2] 75:13 110:4 extra [1] 114:8 extreme [2] 72:16 98:20 extremely [3] 42:11 44:16 63:19 <hr/> F fact [16] 15:15,25 25:16 36:5 57:4 58:10 64:17 68:8 81:4 83:7 96:10 103:20 110:6,25 112:6 114:15 factor [20] 38:13 53:6,23 54:15 65:21,24 67:19 68:15,19 70:1,8,11 75:17 82:17 84:1,5 104:5 105:6,25 113:25 factors [20] 16:22 32:11 61:61 14,15 70:13 85:3,20 87:20 92:6,6,21 94:15,16 95:10 102:5 105:9 106:16 107:9 111:25 120:25 facts [1] 108:22 factual [4] 29:21 98:19 108:20 113:13 fail [2] 6:8 8:19 failure [2] 8:18 120:18 fair [2] 66:6 71:5 fall [2] 94:18,18 far [5] 5:20,20 31:15 57:6 117:25 far-reaching [2] 21:20,23 fared [1] 43:24 farther-reaching [1] 54:21 fate [1] 78:14 favor [5] 5:25 6:25 18:14 45:17 60:15 fear [1] 58:25 feasible [1] 19:9 federal [4] 16:20 41:20 78:14 114:20	feed [1] 104:16 few [4] 26:19 29:20 37:25 81:16 Fifteenth [1] 58:8 Fifty-six [1] 28:14 fight [1] 28:1 figure [1] 11:15 filed [1] 107:6 find [10] 29:23 34:25 35:2 36:14 39:10 46:21 51:6 73:21 85:14 107:25 finder [1] 110:6 finding [6] 32:20,21,22 63:18 87:15 113:5 findings [4] 27:18 74:18 98:19 113:13 fine [3] 114:5 119:12 121:25 Finish [1] 27:2 first [60] 4:4 5:7 7:25 17:18 19:2,2,5 20:12 21:6,10,25 22:10,17 24:12 27:16 29:23 53:6,23 54:15 57:17 66:9 67:19 68:2,15,15,18 70:1,7,11 80:17,21 82:10,17 84:1,4 90:11 93:1,5 94:6 95:9 102:14 105:5,11,14,25 106:1,13,19 107:6,12,23,25 109:10 110:13,25 111:1 112:10 115:23,24 117:6 fits [2] 23:4,12 five [2] 47:14 118:20 fixated [1] 122:10 flatly [1] 36:22 flaw [1] 81:9 flawed [3] 7:3 64:18 81:15 flexibility [1] 114:25 flown [1] 117:17 focus [2] 46:11 101:15 focused [2] 46:7 100:19 focusing [2] 95:18 119:4 foisted [1] 50:12 followed [1] 27:17 following [1] 95:15 forbids [1] 122:17 force [4] 40:19 55:1,16 117:15 forced [2] 50:14 54:11 foreclosed [1] 42:14 forget [1] 87:17 form [4] 36:15 99:3 100:6 116:20 former [1] 58:21 forth [1] 62:3 forward [13] 10:4 22:11 24:18 36:4 53:24 54:24 61:8 70:4 82:6 83:3 105:3,4 120:3 foster [1] 122:9 found [14] 9:4,21 11:3 24:5 27:19 30:1 32:4 42:7 55:8 67:11 73:13 99:5 108:7 111:18 foundation [3] 59:19,22
--	--	--	---	--

Official

<p>60:20 foundational [1] 59:21 Founders [2] 58:4 59:6 four [8] 28:20 31:1 32:17 47:10,11 99:17 100:22 110:22 Fourteenth [13] 54:9,14 55: 23 57:22 58:8,18 59:20 60: 10,11,12,19 61:3 62:6 Framers [2] 58:4,6 framework [3] 102:4 112: 13 118:1 framing [1] 60:1 France [1] 89:9 freed [1] 58:21 freedmen [2] 58:12 59:1 French [1] 28:9 friend [5] 65:13 81:13 96: 20 97:23 109:24 friend's [1] 32:20 front [3] 17:16 35:24 80:2 full [1] 35:13 fun [1] 81:14 function [2] 102:13 105:16 fundamental [3] 11:17 32: 6 81:8 fundamentally [3] 64:18 81:15 97:2 further [5] 30:13 74:2 88: 23 115:7 122:13 furtherers [1] 122:19</p> <hr/> <p style="text-align: center;">G</p> <p>gains [1] 44:19 game [2] 27:7 89:1 gap [1] 44:22 gauntlet [2] 84:22 95:10 gave [1] 89:1 GEN [3] 2:9 3:12 98:14 General [28] 2:2,9 35:7 40: 17 41:2 73:5 79:8 98:12, 17 101:14 103:1,6,14,25 104:19 105:13,22 106:15 107:20 108:18 109:8,12 112:2,21 114:13 115:16 116:7 117:9 general's [2] 16:19 65:10 generally [1] 109:12 generate [5] 88:4 92:9,11, 20 95:24 generation [4] 45:4,6,6,8 generations [1] 89:9 geographic [1] 109:13 geography [1] 83:25 Georgia [7] 5:21 50:12,16 51:1,11 62:21 121:12 Georgia's [1] 50:15 Germany [1] 89:9 gerrymander [2] 18:14 110:18 gerrymandered [4] 4:19 8: 4 54:12 62:19 gerrymandering [1] 120: 15</p>	<p>gerrymanders [2] 45:7,9 gets [4] 25:19 97:14,20 106: 12 getting [1] 45:7 Gingles [101] 8:1 9:9 10:17 11:16,19,21 12:3,10 15:5 18:22 21:25 22:17 23:2,3, 4,13,13,17 27:6,7 46:6,11 49:22 51:23 53:6,23 54:15 57:15 61:14 64:3,22 66:9, 11 67:5,19 68:2,9,22 69:1 70:1,22 71:25 72:15 75:23 76:18 77:14 78:6,22 79:7 82:10,17 83:10,11,16,17 84:1,5 85:10 86:12,20 87: 92:16 95:20 96:3 97:8 102: 4,14 103:9 104:14 105:5,9, 11,11,14,25 106:1,13,20 107:15,23 110:14 111:1 112:10 115:24 116:23 117: 7 118:1,6,23,24 119:1,5,16, 17 122:1 give [5] 39:17 59:21 60:19 71:4 113:9 given [7] 19:9 46:25 49:15 57:20 60:10 80:12 89:15 gives [1] 92:11 glad [2] 57:12,14 goal [5] 47:8 49:17 76:12 93:21 122:13 goals [6] 17:11,16 38:12,16, 19 122:19 gold [1] 81:19 Gorsuch [4] 45:25 74:4 91: 24 117:3 got [9] 30:18,19 36:3,6 50:3, 4 70:7 118:19 120:10 governed [1] 77:25 government [3] 16:20 61: 8 106:11 government's [1] 16:21 Grandy [3] 70:15 76:10 118:25 great [2] 43:12 113:9 greatest [1] 117:15 ground [1] 21:4 grounds [1] 15:23 group [12] 5:19 7:1,2 18:14, 16 19:24 51:25 62:2 66:12 89:15 101:23 106:4 groups [3] 20:22 60:15 101:18 guarantee [1] 71:1 guaranteed [2] 36:11 71:6 guarantees [1] 4:24 guards [1] 112:11 guess [4] 8:25 16:15 37:6 57:18 guidance [3] 121:1,13 122: 5 guidelines [13] 39:15 41:9, 13,14,18,19,25 42:19 75:3, 8 94:20 97:22,25</p>	<p>guides [1] 102:4 Gulf [10] 5:3,17 11:3,4 29: 25 30:18 36:24 38:19 47: 19 121:20 gun [1] 16:7</p> <hr/> <p style="text-align: center;">H</p> <p>half [3] 16:4 55:18 79:24 Hall [1] 7:10 hand [2] 55:18 90:13 handed [1] 41:16 handful [2] 93:2,11 Hank [1] 51:15 happening [5] 12:10 20:20, 24 21:3 77:1 happens [2] 28:10 80:9 happy [1] 29:22 hard [9] 9:6 10:5,8 26:4 40: 18 48:25 49:22 54:9 80:11 harder [1] 38:6 harmed [3] 18:5 20:14,17 harming [1] 18:15 harmony [1] 40:24 Harris [1] 24:19 hast [1] 32:9 hated [1] 59:1 head [1] 89:12 hear [3] 4:3 48:7 90:23 heavily [1] 118:9 heavy [1] 12:8 held [5] 15:7 29:5,7 56:7,8 help [3] 10:16 20:7 46:21 helpful [2] 12:15 30:2 hesitated [1] 117:19 higher [1] 44:21 highest [2] 37:4 44:24 highly [2] 93:9,9 himself [3] 10:8 26:21 62: 22 historic [1] 63:18 historical [1] 59:5 historically [2] 29:17 91:4 history [5] 9:15 58:3 60:10 73:6 98:24 hoc [1] 64:15 Holder [1] 7:9 Honor [47] 7:8 10:2,20 13:6, 14 15:19 22:20 26:17 32: 15,19 33:5 35:21 38:1 39: 16 42:16 51:5 62:13 65:17 66:23 67:20,25 68:4,20 69: 20 70:9,19,24 71:15 72:20 73:2,14,18 74:17 75:6 76: 2 77:8,18 80:17 87:5,13 88:3 89:17,22 90:22 92:25 94:3 98:11 host [2] 81:23 94:8 House [1] 118:4 houses [1] 80:4 housing [3] 19:13,19 20: 20 however [1] 28:1 hundred [3] 21:11 116:4, 16</p>	<p>hurdle [4] 26:20,22 54:16, 18 hurdles [1] 26:5 hydraulic [1] 38:5 hypothesis [3] 19:1,7 25:4 hypothetical [4] 67:24 84: 12 85:25 113:18</p> <hr/> <p style="text-align: center;">I</p> <p>idea [9] 19:18 59:3 72:5 80: 23 102:10,12 103:9 106:18 115:18 ideas [1] 106:10 identified [2] 56:23 61:11 identifies [1] 121:2 identify [4] 60:5 104:17 108:6,11 identifying [1] 16:8 ideology [1] 106:7 ignore [2] 49:10 63:25 ignores [2] 110:21 111:12 illuminate [2] 12:19 63:6 illuminating [1] 12:16 illustrative [4] 5:14 69:9 84:10 111:4 imagine [2] 52:11 121:11 Imai [2] 36:7 66:2 Imai's [1] 39:11 immediately [1] 14:5 implementing [1] 12:6 importance [2] 94:17 118: 25 important [14] 17:15 27:9 42:10 43:11 48:4 53:19 69: 2 77:9 81:10 83:22 93:1 117:12 119:11 121:19 importantly [2] 17:25 59: 17 imported [1] 15:24 importing [1] 14:23 impose [1] 45:8 impossible [4] 38:18 53: 15 68:24 78:22 impractical [1] 81:17 inappropriately [1] 32:13 include [2] 94:7 115:2 includes [1] 75:3 including [3] 50:19 80:19 98:7 incomplete [1] 39:14 inconsistent [1] 120:7 incorporate [2] 23:24 110: 13 incorporating [2] 14:8 64: 20 incorrect [1] 107:10 increase [2] 53:25 64:9 increased [1] 78:19 incredible [1] 9:14 incredibly [3] 102:23 104: 12 116:19 incumbents [1] 36:18 independent [1] 110:22 indicate [1] 41:4</p>	<p>indicated [2] 60:8 109:18 indication [1] 23:17 indifference [1] 89:19 indisputably [2] 51:11,13 inequality [2] 89:19 91:6 inevitably [2] 102:20 113:8 infer [1] 16:10 infuse [1] 93:7 infused [2] 20:6 91:5 inherently [4] 42:3 92:5 100:19 108:19 initial [2] 19:1 84:20 inject [2] 38:1 102:12 injecting [1] 97:6 injunction [1] 71:18 inquiry [1] 88:13 inquiring [17] 9:19 20:12,16 22:13 23:7 25:14 49:24 50: 20 51:23 57:6 83:11,11 88: 17 103:5 108:12,16 109:13 insert [1] 116:22 inserting [1] 99:11 insisting [1] 111:23 insofar [1] 12:5 instance [1] 80:3 Instead [2] 88:16 99:10 instructed [1] 90:12 insuperable [1] 116:22 intend [1] 118:6 intended [3] 12:6 13:2 86: 15 intensely [4] 42:17 63:17 98:21 108:21 intent [34] 12:25 13:13,15, 16,19,20,22,23 14:2,12,18 15:8 17:4 21:2 35:19,22 37:10,17,18,22 38:10 52: 21,23 65:5,18 66:24 67:1 86:22 87:8,13,17,22,23 101:11 intentional [3] 36:2 99:13 104:3 intentionally [2] 102:15 112:24 interaction [1] 13:9 interest [37] 5:3 10:25 11:3, 5 23:24 27:24 28:3,8,24 29:3,4,8,11,15,25 30:4,16 31:5 32:13 33:1 36:19,22 45:17 47:1,20 55:21 56:1, 18 67:10 85:5 89:3 90:1 94:10 98:8 109:6 121:20, 21 interested [2] 41:18,19 interesting [1] 39:11 interests [1] 115:1 interpret [4] 75:23 94:21 116:14,25 interpretation [3] 100:2 117:13,21 interpreted [3] 43:19 46:2 91:1 interpreting [1] 74:10 interrupt [1] 47:22</p>
--	--	---	--	--

Official

<p>introduced ^[1] 58:22 invalidate ^[1] 5:23 invidious ^[3] 14:24 16:3, 10 irregularly ^[1] 112:8 irrelevant ^[6] 13:17 28:23 35:23 38:11 87:7 104:11 isn't ^[17] 13:19 29:11 32:17 47:17,22 61:13 69:15 73:1 92:22 99:8 104:25 105:1, 21 112:1,19 114:18 119:17 issue ^[6] 31:25 32:7 36:1 65:22 94:7 107:24 issued ^[1] 17:19 issues ^[1] 77:14 itself ^[10] 6:2 24:16 34:6 52:22 72:15 73:1 80:20 105:15 109:14 111:5</p> <hr/> <p style="text-align: center;">J</p> <p>JACKSON ^[35] 10:15,22 11:7 12:18,23 14:10 18:17, 20 19:17 20:18 24:21,24 25:18,21 26:3 39:1 54:17 57:10,11 60:17,24 61:13 62:4,9 73:10 76:16,17 86:16 87:6 95:14,15 100:6 113:14 114:14 118:14 Jefferson ^[1] 34:14 JOHN ^[2] 1:3,10 Joint ^[2] 10:13 58:17 JR ^[5] 2:2 3:3,17 4:8 118:17 Judge ^[4] 21:1 31:4 50:18 101:3 judged ^[1] 54:3 judges ^[5] 9:4,5 24:5 27:18 78:23 judgment ^[1] 102:9 judgments ^[2] 94:1,4 jump ^[1] 26:6 jurisdiction ^[1] 108:22 jurisdictions ^[1] 21:4 Justice ^[268] 2:10 4:3,10 6:10 7:4,20,25 8:6,22,25 10:15,22 11:7,14 12:18,23 13:12,18 14:10,25 16:4,8,12, 15,18 18:17,19,20,25 19:17 20:18 21:1,13,15,17,17, 18 22:23 23:1,8,9,12,14,16, 19 24:21,24 25:18,21 26:3, 23,24 27:1,2,11,13,16 28:7, 15,17 29:14,19 30:7,10,13, 17,21,25 31:6,9,18 32:3,16, 24 33:3,10,17 34:4,7,8 35:7,9 37:6 38:25 39:1,3,5,6, 7,8,8,10,21,25 40:2 41:1,1, 2,12,17 42:8 43:1,6 44:18 45:23,24,24 46:1,2,3,4 47:4,5,17,21 48:2 49:6,8,12 51:2,18 52:12,14,14,16,20, 25 53:22 54:6,16 55:19 56:4 57:8,9,9,11,12 60:17,24 61:13 62:4,9 63:8,13 65:9 66:8 67:14,23 68:1,14 69:</p>	<p>13,17,25 70:3,14,17 71:9 72:3,15,22,25 73:9,10,11, 15,22,24 74:1,1,2,3,4,5,6 75:19,20,20,22 76:14,15, 15,17 77:16,19,22 79:2,4, 20,23 80:8 82:1,2,4,25 83:21 84:7,24 85:16 86:16,22 87:6,16 88:21,23,24,25 89:1,18,23 90:15 91:3,22,23, 23,24,25 92:1,2 93:12 95:12,13,13,15,16 96:24 98:9, 12,17 100:5,5 101:1,17 102:25 103:2,8,12,16 104:18,21 105:21,23 107:18,20, 22 109:7,9 111:21 112:15 113:14 114:14 115:4,6,7,8, 9,10,17 117:2,2,4,5,12 118:11,12,12,14,22 122:24 justify ^[5] 56:24 61:12 111:16 121:3,21</p> <hr/> <p style="text-align: center;">K</p> <p>KAGAN ^[36] 7:20,25 8:6,25 11:14 13:12,18 14:25 18:25 21:1,13 23:8,12,16 35:7 41:1,2,12,17 42:8 43:1,6 44:18 45:23 46:4 47:4 74:3 79:2,4,20,23 80:8 91:23 115:9,10,17 Kagan's ^[1] 52:20 Karcher ^[1] 49:17 Kavanaugh ^[26] 46:1,2 47:5,17,21 48:2 49:6,8,12 51:2,18 52:12 74:5,6 75:19 91:25 107:18,21,22 109:7, 9 117:4,5,12 118:11,22 keep ^[8] 27:23 29:9 33:8 36:16 47:16 49:4 58:25 91:4 keeping ^[5] 30:22,23 32:25 38:19,21 key ^[1] 74:9 KHANNA ^[31] 2:7 3:9 77:19,20,22 79:2,3,13,22 80:1, 16 82:19 83:5 84:4,8 85:9, 24 86:16 87:5,12 88:1 89:17,22 90:3,21 91:7 92:24 94:3 97:1,5 98:11 kind ^[25] 8:7 9:2 19:23 21:14 22:15 45:4 48:14 57:3 60:20 66:21 76:24 80:14 81:19 83:4,6 85:20 86:1 94:13 99:7 102:18 105:3,7 108:9 110:10 111:5 kinds ^[5] 7:23 25:23 92:12 102:21 116:23</p> <hr/> <p style="text-align: center;">L</p> <p>lack ^[1] 20:14 lacked ^[1] 23:7 lacks ^[1] 108:6 LACOUR ^[103] 2:2 3:3,17 4:7,8,10 6:17 7:8,24 8:13,23 10:1,20,23 12:14,20 13:5,</p>	<p>14 14:14 15:18 16:13,17 17:5 19:16 20:11 21:5 22:20,25 23:5,8,10,15 24:11, 22 25:12,19 26:2,16,25 27:4,12,15 28:5,14,16 29:13, 19 30:9,12,15,18,24 31:2,7, 14,22 32:15,19 33:2,5,12, 19 34:7,13 35:21 37:25 39:16,23 40:1,3 41:8,14,24 42:16 43:3 44:18 47:3,19,25 49:2,7,10,13 51:5 52:8,16, 24 53:21 54:5,22 55:24 56:9 60:12,23 61:4,16 62:7,13 71:16 79:9 118:16,17,19 laid ^[2] 14:19 15:19 language ^[3] 14:7,22 96:10 large ^[3] 38:21 66:12,13 largely ^[1] 4:14 last ^[4] 43:10 51:18,18 72:12 later ^[1] 89:9 Laughter ^[2] 97:4 115:15 law ^[4] 15:17 41:20 99:11 108:17 lawful ^[1] 4:13 lawyer ^[1] 115:13 lead ^[3] 7:18 79:10 102:20 learned ^[1] 94:23 least ^[14] 13:5 17:16 21:23 24:15 35:1,5 48:7 64:12 66:7 71:5 80:3 83:23 95:1 108:8 leave ^[2] 26:19 27:7 leaving ^[2] 36:13 99:23 led ^[1] 45:10 left ^[4] 44:17 53:11 118:2 119:11 legal ^[7] 5:24 25:11 29:22 69:10 102:9 119:10,20 legality ^[1] 26:10 legislation ^[1] 59:23 legislator ^[2] 52:11 58:22 legislators ^[1] 114:16 legislature ^[3] 17:21 51:14 121:12 legitimate ^[7] 17:10,16 27:10 38:12,16,19 49:17 length ^[1] 102:22 less ^[10] 31:15,20 59:24,24 60:5,6 96:13 101:19 102:2, 9 level ^[2] 29:1 58:5 levels ^[1] 78:15 liability ^[5] 64:14 78:18 87:15 107:17 119:25 light ^[2] 8:21 57:19 limit ^[2] 92:9,19 limiting ^[1] 99:13 limits ^[1] 78:18 line ^[5] 9:7 62:25 109:22 111:13 114:15 line-drawing ^[1] 114:22 lines ^[21] 5:1,4,6 23:22 38:</p>	<p>20 39:18 40:5 48:3,6,16,18, 25 49:14 56:12,14,16 77:5 109:4 111:12 114:17 116:15 listed ^[1] 67:9 listen ^[1] 115:13 literally ^[1] 65:25 litigants ^[1] 83:20 litigate ^[1] 104:13 litigation ^[6] 78:6,7,10 109:20 116:21,24 little ^[5] 31:20 57:18 78:13 89:7 100:17 live ^[2] 77:3 120:10 local ^[5] 42:17 63:17 75:12 78:15 108:21 located ^[1] 83:14 Lodge ^[1] 16:17 long ^[9] 9:15 14:2 33:11 49:16 75:25 81:8 86:9 92:21 95:4 longer ^[3] 100:24 122:10, 14 longstanding ^[2] 5:2 45:16 look ^[24] 9:25 16:2,3 17:7 19:2 23:21 28:22 29:2 37:14 38:22 47:8 48:3 50:20 55:11 64:8 69:6 70:10 77:9 89:2 97:22 103:23 107:1, 3 108:25 looked ^[5] 32:11 51:16 58:2,16 66:3 looking ^[12] 9:11 29:14 37:17 38:24 48:23 70:25 71:8 81:1 86:23 87:17 88:18 109:22 looks ^[5] 24:3 43:25 48:11 65:2 121:8 lose ^[3] 45:1 56:8,10 loses ^[1] 106:13 lot ^[13] 29:13,20 32:20 35:12 48:11,24,24 51:16 54:20 80:18 81:11,11 88:6 Louisiana ^[1] 120:11 low ^[1] 26:20 lower ^[1] 27:5 LULAC ^[8] 8:14 10:21,23 11:6 23:6 42:2,5,23</p> <hr/> <p style="text-align: center;">M</p> <p>made ^[8] 4:15 14:6 21:18 43:21 56:19 60:25 74:19 104:4 main ^[1] 119:22 maintain ^[1] 55:13 maintained ^[2] 11:5 121:23 maintaining ^[2] 10:25 38:20 majority ^[10] 18:7 19:24 25:7 28:18 36:12 37:2 66:14 85:6 99:3 106:6 majority-Black ^[9] 5:16</p>	<p>10:12 40:11 80:6 90:19 95:6 120:13,16,19 majority-minority ^[32] 4:20 5:12 10:6 19:8 22:2,3, 12 36:15 41:6,23 46:8,13, 18 47:2 53:8,16 54:1 66:1 67:18 68:7 70:5 71:2 78:9 79:11,19 85:7 87:24 93:20 99:22 102:16 111:23 112:25 managing ^[1] 114:25 mandate ^[3] 40:23,25 45:12 manner ^[1] 4:13 many ^[11] 34:20 36:13 65:24 78:20 79:21 81:7,8 84:13 89:4 92:10 99:21 map ^[97] 4:19 5:24 6:20,23, 24 7:1,1 8:19,20,20 10:11 12:12,21 24:2,8,10,15,19, 20 25:2,6,8,10,13,15,17,19 26:11,11,13 27:20,21 31:7 38:3,8 39:20 40:4 42:20 45:20 47:13 48:15 50:15 51:16,17 53:7,25 54:11,24 55:1 56:25 57:3 61:22 63:16,20 64:9,12,19 65:8 69:7, 8,9,23 70:3,4 71:12 74:23 75:1 79:7 80:12 82:6,11 85:13,17 86:6 87:1 89:25 90:18 91:14 92:17 93:18 95:5,25 96:4 97:20 105:7, 7 111:16 115:19 116:5,16 120:5,17 121:4,7,8,22 122:3 map-making ^[1] 95:17 mapmaker ^[6] 22:8,16 66:22 67:2 86:22,24 maps ^[39] 25:7 26:7,20 27:19 29:11,17 31:10 36:11 40:10,15,19,20 47:6 56:22 61:18,21,21 64:6,8,16 69:9 72:2 75:10 78:7 86:6,7 88:11 90:1 92:10,20 93:15 95:23,24 98:3 100:9 105:3 114:1,19 120:8 MARCUS ^[1] 1:14 marginalized ^[1] 20:22 mark ^[1] 34:12 matter ^[15] 1:20 12:24 29:21 41:20,21 62:5,7,11,19 81:18,18 89:6 91:10,16 105:24 matters ^[3] 11:14 13:5 122:14 max ^[2] 50:11,12 maximization ^[11] 7:14,17 51:20,24 52:5 68:22 69:12 70:21 76:4,12 120:23 maximize ^[3] 52:2 68:17 75:25 maximizing ^[1] 4:20 maximum ^[1] 4:24 McDonnell ^[1] 25:24</p>
---	--	---	--	---

Official

<p>mean ^[34] 7:25 10:20 13:7 14:6,25 23:18 32:4 38:1, 10 40:13 41:12 42:9 43:21 45:16 46:13 47:4 48:23 50:11 52:5 56:10 57:1,23 76:5 80:9 82:7 83:24 92:8 93:16 101:7 113:15 115:20 116:5 119:22 121:11</p> <p>means ^[13] 15:3 22:5,6 45:14,15 50:6,7 71:16 89:2 101:16 113:1 114:9,10</p> <p>meant ^[3] 23:13,20 105:15</p> <p>measure ^[6] 48:22,25 108:15 109:19 112:7 114:25</p> <p>measures ^[2] 49:1 109:17</p> <p>median ^[1] 116:5</p> <p>medium ^[2] 27:22 31:20</p> <p>meet ^[7] 67:12 70:12,22 72:23 84:11 86:10 90:2</p> <p>meets ^[2] 68:9 97:17</p> <p>member ^[1] 121:12</p> <p>members ^[4] 96:11,13,14 101:20</p> <p>mentioned ^[6] 34:14 35:22 80:5 84:9 97:24 109:5</p> <p>mentioning ^[1] 74:8</p> <p>mere ^[1] 85:12</p> <p>merely ^[3] 28:24 69:21 71:7</p> <p>meritless ^[1] 107:16</p> <p>merits ^[2] 72:11 110:9</p> <p>MERRILL ^[3] 1:3,10 4:5</p> <p>met ^[2] 29:7 74:20</p> <p>metric ^[1] 84:10</p> <p>metrics ^[2] 85:15 109:19</p> <p>middle ^[1] 120:21</p> <p>might ^[9] 6:15 31:18 56:5, 13 80:11 81:21 83:9 104:4 114:3</p> <p>miles ^[2] 21:10,11 ^[1] 50:11</p> <p>MILLIGAN ^[13] 1:7 4:5 10:7 12:17 26:21 29:24 33:23 35:23 36:8,23 55:8 90:16, 24</p> <p>million ^[8] 67:17 86:6,7 94:22,22 95:23,24 116:3</p> <p>millions ^[1] 115:21</p> <p>minimum ^[1] 49:5</p> <p>minorities ^[1] 25:7</p> <p>minority ^[15] 18:6 19:8 32:8 46:17 64:10 66:5,12 78:4,14 87:24 90:9 101:19 102:2 106:4 109:14</p> <p>miss ^[1] 57:3</p> <p>Mississippi ^[1] 44:25</p> <p>mistake ^[1] 78:9</p> <p>misunderstanding ^[1] 92:14</p> <p>Mm-hmm ^[6] 19:16 22:25 23:15 26:2 52:24 54:5</p> <p>Mobile ^[15] 5:16,20 16:5 21:9 28:4,5,17 29:5 33:3,21 34:1 45:19 62:18,19 89:5</p>	<p>Mobile's ^[1] 33:24</p> <p>moment ^[1] 63:7</p> <p>Montgomery ^[3] 2:3 21:11 34:10</p> <p>morning ^[2] 4:4 102:22</p> <p>most ^[6] 16:22 17:20 23:1, 3 42:11 121:19</p> <p>mostly ^[1] 28:13</p> <p>motivations ^[1] 42:1</p> <p>motives ^[1] 100:20</p> <p>move ^[1] 61:9</p> <p>Ms ^[28] 77:19,22 79:2,3,13, 22 80:1,16 82:19 83:5 84:4,8 85:9,24 86:16 87:5,12 88:1 89:17,22 90:3,21 91:7 92:24 94:3 97:1,5 98:11</p> <p>much ^[11] 6:20 11:14 13:11 42:4 43:15 44:23 46:21 53:1 69:6 75:17 103:22</p> <p>multi-member ^[3] 8:2 18:8 45:5</p> <p>multiple ^[1] 27:5</p> <p>municipalities ^[1] 109:4</p> <p>must ^[5] 8:15 66:11,13 75:25 89:15</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>named ^[1] 10:7</p> <p>narrower ^[4] 15:23 46:7 53:2 100:6</p> <p>narrowing ^[1] 52:18</p> <p>narrowly ^[4] 43:20 44:8 56:2 68:11</p> <p>nationwide ^[1] 44:22</p> <p>nature ^[3] 13:1 35:12 91:13</p> <p>navigate ^[1] 54:8</p> <p>nearly ^[5] 75:15 78:1,9 99:17 109:25</p> <p>necessarily ^[8] 18:15 55:7, 16 58:1 80:23 81:3 86:8 114:1</p> <p>necessary ^[7] 34:9 49:3 76:4 100:24 103:10,17 104:13</p> <p>need ^[21] 11:16 29:21 36:5 44:1 45:1 60:4 61:25 62:5, 25 63:2,3 64:25 70:10 86:19 94:22 116:2,16 119:6 120:2 121:1 122:5</p> <p>needed ^[3] 4:15 23:11 121:3</p> <p>needs ^[5] 11:22 14:12 38:14 40:23 63:23</p> <p>Neither ^[1] 122:15</p> <p>neutral ^[17] 5:25 6:5 18:9, 12,20 20:3 37:14 45:20 53:25 62:1,15 89:24 93:25 104:20,24 121:8,22</p> <p>neutrality ^[13] 54:18 59:6 62:12 72:5 89:13 96:9,19 99:12 100:18 101:9 102:13 110:13 115:22</p> <p>neutrally ^[3] 5:24 8:2 122:21</p>	<p>never ^[19] 5:5 7:21 24:15, 16 28:11 40:15,19 53:11, 12 54:24 55:2 67:17,17 90:4 107:16 110:23 111:4 112:23 116:20</p> <p>new ^[13] 5:17 46:8 47:2,22 48:5,9 62:20 71:19 78:7 91:12,14 97:6,6</p> <p>newly ^[1] 46:16</p> <p>nobody ^[3] 13:19 15:17 24:4</p> <p>non ^[2] 6:13 112:19</p> <p>non-negotiable ^[4] 5:13 6:13 93:21 119:24</p> <p>non-racial ^[1] 55:9</p> <p>non-retrogression ^[1] 51:3</p> <p>none ^[1] 40:3</p> <p>nonprofit ^[1] 10:10</p> <p>nor ^[3] 30:4,4 122:15</p> <p>normal ^[2] 57:20 113:19</p> <p>normally ^[1] 11:19</p> <p>north ^[3] 31:24 33:21 34:2</p> <p>northeast ^[1] 21:10</p> <p>note ^[2] 17:9 42:5</p> <p>noted ^[3] 7:9 49:14 118:5</p> <p>nothing ^[6] 63:15 64:13 83:10 86:20 87:14 99:20</p> <p>notice ^[1] 117:18</p> <p>noting ^[1] 47:4</p> <p>novel ^[1] 78:1</p> <p>novo ^[1] 119:21</p> <p>nowhere ^[1] 40:10</p> <p>number ^[9] 4:20 19:12 21:19 49:5,8 79:18,20 92:20 109:17</p> <p>numbers ^[2] 19:9 80:2</p> <p>numerically ^[2] 69:4,21</p> <p>numerous ^[3] 13:23,25 99:2</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>objected ^[1] 39:12</p> <p>objective ^[4] 81:20 83:18 84:22 93:7</p> <p>obligate ^[1] 5:1</p> <p>obligated ^[1] 64:24</p> <p>obligation ^[1] 60:14</p> <p>obligations ^[1] 115:3</p> <p>obliterate ^[2] 45:15 79:18</p> <p>obstacle ^[1] 104:12</p> <p>obvious ^[2] 13:15 40:18</p> <p>obviously ^[5] 15:20 23:7 42:19 45:21 63:2</p> <p>occasions ^[2] 13:23,25</p> <p>occupation ^[1] 29:1</p> <p>occurred ^[1] 82:14</p> <p>October ^[1] 1:18</p> <p>offer ^[1] 5:15</p> <p>offered ^[1] 63:3</p> <p>offering ^[1] 64:14</p> <p>official ^[1] 16:8</p> <p>often ^[2] 112:6 113:9</p> <p>Okay ^[7] 11:25 21:13 43:6</p>	<p>49:6 82:25 84:7,24</p> <p>old ^[2] 22:3 91:19</p> <p>once ^[3] 14:2 106:12,13</p> <p>one ^[65] 4:23 5:15 6:18,25 9:6,13 15:16 17:9,20 18:5,14 19:12 20:13,16 29:2 30:22 31:3 33:11,23 34:18 35:4 36:11 37:2 40:9 41:10 42:20 43:11 44:1 48:4, 25 49:1 50:22 53:12 55:15, 17 65:4,24 70:24 75:22 77:3 80:4,10 90:13 91:9,9 92:17,22 95:1,25 96:6 100:21 104:6 113:25 114:2,8 115:19,25 116:1,2,6,16 120:16 121:19 122:11</p> <p>one's ^[1] 18:10</p> <p>ones ^[4] 9:6 50:4 55:17 94:7</p> <p>only ^[24] 5:11,15 9:13 23:12 34:15,16 42:6 44:25 51:1 55:25 71:24 72:10,13,16 76:20 78:2 107:15 110:3 111:14,23 112:17 119:12 121:1 122:18</p> <p>open ^[7] 4:23 6:6 11:6 53:12 96:11,11 122:22</p> <p>openness ^[5] 40:23 45:12 62:25 121:7 122:20</p> <p>operationalize ^[2] 102:23 116:11</p> <p>opinion ^[6] 17:8,19 30:8 42:6 57:2 121:15</p> <p>opportunities ^[3] 43:8,13 64:10</p> <p>opportunity ^[19] 26:13 35:14 46:22 54:3 59:24 60:6 63:22 65:7,7 72:7 96:13 101:2,7,12,17,20 102:2,9 121:7</p> <p>opposed ^[1] 77:4</p> <p>opposing ^[2] 71:10 72:3</p> <p>option ^[2] 68:10 92:11</p> <p>oral ^[9] 1:20 3:2,5,8,11 4:8 63:11 77:20 98:14</p> <p>order ^[5] 14:12 26:6 34:11 35:8 81:2</p> <p>ordinarily ^[2] 10:18 25:6</p> <p>ordinary ^[1] 11:9</p> <p>original ^[1] 12:12</p> <p>other ^[46] 7:14 17:9 18:16 25:11,23 28:4 30:23 36:14 37:11,12 44:23 48:10,12 49:10 55:17,18 57:4 59:12 60:25 65:13 70:12,24 73:8 74:6 76:6,7 84:2 89:8 95:21 96:13,20 97:23 99:21 101:20 103:21 105:6,8,25 106:16 107:9 111:25 112:5 113:10,16 118:3 122:25</p> <p>others ^[5] 4:25 52:13,17 60:16 65:24</p> <p>Otherwise ^[1] 34:20</p> <p>ought ^[1] 115:23</p>	<p>out ^[25] 11:15 13:13 14:13, 19 15:3,19 18:25 21:1 26:13 44:21 55:22 56:16 66:3 68:16 69:5,5,9 72:12 73:19 77:2 86:2 104:14 107:15 119:11 120:15</p> <p>outcome ^[1] 6:21</p> <p>outdone ^[1] 47:12</p> <p>outlier ^[1] 5:23</p> <p>outset ^[3] 93:8 107:11 112:14</p> <p>over ^[9] 4:25 13:21 26:6 28:1 34:11 41:16 42:23 72:11 91:21</p> <p>overall ^[2] 7:5 48:9</p> <p>overly ^[1] 81:9</p> <p>overriding ^[1] 111:15</p> <p>overruled ^[3] 61:6,7 119:5</p> <p>own ^[8] 6:20 26:13 62:17 64:9,19 74:25 77:4 86:12</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>packing ^[1] 105:14</p> <p>PAGE ^[11] 3:2 10:13 29:24 30:2 35:24,24,25 46:14 55:8 65:12 73:20</p> <p>pages ^[1] 57:2</p> <p>pair ^[1] 36:17</p> <p>part ^[13] 20:16 21:7 51:22 55:21 65:20 73:11 76:11 101:8,25 108:12 114:2 119:25 121:25</p> <p>participate ^[2] 32:10 60:6</p> <p>participation ^[3] 72:7 89:16 96:11</p> <p>particular ^[8] 18:24 26:14 31:7 32:8 35:16 96:12 101:15 108:23</p> <p>particularly ^[1] 17:23</p> <p>passed ^[1] 42:20</p> <p>past ^[8] 9:10 29:18 54:16, 17 95:9 99:9 100:22 106:13</p> <p>patterns ^[1] 106:24</p> <p>pending ^[1] 120:11</p> <p>people ^[22] 19:14,21 20:21, 25 28:11,13,13 34:5,16,21 45:19 52:1 58:11 59:15,23 60:5 61:1,10 62:21 76:24 77:2 87:2</p> <p>per ^[1] 87:9</p> <p>percent ^[12] 9:12 28:16 34:11,16 36:12 37:5 42:13 44:22 50:17,17 86:7 113:4</p> <p>Perez ^[1] 75:9</p> <p>perfect ^[2] 86:1 120:20</p> <p>performed ^[2] 98:3 109:24</p> <p>performs ^[1] 108:7</p> <p>perhaps ^[4] 7:14 68:7 70:10 82:22</p> <p>period ^[2] 18:3 58:13</p> <p>permissible ^[1] 8:8</p> <p>perpetuating ^[2] 75:18 91:21</p>
---	---	---	---	---

Official

<p>Perry ^[1] 75:9 person ^[1] 87:1 persuaded ^[1] 105:10 Petitioners ^[1] 1:12 phenomenal ^[1] 36:3 pick ^[3] 34:10 79:1 102:10 piece ^[1] 59:22 place ^[1] 5:7 20:13 40:18 54:9 81:7 93:5 94:6 97:15, 22 105:24 107:6 places ^[2] 78:20 105:25 plain ^[1] 60:3 plaintiff ^[1] 10:7 19:6 22:9 38:14 82:3,8 92:16,23 104: 22 105:1 112:13 plaintiffs ^[1] 8:18 plaintiffs ^[44] 4:17 7:13 8: 19 9:8 10:4 11:18 12:17 15:21 24:3 33:6,24 35:23 36:6,24 40:3 53:24 54:11 61:5 63:5 68:6 69:22,23 70:25 71:8,25 82:5 84:16 86:9 90:5,12 91:11 100:8 102:15 104:14 105:19 106: 2,19,23 107:7,13 108:13 120:2,22 122:10 Plaintiffs' ^[18] 5:14 6:7 33: 13,13 36:8 38:3 47:13 53: 18 63:1 64:6 67:12,21 69: 3 74:20 82:15 90:24 105: 17 113:12 plan ^[36] 4:19 5:12 6:4,5,7, 7,16,17 18:12,21 33:11 35: 3 41:5,22 47:8,13 48:12,17 50:12 61:25,25 62:3,15,15 66:4 69:11 71:4 74:23,25 80:20 84:11 108:8,10 109: 25 111:5 122:22 plans ^[17] 5:14,23,25 6:1 34:25 35:5 37:15 49:3,4 64:23,24 66:3 67:12 72:13 74:20 75:16 84:11 play ^[2] 59:20 119:16 playing ^[1] 50:1 please ^[4] 4:11 63:14 77: 23 98:18 plurality ^[2] 7:10 16:6 Plus ^[1] 34:17 point ^[29] 5:14 13:2 17:2 20:9 21:6 29:22 34:23 37: 7 49:23 52:21 57:15 58:20 59:11 61:19 69:21 73:19 74:16 77:10,12 83:17 89: 11 94:12,25 108:23 111:8 117:12,22 118:22 119:22 pointed ^[2] 18:25 21:1 points ^[8] 14:14 15:16 21:5 37:25 44:21 47:3 118:20 119:8 polarization ^[2] 76:8,23 polarized ^[8] 9:14 19:22 72:17 73:3,5 78:20 98:22 106:24 policy ^[4] 81:18 91:9,16</p>	<p>104:7 political ^[12] 4:24 15:4 27: 23 31:11 43:8,13,15 67:10 98:1 108:9 109:3 122:13 politically ^[1] 106:4 poor ^[1] 63:19 population ^[11] 4:16 9:12 36:16 42:13,14 46:17 50: 18 83:13 90:10 109:2,15 port ^[1] 33:22 posed ^[1] 90:5 position ^[5] 15:19 16:9 60: 3 82:20 110:24 possibilities ^[1] 96:5 possibility ^[2] 71:11 96:6 possible ^[18] 20:23 36:14 38:15 51:1 64:7 68:16,23 69:3,21 75:17 84:17,18 86: 8 91:2 95:1 97:16 113:9, 15 post ^[2] 64:15 95:10 potential ^[1] 95:6 power ^[1] 43:15 practical ^[4] 81:18 91:9,10 105:23 practicalities ^[1] 95:17 practice ^[3] 100:13 102:12 103:1 precedence ^[1] 30:22 precedent ^[8] 9:2,3 14:16 44:15 50:9 52:21 78:2 99: 18 precedents ^[6] 8:12 9:18 53:11 55:20 74:10 114:24 precincts ^[1] 98:2 precisely ^[2] 91:17 110:7 precision ^[3] 5:5 23:7,10 precondition ^[15] 21:25 22:17 24:8 27:8 66:10 102: 14 105:15 106:20 107:23, 25 110:14 111:1 112:11 115:24 117:7 preconditions ^[6] 9:9 10: 17 18:22 102:6 106:25 107:15 predominance ^[9] 40:14 55:4,12 112:1,3,20 113:6, 24 119:19 predominant ^[2] 54:13 114:11 predominate ^[2] 68:12 111:19 predominated ^[1] 113:2 predominates ^[2] 111:14 114:9 preexisting ^[8] 38:20 39: 18 40:5 49:14 50:23 51:7, 9,12 prefer ^[1] 106:9 preferred ^[1] 99:25 preliminarily ^[1] 120:18 preliminary ^[1] 71:18 PRELOGAR ^[24] 2:9 3:12 98:13,14,17 101:14 103:1,</p>	<p>6,14,25 104:19 105:13,22 106:15 107:20 108:18 109: 8,12 112:2,21 114:13 115: 16 116:7 117:9 premises ^[1] 29:20 preprogrammed ^[1] 37:3 prerequisite ^[1] 53:13 prescribed ^[1] 104:9 preservation ^[1] 91:8 preservations ^[1] 98:7 pressure ^[1] 105:18 presumably ^[1] 76:22 pretty ^[2] 12:8 43:16 prevail ^[3] 18:4 44:16 107: 7 prevailed ^[1] 18:6 prevent ^[1] 122:8 prevented ^[1] 76:11 prevents ^[1] 51:23 price ^[1] 38:24 primaries ^[1] 73:4 primary ^[1] 53:1 principle ^[7] 38:2,5 49:21 51:3 97:12 117:23 119:24 principles ^[26] 5:10 6:5,20 8:16 10:24 11:10 20:15 24: 14 25:5 26:18 38:7 41:11 49:11,24 50:7,21 52:10 55: 6,15,16 61:17 95:8 119:3, 12,14 121:18 prioritize ^[3] 36:18,24,25 probable ^[1] 86:8 problem ^[25] 6:11,24 7:5 8: 23 11:12 12:2 19:18,21 45: 3 55:4,5,12,13,23 57:22 58: 1 62:10 80:25 81:2 83:6 91:3,7 100:11,18 110:20 problematic ^[1] 108:7 problems ^[2] 6:15 7:19 process ^[6] 4:23 15:5 81: 24 95:17 111:10 114:22 produce ^[9] 12:22 57:5 67: 18 79:7 90:18 111:22 112: 17 114:1 115:19 produces ^[2] 12:5 70:4 product ^[1] 6:4 production ^[3] 82:9 83:2 105:2 Professors ^[2] 79:14 93:3 proffer ^[1] 104:24 proffered ^[1] 82:12 profound ^[1] 78:3 progeny ^[1] 118:7 program ^[2] 112:17 116:12 programming ^[2] 94:2,5 programs ^[1] 115:21 progress ^[2] 78:12,19 prohibited ^[1] 41:22 prohibiting ^[1] 89:20 prohibition ^[1] 60:13 proof ^[4] 15:7,15 16:7 83:2 properly ^[5] 52:7,8 55:14 90:25 115:2 proportion ^[1] 69:18</p>	<p>proportionality ^[10] 7:15, 16,18 51:20,25 52:2,6 76: 10 119:1 120:24 proposal ^[1] 92:14 proposals ^[1] 117:10 propose ^[4] 7:21 75:23 93: 13,14 proposed ^[12] 6:22 7:12, 13 34:9 42:1 46:9,12 51: 16 54:11 74:7 108:2,3 proposition ^[1] 17:3 protected ^[1] 89:15 protecting ^[1] 109:6 Protection ^[12] 13:10 24: 17 40:24 45:12 56:12 58:1, 7 62:25 74:11 120:6 121: 10,14 prove ^[2] 5:14 106:20 proved ^[1] 15:10 provide ^[1] 120:25 provided ^[1] 88:18 proving ^[1] 34:3 proxies ^[1] 86:3 proxy ^[2] 85:4 89:3 published ^[1] 42:6 purport ^[1] 83:8 purports ^[1] 83:9 purpose ^[6] 10:8 15:16 53: 20 97:8 122:7,15 purposes ^[2] 27:10 100:20 pursuant ^[1] 80:19 push ^[1] 104:2 pushed ^[1] 19:15 pushing ^[2] 8:15 103:8 Put ^[10] 9:17 14:22 26:13 30:22 52:23 81:12 84:24 92:6 100:8 110:23 puts ^[4] 34:19 35:3,5 40:17 putting ^[6] 17:15 32:5 36: 24,25 40:8 65:6</p>	<p>quick ^[1] 118:20 quintessentially ^[1] 102:8 quite ^[3] 10:23 21:19 115:2 quote ^[1] 53:17</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>race ^[80] 5:11,13,17 6:1,12 13:11 18:5,11,16,23 20:5 28:25 33:25 37:13,19 38:1, 4 39:23 40:8,12 43:14 53: 13,17 54:12,18 55:4,5,10, 12,15 56:14,16,24 57:25 59:6,7,15 61:9,18,20 62:16, 23 65:24 68:12 71:23 72:5 75:3 81:1 85:3,4,5 86:2 89: 4,8 92:18,21 93:4 96:9,15, 18 98:4 99:12 100:18 102: 12,18 104:19,24 106:8 110: 13 111:10,14,18 112:1 113: 1,22 114:16 115:22 119:24 122:10,14 race-based ^[4] 56:2,15 86: 2 121:4 race-blind ^[12] 11:11,24 12:4,12 20:8 59:3 66:2 78: 5 79:17 80:24 90:6,17 race-conscious ^[2] 58:9 60:8 race-neutral ^[37] 4:13 8:9 11:23 12:21,25 13:4 16:25 29:12 37:9 53:9 57:16,17 59:3 63:15 65:14 71:12,16 79:7 80:12,24 81:3,21 82: 7 85:19 87:20 88:6 89:2 93:17 96:1,4 97:7 100:10 103:3 105:9 115:19 120:4 122:19 races ^[1] 72:19 racial ^[27] 5:5 6:21,25 9:15 18:14 19:13,19 20:19 32:8 45:7,8 65:6 73:6 76:8,23, 25 77:4 78:21 80:25 86:3 89:13,19 91:5 98:24 110: 18 120:14 122:12 racially ^[14] 4:19 8:3 9:14 18:13 19:22 53:25 54:12 73:3,4 76:25 78:20 89:24 98:22 106:24 radar ^[1] 117:18 radically ^[1] 99:11 raises ^[2] 64:4 102:1 raising ^[1] 100:15 ran ^[2] 37:18 116:1 rather ^[2] 11:2 63:24 rational ^[1] 111:15 rationalizations ^[1] 64:15 razor ^[1] 36:13 reach ^[2] 15:20 34:9 reached ^[1] 110:6 react ^[1] 80:11 reaction ^[1] 80:14 read ^[7] 13:21 48:24 62:24 72:9 80:10 96:8 120:6 readily ^[1] 114:21</p>
--	--	--	---	--

Official

<p>reading ^[1] 14:20 reaffirm ^[1] 78:16 real ^[1] 120:10 real-world ^[1] 99:19 really ^[28] 8:21 9:24 14:11 18:4 20:1,9 21:7 26:4 44:5, 10 48:21 49:22 51:4 56:20 57:3,7 70:25 72:5 77:8,13 83:10 97:13 103:7,13,19 112:15 118:9 121:6 reason ^[8] 13:24 31:17 60: 18 86:18 87:6 88:1 99:7 113:8 reasonable ^[3] 23:22 24: 14 88:16 reasonableness ^[1] 88:17 reasonably ^[45] 22:1,4,4 23:13,18,20 24:18,23 46:9, 19 47:23,23 48:20,22 49:9 50:5 52:3 53:6,7,10 54:25 66:14,15,16,19 70:6,6 74:8, 13,14 76:1 82:11,12 83:22 85:14,17,22 88:11 95:7 99: 3 105:19 108:3,4 111:3 112:14 reasons ^[5] 13:6 17:17 81: 16 92:24 115:22 REBUTTAL ^[3] 3:16 118: 16,17 recent ^[2] 43:23 73:6 recently ^[1] 15:13 recognize ^[5] 14:15 38:23 81:10 93:2 114:24 recognized ^[11] 7:21 23:6 59:14 68:13 75:9 76:3 81: 14 110:3,8 112:23 118:25 reconfigured ^[1] 87:3 reconsider ^[1] 12:10 Reconstruction ^[2] 58:13, 18 reconstructive ^[1] 58:13 record ^[5] 27:18 28:1 59:5 60:18 84:14 redistricting ^[24] 4:13 10: 10 11:9 17:19,20 20:9 25: 5 41:15 49:18 64:11,20 67: 7,7 72:12 75:2,8,12 77:11, 25 109:1,20 111:10 116:14 117:7 redraw ^[1] 5:9 reenacted ^[1] 64:3 referred ^[2] 16:1 51:19 referring ^[1] 109:11 regard ^[1] 73:1 regardless ^[2] 33:25 43:13 Register ^[2] 14:23 15:25 registration ^[1] 44:24 Regrettably ^[1] 89:4 regular ^[1] 113:19 reject ^[2] 100:1 107:8 rejected ^[3] 7:17 35:20 37: 14 rejects ^[1] 7:16 relate ^[1] 26:10</p>	<p>relation ^[1] 35:16 relatively ^[3] 36:17 38:21 105:16 relevant ^[10] 13:16,19 36:1 67:3 102:5 104:1,6 106:16 107:1 109:25 reliance ^[2] 78:8,11 relied ^[1] 5:22 relying ^[2] 29:12 81:9 remaining ^[1] 95:10 remand ^[1] 71:13 remanded ^[2] 71:21 113:3 remedial ^[3] 64:2 75:10 110:19 remedied ^[1] 60:7 remedies ^[1] 56:2 remedy ^[7] 56:3,15 59:4 64: 25 65:22 68:9 72:16 remember ^[1] 90:16 rendered ^[1] 13:16 Reno ^[1] 48:15 repeatedly ^[1] 118:2 replace ^[2] 4:18 18:9 replaced ^[1] 5:3 replacing ^[1] 62:15 report ^[4] 16:1 58:16,19 118:5 representation ^[2] 63:23 78:14 Representative ^[1] 30:1 representatives ^[1] 99:25 reproducing ^[1] 64:19 Republican ^[3] 62:18,18 73:4 require ^[12] 11:22 12:11 37: 9 69:11 91:11 94:1 95:25 96:3,21,23 101:11 102:14 required ^[19] 12:7 13:20, 22,24 14:3 15:8 37:8 53: 24 54:16,18 59:7 68:6 69: 15 90:6 97:10 110:17 113: 15 116:20 120:1 requirement ^[14] 8:11 17: 4 51:22 52:4,6,7 68:3,15 74:21 82:10 93:10 100:24 112:9 116:22 requirements ^[2] 25:11 74: 11 requires ^[14] 4:18,22 21:25 36:1 62:6 64:22 68:22 70: 21 71:23 88:14 96:18 108: 20 111:1 122:11 Requiring ^[9] 5:25 8:7,9 16:6,7 53:6 78:5 96:9 103: 10 resembles ^[1] 120:4 resist ^[1] 106:18 resolve ^[2] 15:23 119:23 respect ^[13] 24:11 25:12 26:16 27:22 31:11 46:15, 25 67:2,9 74:22 82:9 100: 17 109:3 respected ^[1] 27:20 respectfully ^[1] 10:2</p>	<p>respecting ^[3] 48:3,6 108: 8 respects ^[1] 6:19 respond ^[2] 35:14 48:16 Respondents ^[4] 1:15 2:8 3:10 77:21 Respondents' ^[3] 27:19, 20 31:10 response ^[3] 15:6 48:8 74: 15 responses ^[1] 31:2 responsive ^[1] 63:23 restrain ^[1] 58:24 restructured ^[1] 31:23 result ^[13] 12:5 13:2 15:4 32:9 50:25 64:16 75:24 81: 22 87:21,23 97:13,14 110: 7 resulted ^[1] 72:11 results ^[18] 14:8 15:2 16:1 43:22 65:19 66:25 72:6 87: 18,18 91:17 94:21 99:6,16 101:12 107:4 114:4,5 116: 15 resuscitate ^[1] 35:19 retained ^[2] 4:14 42:21 retaining ^[1] 50:22 retention ^[5] 41:10 49:15 50:10 64:16 75:14 retooled ^[1] 11:22 return ^[2] 92:3 121:5 reveal ^[1] 39:20 revealed ^[1] 112:6 reversed ^[1] 13:10 review ^[1] 119:9 reviewable ^[1] 110:3 reviewed ^[2] 111:20 119: 21 revised ^[1] 15:8 rewrite ^[4] 46:5,11 64:1 85: 11 rid ^[1] 45:7 rightly ^[1] 114:24 Rights ^[19] 4:18 14:4 41:21 44:19 54:10 55:21 58:20 59:8,10,18,24 60:21 64:1 70:20 80:19 98:5 115:3 117:16 122:8 rigorous ^[2] 102:6 106:22 risk ^[1] 62:15 River ^[2] 33:15 89:7 rivers ^[1] 33:19 ROBERTS ^[34] 4:3 16:15, 18 21:17 35:9 37:6 38:25 39:3,8 41:1 45:24 52:14 57:9 63:8 65:9 73:22 74:1 75:20 76:15 77:16,19 88: 21 91:23 95:13 98:9,12 102:25 103:2,12,16 115:4 117:2 118:12 122:24 rock ^[2] 40:18 54:8 Rogers ^[1] 16:17 ROSS ^[29] 2:5 3:6 63:10,11, 13 65:17 66:23 67:20,25</p>	<p>68:4,20 69:16,20 70:2,9,15, 19 71:15 72:14,20,23 73:2, 14,18,25 74:17 76:2 77:7, 18 routinely ^[1] 107:8 rule ^[3] 83:19 88:12 94:12 rules ^[3] 50:2 88:15 119:17 run ^[9] 33:21 62:14 93:3 104:23 106:2 107:13 113: 21 115:20 116:25 running ^[1] 102:21 runs ^[4] 10:9 33:15,18 113: 20 <hr/> <p style="text-align: center;">S</p> <hr/> <p>sacrifice ^[1] 61:17 sake ^[1] 46:10 same ^[14] 19:25 40:6 44:23 49:4,8 52:17 57:13 59:10, 13 60:4 75:1,2,4 97:14 sample ^[1] 64:23 Sanders ^[1] 51:15 satisfaction ^[1] 78:22 satisfied ^[17] 9:9 10:18 11: 8 22:17 24:1 67:19 68:3, 15,16 70:7 71:3 82:18 88: 20 105:12 106:1 107:9 115:18 satisfies ^[1] 92:16 satisfy ^[17] 11:18 22:10 27: 8 49:22 56:13 68:18 69:1 70:1,10 71:25 76:6 82:9 93:17 105:2 106:19 112: 12 119:15 satisfying ^[3] 55:20 64:11 68:21 saying ^[18] 9:24 10:17 11:8, 18,21 15:2 18:18 45:13 53: 5,18 54:7 60:4 62:4 68:21 71:24 87:4 89:14 92:4 says ^[15] 10:21,23 15:5,14 18:3 43:25 44:2,4 52:22 58:19 72:10 74:7 86:23 94: 12 114:11 scheme ^[1] 76:18 schemes ^[1] 91:20 scholarship ^[1] 79:5 scientists' ^[1] 94:23 scope ^[1] 78:18 scrap ^[1] 5:25 screen ^[3] 105:17 107:12, 15 screening ^[1] 84:21 scrutiny ^[3] 56:13 111:17 114:19 Seattle ^[1] 2:7 second ^[28] 5:11,15 10:5, 11 17:25 21:8 30:6,20 31: 8 36:15 37:4 40:11 44:24, 25 57:5 67:18 68:17 69:1 71:1,7,12 83:7 87:24 96: 16 106:25 111:8,22 121:11 second-guess ^[1] 17:24 SECRETARY ^[2] 1:4,11</p> </p>	<p>Section ^[80] 4:17,22,25 6:1 7:11,15 9:25 13:7,9,13 14: 4,13,16 15:9,15 25:14 32:7, 18 35:16,20,25 38:14 40: 23 42:7 43:4,7,25,25 44:2, 4,5,10,11,13 45:2,9 50:19 51:4 55:25 56:11 57:6 60: 3,22 62:17,22,24 64:1,13 65:1,5 66:23 70:20 72:5,8 74:10 75:13,15 76:12 77:5, 24 78:17 87:10 89:12,14, 20 96:8 97:9 99:6,8,13 100:3,24 107:5 116:21 118:2 119:25 120:7 121: 13 122:17,23 secure ^[1] 58:20 see ^[3] 42:18 96:8 114:3 seeing ^[1] 38:24 seek ^[1] 52:2 seeks ^[1] 77:24 seem ^[2] 37:9,11 seems ^[8] 9:17,22 92:8,13, 15 93:16 95:21 96:14 seen ^[1] 63:4 segregated ^[2] 20:25 21:7 segregation ^[5] 19:13,19 20:20 21:6 78:21 segue ^[1] 43:10 self-liquidating ^[1] 76:19 Selma ^[1] 51:15 Senate ^[2] 15:25,25 Senator ^[1] 51:15 sense ^[2] 19:21 100:8 sent ^[1] 50:13 separate ^[1] 86:2 serve ^[1] 97:13 set ^[7] 6:1 36:11 50:3 51:8 68:16 69:5,5 sets ^[3] 13:13 36:6,10 setting ^[4] 15:2 83:7 95:16 101:17 seven ^[3] 9:13 80:6 120:25 Seventh ^[1] 101:3 several ^[3] 90:24 92:24 109:19 severe ^[1] 98:25 Shalela ^[1] 33:23 shall ^[1] 98:6 shape ^[2] 48:9,11 shaped ^[2] 111:2 112:8 shapes ^[1] 108:6 Shaw ^[5] 48:14 61:6 111:7, 13 114:10 shed ^[1] 8:21 Shelby ^[1] 43:24 shoulder ^[1] 92:23 shouldn't ^[4] 95:24 96:25 103:17 116:1 show ^[32] 6:24 7:1 12:20 16:24 17:2 19:6 20:2,19 22:15 24:8 25:16 26:8 37: 22 38:15 52:22 56:21 61: 21,23 62:2 64:6 68:24 71: 11 79:16 82:6 86:5,10 90:</p>
---	--	--	---	--

Official

22 97:16 102:15 103:19 104:23 106:23 showed [4] 10:8 53:8 56: 20 84:18 showing [13] 11:22 12:2 14:12,18 15:10 17:4 22:1 53:25 56:19 90:7 100:9 105:6 107:12 shown [3] 22:13 38:11,17 shows [6] 32:20 40:12 57: 6 60:18 95:5 103:18 shut [1] 11:6 side [5] 48:10 65:13 74:7 96:20 97:23 sides [1] 48:21 sight [1] 45:1 significance [2] 37:23 63: 20 significantly [1] 99:1 similar [5] 6:21 48:11 50:2 64:8 66:3 Similarly [2] 18:8 46:3 simple [1] 52:5 simply [4] 22:11 66:20 107: 11 112:24 simulation [9] 37:18 67:15 85:1,8,18 86:1 87:19 97:7 111:22 simulations [34] 16:24 22: 14 37:8,12,24 64:15,18 65: 14,18,23 66:2 67:17 77:13 78:12 79:17 80:13 81:5,9, 12 81:24 84:13,25 86: 14,19,19 88:3 93:4,25 102: 21 103:3 104:23 117:1 120:1 simulator [1] 92:10 simulators [1] 92:4 since [2] 64:3 100:22 sine [1] 112:18 single [1] 84:10 single-member [7] 8:3,4 17:13 18:1,10 119:4 122: 18 Singleton [3] 66:4 69:11 71:3 sit [1] 28:3 situation [9] 12:9 18:24 19: 10,23 20:3,4,5,10,21 situations [2] 76:21 89:5 six [3] 36:14 49:5 55:17 slam [1] 9:2 slapped [1] 14:5 slaves [1] 58:21 small [1] 114:2 smattering [1] 120:25 smoking [1] 16:7 societal [2] 56:21 121:2 society [2] 58:15 122:9 socioeconomic [1] 28:25 Solicitor [4] 2:2,9 16:19 65: 10 solve [1] 81:2 solving [1] 80:25	somehow [4] 24:17 25:16 26:22 91:8 someone [4] 13:11 18:2, 13 38:22 sop [1] 103:22 sorry [5] 10:15 11:7 27:1 47:21 107:19 sort [17] 6:23 16:7 19:3,4 23:21 29:18 41:25 45:18 56:20 71:1,23 82:13 96:18 120:3 121:1,3 122:5 SOTOMAYOR [50] 8:22 16:12 23:9 26:23 27:1,2, 11,13,16 28:7,15,17 29:14, 19 30:7,10,13,17,21,25 31: 6,9,18 32:3,16,24 33:3,10, 17 39:9,10,21,25 40:2 71:9 72:3,15,22,25 73:9,11,15 74:2 88:25 89:18,23 90:15 91:3,22 115:8 sounds [1] 37:16 south [3] 33:22 34:21 105: 24 southeast [1] 21:12 southwest [1] 33:20 space [1] 63:3 Spain [1] 89:10 Spanish [1] 28:9 spans [1] 34:18 specific [2] 61:11 93:9 specifically [15] 56:23 59: 9 97:24 98:6 99:4 100:7 17 101:16,19 104:2 111:18 113:3,11 114:20 118:5 specified [1] 61:5 spent [1] 32:1 Split [8] 5:16 21:9 28:11,19 48:16,17,18 49:3 splits [4] 47:10,14 49:5,9 splitting [1] 109:5 spoken [1] 24:13 sprawling [4] 46:18,25 74: 13 97:21 spread [1] 77:2 spreads [1] 75:4 stage [4] 17:7,12 27:12 110:19 stand [1] 25:20 standard [24] 13:13 71:14, 17,19,20,22 77:25 78:8,17 81:20 83:16,18 85:11 90:6 97:7,7,9 112:4,22 116:11 119:9 standards [1] 67:16 standpoint [1] 113:24 stare [3] 63:25 117:14 118: 8 stark [1] 98:22 started [1] 119:4 starting [1] 20:9 STATE [49] 1:4,11 4:14 5: 19 9:11,16 17:10 24:16 26: 25 31:12,24 32:2 33:20 34: 18 37:13 38:15 45:18 48:	12,17 49:15 50:2,22 52:1 60:13 64:11 67:8 74:24 75: 5,11,24 78:15 80:4 81:15 82:7,13 83:3,8 90:14 98: 25 106:12,15 110:16,17,23 111:9,16 112:4 114:22 116:1 state's [18] 5:23 6:4,4 25:1, 8,13,14 27:10,21 42:13 82: 16,20 94:18 95:8 99:20 104:7 108:10 110:15 stated [2] 8:11 59:9 statement [2] 16:20 65:10 STATES [22] 1:1,21 2:11 3: 13 5:25 36:6 51:8 54:8 55: 22 58:24 63:5 72:1 73:8 78:4 83:20 90:5 91:19 98: 15 99:21 108:13 114:24 120:20 statute [18] 12:24 14:7 43: 11,18,23 45:12 51:24 52: 22 64:2 92:16 100:23 101: 8,15,21 102:3 117:20 118: 3 122:11 statutorily [1] 104:9 statutory [3] 63:25 78:2 117:13 stay [5] 29:24 36:17 55:9 56:6 73:19 steadily [1] 107:5 Step [27] 11:8,21 12:12 19: 2,3,5,11,19,20,22 24:25 25: 1,25 26:7,10,14 57:17 75: 23 87:7,8 93:15 96:3 104: 14 112:12 115:24 116:23 117:19 Stephanopoulos [2] 77:9 79:15 still [1] 103:17 stock [1] 81:11 stop [1] 99:21 stopped [1] 77:1 story [1] 44:23 straightforward [3] 105: 16 107:23 108:1 strand [1] 34:20 stratification [1] 76:23 strengthened [1] 43:18 stretch [1] 5:18 stretches [1] 33:7 strict [3] 56:13 111:16 114: 19 strikes [1] 9:1 stronger [1] 42:4 strongly [2] 41:4 106:18 struck [1] 46:5 struggling [2] 52:17 108: 14 studies [4] 39:12,13,13 79: 15 stumble [1] 102:19 subdivision [3] 31:11 98:1 109:4 subdivisions [3] 27:23 67:	11 108:9 subject [2] 74:19 114:19 subjective [4] 81:23 92:5 94:1,4 subjectivity [1] 88:7 subjugated [1] 112:5 submitted [4] 35:13,15 submitted [4] 35:18 58:17 123:1,3 subordinate [1] 5:10 subordinating [2] 111:25 112:19 subordination [1] 113:16 subsection [1] 15:3 substantial [4] 63:19 79: 10,11 110:9 substantially [1] 44:14 success [1] 4:24 successful [1] 72:13 sudden [2] 85:12 93:6 sufficient [2] 95:9 121:21 sufficiently [5] 46:16 56: 18 66:12,13 99:2 suggest [3] 13:21 73:15 107:11 suggested [4] 14:10 24:15 79:9 112:24 suggesting [9] 11:15 14: 17 26:9 70:23 93:22 104: 10,21 110:16 116:15 suggestion [1] 86:25 suggests [3] 23:14,19 115: 23 sum [2] 18:1 122:7 summation [1] 72:4 superintend [1] 114:21 supporting [3] 2:11 3:14 98:16 supports [1] 122:16 Suppose [3] 26:24 69:25 82:25 supposed [3] 45:2 87:10 93:7 SUPREME [3] 1:1,21 121: 24 surely [5] 24:22 92:11 116: 3,4,5 suspect [2] 31:13 42:3 sustain [1] 25:4 swaths [1] 99:24 sweep [1] 42:11 system [2] 20:6 122:13	tension [1] 45:11 tenuous [1] 104:7 terms [4] 45:2 59:3 60:25 102:3 test [27] 14:8,8,24 16:1 35: 19 37:10 43:22 54:4 57:15 65:5 72:6 75:24 86:5 88: 20 91:17 93:8,17 95:3 99: 6 101:12 104:8,9 105:18 120:23,24,24 121:6 testified [4] 31:16 33:7,24 90:20 testify [1] 88:10 testifying [1] 90:16 testimony [2] 30:2 53:14 tests [1] 25:22 Texas [1] 33:7 text [10] 14:20 60:3 64:1,13 78:2 99:15 100:12,18 121: 5 122:15 textbook [1] 40:13 Thanks [1] 52:13 themselves [4] 12:17 58:7 83:20 107:17 theories [1] 78:1 theory [1] 115:20 there's [36] 6:24 7:5 11:1 12:2 14:15 17:3 19:18 23: 16 25:15,17 29:13,20 30:3, 20 31:19 42:16 44:8 48:23 50:8 53:17 56:14,17 57:21 72:10,18 73:3,4,6 81:16 89:13 92:9,19 97:2,5 102: 9 113:16 Therefore [1] 54:15 they've [3] 36:20 53:12 108:3 thin [1] 36:13 thinking [2] 101:9,13 third [3] 36:11 45:4 106:25 THOMAS [6] 6:10 7:4 39:5 73:24 88:23 115:6 thorough [1] 63:17 though [5] 17:8 44:22 95: 21 96:14 107:7 thousand [2] 116:4,17 thousands [1] 65:25 three [18] 9:4,5 13:6 26:5 27:18 28:20 31:1 32:16 35: 4,5 36:10 49:2 69:4,14 70: 4 78:23 80:6 102:6 threshold [4] 84:21 86:11 105:17 107:12 throughout [1] 52:1 tie [1] 90:12 today [3] 21:21 50:17 82: 24 together [18] 5:19 9:17 27: 24 29:5 30:23,23 32:25 33: 8 34:19 36:17,25 37:1 38: 19 47:16 49:4 52:1 89:6 109:15 Tombigbee [1] 33:20 took [5] 37:13 39:17 40:5,6
--	---	---	--	---

T

table [2] 106:2 107:14
tailored [2] 56:3 68:11
talks [1] 79:15
target [2] 78:10 113:4
tasked [1] 84:16
taste [1] 43:20
team [1] 10:10
technical [2] 93:9,23
tellingly [1] 55:24
Tennessee [1] 33:14

Official

<p>42:20 tossed ^[1] 120:15 totality ^[23] 17:1,6,11 22:21, 24 27:12 54:3 65:2,3,15,20 72:24 73:12 76:8,11 102:7 103:5,23 104:1,8,9 106:17 107:2 totally ^[2] 9:23 23:23 touchstone ^[2] 100:19 122:20 tough ^[2] 20:1 110:5 touting ^[1] 39:11 towards ^[1] 8:15 tracks ^[1] 104:5 traditional ^[45] 5:10 6:19 8: 16 10:24 11:1,2 20:15 23: 25 24:9,13 25:5 26:18 27: 20 38:2,4,7 39:19 49:11,20, 23 50:6,21 52:10 55:6,14 64:11,20 67:6,16 75:8 76: 7 84:6 85:2,19 94:19 95:8 105:8 109:1,22 112:5 113: 19 119:2,11,13 121:18 traditions ^[1] 58:13 trained ^[1] 10:11 transform ^[2] 103:9 122: 11 transformation ^[1] 122:9 treat ^[1] 55:15 treated ^[3] 38:4 59:16 61: 24 treating ^[1] 27:6 treatment ^[1] 59:14 tremendous ^[1] 44:19 trial ^[2] 86:12,13 tried ^[1] 75:16 triggers ^[1] 76:20 trillion ^[1] 94:22 trillions ^[2] 94:24,25 true ^[3] 50:10 72:14 89:25 truly ^[2] 68:24 104:19 trump ^[1] 91:8 try ^[7] 10:11 43:7 102:12,23 110:11 116:9 118:20 trying ^[14] 13:11 43:4,7,8 50:18 58:10 60:2,9 61:15, 23 87:2 104:12 110:12 116:21 Tuesday ^[1] 1:18 turn ^[2] 39:5 100:4 turned ^[1] 44:20 turning ^[1] 86:12 turns ^[1] 89:11 twice ^[2] 64:3 120:13 Two ^[18] 14:14 17:17 21:5 30:12,15 31:2 47:3 53:15 65:25 66:4,7 72:12 90:18 93:19 96:5 101:18 120:13, 19 type ^[1] 22:6 types ^[1] 117:1</p>	<p>ultimate ^[4] 26:11 64:25 83:2 87:15 ultimately ^[2] 64:24 86:5 unanimous ^[1] 63:16 unbiased ^[4] 22:7,16 66: 22 86:24 unconstitutional ^[3] 100: 15 110:18 111:11 under ^[25] 9:1,18 11:6 17:1 24:16 25:4 32:7,17 35:15, 20 41:8,13 51:23 63:1 65: 15 71:14 74:9 92:15 97:10 99:20 100:24 108:17 111: 16 115:3 117:18 undermine ^[1] 17:3 underrepresented ^[1] 99: 1 understand ^[23] 10:16,18 11:19 18:21 20:7 21:22 25: 9 26:9,15 60:2,9 67:25 82: 4,20 83:24 85:22,25 87:3 92:7 93:14 110:15 112:16 115:17 understandable ^[1] 80:14 understanding ^[4] 37:21 51:21 53:3 82:23 understood ^[7] 21:24 22: 18 52:25 53:5,22 54:6 58: 2 undertake ^[1] 17:22 undertheorized ^[1] 116:8 undisputably ^[1] 38:18 undisputed ^[6] 5:2 11:1,2 13:15 30:15 45:16 unequal ^[2] 15:4 59:14 unequally ^[2] 59:16 61:24 unfortunately ^[1] 80:2 unique ^[1] 73:1 uniquely ^[1] 18:1 UNITED ^[7] 1:1,21 2:11 3: 13 36:6 63:5 98:15 unless ^[1] 58:23 unlikely ^[1] 70:11 unnecessary ^[2] 100:14 110:14 unpack ^[2] 29:20 100:16 unprecedented ^[1] 45:16 unravel ^[1] 78:12 unreasonable ^[1] 92:22 untested ^[2] 78:11 116:19 until ^[1] 35:10 untouched ^[1] 118:2 unworkable ^[2] 100:13 102:11 up ^[33] 21:10 29:21 30:25 31:25 32:20 33:15 34:10, 10,14 36:5 37:20 38:8 42: 2 50:1,14 56:12 58:25 61: 17 63:1 64:14 71:18 79:1 80:12 82:10,13 84:14 88: 14 95:1,16 97:16 101:18 102:10 122:3 upend ^[1] 77:24 upheaval ^[1] 78:3</p>	<p>upsets ^[1] 18:13 useful ^[1] 119:18 uses ^[1] 61:9 using ^[7] 13:11 40:19 56: 24 65:23 75:2 77:12 100: 18 usual ^[1] 97:20 utilize ^[1] 91:19</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>vacate ^[1] 71:13 varies ^[2] 82:22,23 variety ^[4] 46:6 84:5 85:14 88:18 various ^[2] 79:15 94:16 vehemently ^[1] 39:12 Vera ^[1] 8:14 versions ^[1] 5:17 versus ^[2] 4:5 75:9 view ^[1] 92:15 views ^[1] 77:4 violate ^[2] 75:13,15 violates ^[1] 60:9 violating ^[1] 54:14 violation ^[7] 14:13 15:9 42: 7 56:11,13 75:18 77:6 violations ^[1] 62:17 Virginia ^[1] 33:7 virtually ^[1] 75:4 virtue ^[1] 107:11 vis-à-vis ^[1] 60:15 vote ^[8] 6:15 45:4 62:22 72: 10 76:25 77:3 98:20 101:5 voters ^[23] 5:19 6:6 18:6,7 36:13 44:20,21 63:22 64: 10 65:8 66:5 69:18 71:5 72:17 78:4 99:1,23 101:18, 19 102:2 106:8,9 122:22 votes ^[1] 106:6 Voting ^[26] 4:18 9:14 14:3, 3,4 18:3 19:21,25 20:6 41: 21 44:18 54:10 55:20 63: 21 64:1 70:20 73:3,5 78: 21 80:19 98:5,21 106:24 115:3 117:16 122:7 VRA ^[1] 93:11 VRA's ^[1] 122:19</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wait ^[2] 35:10 87:16 wanted ^[3] 29:9 96:7 108:1 war ^[2] 6:2 23:2 Washington ^[4] 1:17 2:5,7, 10 way ^[39] 5:11,15 9:3,19,24 11:17,19 12:2,3 19:1,25 23:14,19 25:6 29:9 31:5 33:1 37:7 38:16,24 50:5 52:17 53:12 54:2 58:9 62: 24 70:22 76:19 77:13 80: 10 81:3 82:15 96:1,4 100: 10 110:16 112:2 118:1 119:6 ways ^[9] 19:22 28:20 46:6</p>	<p>47:10,14 76:25 83:11 91: 19 92:12 weigh ^[3] 92:12,21 118:9 weighed ^[1] 31:5 weight ^[3] 92:6 94:16 113: 10 welcome ^[2] 6:9 78:25 well-positioned ^[1] 31:4 well-suited ^[1] 17:23 west ^[3] 5:20 33:15,18 whatever ^[2] 45:14 56:3 Whereupon ^[1] 123:2 whether ^[31] 8:8,10,23 11: 15,17 13:1 32:8 39:23 41: 19 46:8,15,17 47:22 53:13 66:18,20,21 82:17 84:12, 25 87:1 88:19 90:17,18 100:7 104:7,17 105:18 106:4,5 114:8 Whit ^[1] 15:24 Whitcomb ^[2] 14:22 16:3 white ^[17] 5:4 14:23 15:24 16:1,2,5 28:11,18 43:16 44:21 59:10,13,25 61:1 62: 17 63:21 106:8 White's ^[1] 16:9 who's ^[2] 62:19 87:1 whole ^[8] 25:12,13 27:6 33: 8 49:23 76:18 102:13 117: 22 wholesale ^[1] 85:11 wholly ^[1] 104:10 widely ^[2] 42:11 72:9 width ^[1] 5:18 will ^[10] 14:15 48:20 58:24 67:4 91:1,1 94:25 102:20 106:1 110:23 win ^[7] 26:12 71:14 106:3,3, 5,12,16 wisely ^[1] 7:17 within ^[4] 86:13 102:2 109: 15 120:5 without ^[6] 37:19 38:24 40: 8 75:18 92:17 102:17 words ^[3] 37:11 95:21 103: 22 work ^[3] 40:24 61:14 87:10 working ^[3] 12:4 18:24 36: 9 works ^[2] 40:23 78:17 world ^[4] 20:8 86:4 111:3 113:18 worried ^[1] 25:1 worse ^[2] 18:10 31:12 written ^[1] 48:24 wrongly ^[1] 111:9</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>year ^[2] 15:13 120:17 years ^[5] 43:23 44:15 76:3 78:1 99:9 yield ^[3] 55:7,10,17 yourself ^[1] 52:11</p>	<p style="text-align: center;">Z</p> <hr/> <p>zero ^[3] 18:1 41:22 42:20</p>
--	---	---	---	--